

SENATE BILL NO. 314

INTRODUCED BY CHRISTIAENS, TOWE,
KADAS, BIANCHI, WANZENRIED, QUILICI, HARP,
CRIPPEN, WILSON, FRITZ, MCCULLOCH
BY REQUEST OF THE STATE AUDITOR

IN THE SENATE

FEBRUARY 4, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FIRST READING.

MARCH 18, 1993

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

MARCH 19, 1993

PRINTING REPORT.

SECOND READING, DO PASS.

MARCH 20, 1993

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 41; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 22, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

FIRST READING.

ON MOTION, REREFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

MARCH 26, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 30, 1993

SECOND READING, CONCURRED IN.

APRIL 1, 1993

THIRD READING, CONCURRED IN.
AYES, 82; NOES, 17.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 5, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 6, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 314
 2 INTRODUCED BY Mr. Christians Dr. Kado Dr. Kado
 3 BY REQUEST OF THE STATE AUDITOR John
 4 UNZEVRED John HARPC William McCall
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TREATING EACH SERIES,
 6 PORTFOLIO, OR OTHER SUBDIVISION OF AN INVESTMENT COMPANY OR
 7 SIMILAR ISSUER AS A SEPARATE ISSUER OF SECURITIES; REQUIRING
 8 EACH SUBDIVISION TO PAY A PORTFOLIO REGISTRATION FEE; AND
 9 AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 30-10-115, MCA, is amended to read:

13 "30-10-115. Deposits to the general fund. (1) All fees,
 14 examination charges, and miscellaneous charges received by
 15 the commissioner pursuant to parts 1 through 3 of this
 16 chapter, except for portfolio registration fees described in
 17 30-10-209(1)(d), must be deposited in the general fund.

18 (2) All portfolio registration fees collected under
 19 30-10-209(1)(d) must be deposited in the state special
 20 revenue account to the credit of the state auditor's office.
 21 The funds allocated by this section to the state special
 22 revenue account may only be used to defray the expenses of
 23 the state auditor's office in discharging its administrative
 24 and regulatory powers and duties."

25 **Section 2.** Section 30-10-209, MCA, is amended to read:

1 "30-10-209. Fees. The following fees shall must be paid
 2 in advance under the provisions of parts 1 through 3 of this
 3 chapter:

4 (1) (a) For the registration of securities by
 5 notification, coordination, or qualification, there shall be
 6 paid to the commissioner for the first year of registration
 7 a registration fee of \$200 for the first \$100,000 of initial
 8 issue or portion thereof in this state, based on offering
 9 price, plus 1/10 of 1% for any excess over \$100,000, with a
 10 maximum of \$1,000.

11 (b) Each year thereafter, a registration of securities
 12 may be renewed, prior to its termination date, for an
 13 additional year upon consent of the commissioner and payment
 14 of an additional registration fee to be computed at 1/10 of
 15 1% of the aggregate offering price of such the securities
 16 which that are to be offered in this state during that year,
 17 even though the maximum fee was paid the preceding year. In
 18 no--event--shall--the The additional registration fee may not
 19 be less than \$200 or more than \$1,000. The registration
 20 statement for such the securities may be amended to increase
 21 the amount of securities to be offered.

22 (c) If a registrant sells securities in excess of the
 23 aggregate amount registered for sale in this state, the
 24 registrant may file an amendment to the registration
 25 statement to include the excess sales. If the registrant

1 fails to file an amendment before the expiration date of the
 2 registration order, he the registrant shall pay a filing fee
 3 for the excess sales of three times the amount calculated in
 4 the manner specified in subsection (1)(b). Registration of
 5 the excess securities is effective retroactively to the date
 6 of the existing registration.

7 (d) Each series, portfolio, or other subdivision of an
 8 investment company or similar issuer is treated as a
 9 separate issuer of securities. The issuer shall pay a
 10 portfolio registration fee to be calculated as provided in
 11 subsections (1)(a) through (1)(c). The portfolio
 12 registration fee collected by the commissioner must be
 13 deposited in the state special revenue account provided for
 14 in 30-10-115.

15 (2) (a) For registration of a broker-dealer or
 16 investment adviser, the fee ~~shall be~~ is \$200 for original
 17 registration and \$200 for each annual renewal.

18 (b) For registration of a salesman or investment
 19 adviser representative, the fee ~~shall be~~ is \$50 for original
 20 registration with each employer, \$50 for each annual
 21 renewal, and \$50 for each transfer.

22 (3) For certified or uncertified copies of any
 23 documents filed with the commissioner, the fee ~~shall be~~ is
 24 the cost to the department.

25 (4) For a request for an exemption under 30-10-105(15),

1 the fee ~~shall~~ must be established by the commissioner by
 2 rule. For a request for any other exemption or an exception
 3 to the provisions of parts 1 through 3 of this chapter, the
 4 fee ~~shall be~~ is \$50.

5 (5) All fees are considered fully earned when received.
 6 In the event of overpayment, only those amounts in excess of
 7 \$10 may be refunded.

8 (6) ~~All~~ Except for portfolio registration fees
 9 established in this section, all fees, examination charges,
 10 miscellaneous charges, fines, and penalties collected by the
 11 commissioner pursuant to parts 1 through 3 of this chapter
 12 and the rules adopted hereunder under parts 1 through 3 of
 13 this chapter must be deposited in the general fund."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0314, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act treating each series, portfolio, or other subdivision of an investment company or similar issuer as a separate issuer of securities; requiring each subdivision to pay a portfolio registration fee.

ASSUMPTIONS:

1. Currently, there are 525 investment companies registered in Montana, with approximately 2,000 individual portfolios.
2. Portfolios with no sales activity will not register under the proposed law.
3. The estimated incremental increase in registrations will be 600 annually. State special revenue to be derived from these registrations is \$120,000 (600 x \$200).
4. The Securities Program in the State Auditor's Office will conduct a merit review of each portfolio registered and will maintain the necessary files for enforcement. It is assumed that the additional workload will require an additional 2.00 FTE: 1.00 Grade 14 and 1.00 Grade 10. The positions and associated expenses will be funded by the state special revenue obtained from the portfolio registration fees.
5. It is assumed that the ending balances in the state special revenue account will remain in the account and will not be transferred to the general fund. The June 30, 1995, balance in the account is estimated to be \$100,768.

FISCAL IMPACT:

State Auditor-Securities Program:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures						
FTE	8.00	10.00	2.00	8.00	10.00	2.00
Personal Services	255,051	306,783	51,732	255,407	307,139	51,732
Operating Expenses	47,882	67,882	20,000	45,152	57,152	12,000
Equipment	0	3,768	3,768	0	0	0
Total	302,933	378,433	75,500	300,559	364,291	63,732
Funding:						
General Fund	302,933	302,933	0	300,559	300,559	0
State Special Revenue	0	75,500	75,500	0	63,732	63,732
Total	302,933	378,433	75,500	300,559	364,291	63,732
Revenue:						
General Fund (securities fees)	1,157,923	1,157,923	0	1,192,660	1,192,660	0
State Special (portfolio regist.)	0	120,000	120,000	0	120,000	120,000
Total	1,157,923	1,277,923	120,000	1,192,660	1,312,660	120,000

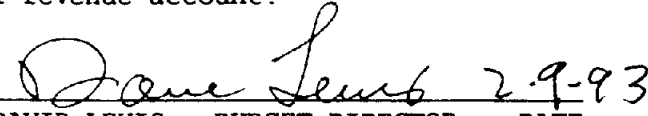
Net Impact to State Special Revenue

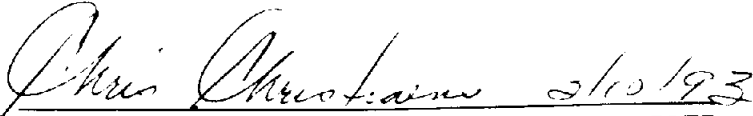
44,500

56,268

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is assumed that there will be ongoing securities enforcement expenditures and ongoing revenue to the securities state special revenue account.


 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 CHRIS CHRISTIAENS, PRIMARY SPONSOR DATE

Fiscal Note for SB0314, as introduced

SB 314

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

1 Senate BILL NO. 314
2 INTRODUCED BY Mr. Christians Mr. Kader Mr. L.
3 BY REQUEST OF THE STATE AUDITOR John
4 UNRECORDED John HARPER William McLell
5 A BILL FOR AN ACT ENTITLED: "AN ACT TREATING EACH SERIES,
6 PORTFOLIO, OR OTHER SUBDIVISION OF AN INVESTMENT COMPANY OR
7 SIMILAR ISSUER AS A SEPARATE ISSUER OF SECURITIES; REQUIRING
8 EACH SUBDIVISION TO PAY A PORTFOLIO REGISTRATION FEE; AND
9 AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 30-10-115, MCA, is amended to read:

13 "30-10-115. Deposits to the general fund. (1) All fees,
14 examination charges, and miscellaneous charges received by
15 the commissioner pursuant to parts 1 through 3 of this
16 chapter, except for portfolio registration fees described in
17 30-10-209(1)(d), must be deposited in the general fund.

18 (2) All portfolio registration fees collected under
19 30-10-209(1)(d) must be deposited in the state special
20 revenue account to the credit of the state auditor's office.
21 The funds allocated by this section to the state special
22 revenue account may only be used to defray the expenses of
23 the state auditor's office in discharging its administrative
24 and regulatory powers and duties."

25 **Section 2.** Section 30-10-209, MCA, is amended to read:

1 "30-10-209. Fees. The following fees ~~shall~~ must be paid
2 in advance under the provisions of parts 1 through 3 of this
3 chapter:

4 (1) (a) For the registration of securities by
5 notification, coordination, or qualification, there shall be
6 paid to the commissioner for the first year of registration
7 a registration fee of \$200 for the first \$100,000 of initial
8 issue or portion thereof in this state, based on offering
9 price, plus 1/10 of 1% for any excess over \$100,000, with a
10 maximum of \$1,000.

11 (b) Each year thereafter, a registration of securities
12 may be renewed, prior to its termination date, for an
13 additional year upon consent of the commissioner and payment
14 of an additional registration fee to be computed at 1/10 of
15 1% of the aggregate offering price of such the securities
16 which that are to be offered in this state during that year,
17 even though the maximum fee was paid the preceding year. ~~in~~
18 ~~no--event--shall--the~~ The additional registration fee may not
19 be less than \$200 or more than \$1,000. The registration
20 statement for such the securities may be amended to increase
21 the amount of securities to be offered.

22 (c) If a registrant sells securities in excess of the
23 aggregate amount registered for sale in this state, the
24 registrant may file an amendment to the registration
25 statement to include the excess sales. If the registrant

1 fails to file an amendment before the expiration date of the
 2 registration order, he the registrant shall pay a filing fee
 3 for the excess sales of three times the amount calculated in
 4 the manner specified in subsection (1)(b). Registration of
 5 the excess securities is effective retroactively to the date
 6 of the existing registration.

7 (d) Each series, portfolio, or other subdivision of an
 8 investment company or similar issuer is treated as a
 9 separate issuer of securities. The issuer shall pay a
 10 portfolio registration fee to be calculated as provided in
 11 subsections (1)(a) through (1)(c). The portfolio
 12 registration fee collected by the commissioner must be
 13 deposited in the state special revenue account provided for
 14 in 30-10-115.

15 (2) (a) For registration of a broker-dealer or
 16 investment adviser, the fee ~~shall-be~~ is \$200 for original
 17 registration and \$200 for each annual renewal.

18 (b) For registration of a salesman or investment
 19 adviser representative, the fee ~~shall-be~~ is \$50 for original
 20 registration with each employer, \$50 for each annual
 21 renewal, and \$50 for each transfer.

22 (3) For certified or uncertified copies of any
 23 documents filed with the commissioner, the fee ~~shall-be~~ is
 24 the cost to the department.

25 (4) For a request for an exemption under 30-10-105(15),

1 the fee ~~shall~~ must be established by the commissioner by
 2 rule. For a request for any other exemption or an exception
 3 to the provisions of parts 1 through 3 of this chapter, the
 4 fee ~~shall-be~~ is \$50.

5 (5) All fees are considered fully earned when received.
 6 In the event of overpayment, only those amounts in excess of
 7 \$10 may be refunded.

8 (6) ~~All~~ Except for portfolio registration fees
 9 established in this section, all fees, examination charges,
 10 miscellaneous charges, fines, and penalties collected by the
 11 commissioner pursuant to parts 1 through 3 of this chapter
 12 and the rules adopted hereunder under parts 1 through 3 of
 13 this chapter must be deposited in the general fund."

-End-

1 Senate BILL NO. 314
 2 INTRODUCED BY Mr. Christians Mr. Kader Senator
 3 BY REQUEST OF THE STATE AUDITOR John
 4 Wanzersbach Julian HARPC William McLeh
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TREATING EACH SERIES,
 6 PORTFOLIO, OR OTHER SUBDIVISION OF AN INVESTMENT COMPANY OR
 7 SIMILAR ISSUER AS A SEPARATE ISSUER OF SECURITIES; REQUIRING
 8 EACH SUBDIVISION TO PAY A PORTFOLIO REGISTRATION FEE; AND
 9 AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 30-10-115, MCA, is amended to read:

13 "30-10-115. Deposits to the general fund. (1) All fees,
 14 examination charges, and miscellaneous charges received by
 15 the commissioner pursuant to parts 1 through 3 of this
 16 chapter, except for portfolio registration fees described in
 17 30-10-209(1)(d), must be deposited in the general fund.

18 (2) All portfolio registration fees collected under
 19 30-10-209(1)(d) must be deposited in the state special
 20 revenue account to the credit of the state auditor's office.
 21 The funds allocated by this section to the state special
 22 revenue account may only be used to defray the expenses of
 23 the state auditor's office in discharging its administrative
 24 and regulatory powers and duties."

25 **Section 2.** Section 30-10-209, MCA, is amended to read:

1 "30-10-209. Fees. The following fees shall must be paid
 2 in advance under the provisions of parts 1 through 3 of this
 3 chapter:

4 (1) (a) For the registration of securities by
 5 notification, coordination, or qualification, there shall be
 6 paid to the commissioner for the first year of registration
 7 a registration fee of \$200 for the first \$100,000 of initial
 8 issue or portion thereof in this state, based on offering
 9 price, plus 1/10 of 1% for any excess over \$100,000, with a
 10 maximum of \$1,000.

11 (b) Each year thereafter, a registration of securities
 12 may be renewed, prior to its termination date, for an
 13 additional year upon consent of the commissioner and payment
 14 of an additional registration fee to be computed at 1/10 of
 15 1% of the aggregate offering price of such the securities
 16 which that are to be offered in this state during that year,
 17 even though the maximum fee was paid the preceding year. in
 18 no--event--shall--the The additional registration fee may not
 19 be less than \$200 or more than \$1,000. The registration
 20 statement for such the securities may be amended to increase
 21 the amount of securities to be offered.

22 (c) If a registrant sells securities in excess of the
 23 aggregate amount registered for sale in this state, the
 24 registrant may file an amendment to the registration
 25 statement to include the excess sales. If the registrant

1 fails to file an amendment before the expiration date of the
2 registration order, he the registrant shall pay a filing fee
3 for the excess sales of three times the amount calculated in
4 the manner specified in subsection (1)(b). Registration of
5 the excess securities is effective retroactively to the date
6 of the existing registration.

7 (d) Each series, portfolio, or other subdivision of an
8 investment company or similar issuer is treated as a
9 separate issuer of securities. The issuer shall pay a
10 portfolio registration fee to be calculated as provided in
11 subsections (1)(a) through (1)(c). The portfolio
12 registration fee collected by the commissioner must be
13 deposited in the state special revenue account provided for
14 in 30-10-115.

15 (2) (a) For registration of a broker-dealer or
16 investment adviser, the fee shall-be is \$200 for original
17 registration and \$200 for each annual renewal.

18 (b) For registration of a salesman or investment
19 adviser representative, the fee shall-be is \$50 for original
20 registration with each employer, \$50 for each annual
21 renewal, and \$50 for each transfer.

22 (3) For certified or uncertified copies of any
23 documents filed with the commissioner, the fee shall-be is
24 the cost to the department.

25 (4) For a request for an exemption under 30-10-105(15),

1 the fee shall must be established by the commissioner by
2 rule. For a request for any other exemption or an exception
3 to the provisions of parts 1 through 3 of this chapter, the
4 fee shall-be is \$50.

5 (5) All fees are considered fully earned when received.
6 In the event of overpayment, only those amounts in excess of
7 \$10 may be refunded.

8 (6) All Except for portfolio registration fees
9 established in this section, all fees, examination charges,
10 miscellaneous charges, fines, and penalties collected by the
11 commissioner pursuant to parts 1 through 3 of this chapter
12 and the rules adopted hereunder under parts 1 through 3 of
13 this chapter must be deposited in the general fund."

-End-

HOUSE STANDING COMMITTEE REPORT

March 26, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 314 (third reading copy - blue) be concurred in as amended .

Signed: _____



Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Hibbard

1. Page 1, line 24.

Following: "duties"

Insert: " in relation to portfolio registration. Any excess fees must be deposited in the general fund"

-END-

HOUSE

SB 314

Committee Vote:

Yes 13, No 4.

681110SC.Hss

SENATE BILL NO. 314

INTRODUCED BY CHRISTIAENS, TOWE,
KADAS, BIANCHI, WANZENRIED, QUILICI, HARP,
CRIPPEN, WILSON, FRITZ, MCCULLOCH
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TREATING EACH SERIES,
PORTFOLIO, OR OTHER SUBDIVISION OF AN INVESTMENT COMPANY OR
SIMILAR ISSUER AS A SEPARATE ISSUER OF SECURITIES; REQUIRING
EACH SUBDIVISION TO PAY A PORTFOLIO REGISTRATION FEE; AND
AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-10-115, MCA, is amended to read:

"30-10-115. Deposits to the general fund. (1) All fees,
examination charges, and miscellaneous charges received by
the commissioner pursuant to parts 1 through 3 of this
chapter, except for portfolio registration fees described in
30-10-209(1)(d), must be deposited in the general fund.

(2) All portfolio registration fees collected under
30-10-209(1)(d) must be deposited in the state special
revenue account to the credit of the state auditor's office.
The funds allocated by this section to the state special
revenue account may only be used to defray the expenses of
the state auditor's office in discharging its administrative

and regulatory powers and duties IN RELATION TO PORTFOLIO
REGISTRATION. ANY EXCESS FEES MUST BE DEPOSITED IN THE
GENERAL FUND."

Section 2. Section 30-10-209, MCA, is amended to read:

"30-10-209. Fees. The following fees ~~shall~~ must be paid
in advance under the provisions of parts 1 through 3 of this
chapter:

(1) (a) For the registration of securities by
notification, coordination, or qualification, there shall be
paid to the commissioner for the first year of registration
a registration fee of \$200 for the first \$100,000 of initial
issue or portion thereof in this state, based on offering
price, plus 1/10 of 1% for any excess over \$100,000, with a
maximum of \$1,000.

(b) Each year thereafter, a registration of securities
may be renewed, prior to its termination date, for an
additional year upon consent of the commissioner and payment
of an additional registration fee to be computed at 1/10 of
1% of the aggregate offering price of ~~such the~~ securities
~~which that~~ are to be offered in this state during that year,
even though the maximum fee was paid the preceding year. ~~In~~
~~no--event--shall--the~~ The additional registration fee may not
be less than \$200 or more than \$1,000. The registration
statement for ~~such the~~ securities may be amended to increase
the amount of securities to be offered.

1 (c) If a registrant sells securities in excess of the
 2 aggregate amount registered for sale in this state, the
 3 registrant may file an amendment to the registration
 4 statement to include the excess sales. If the registrant
 5 fails to file an amendment before the expiration date of the
 6 registration order, he the registrant shall pay a filing fee
 7 for the excess sales of three times the amount calculated in
 8 the manner specified in subsection (1)(b). Registration of
 9 the excess securities is effective retroactively to the date
 10 of the existing registration.

11 (d) Each series, portfolio, or other subdivision of an
 12 investment company or similar issuer is treated as a
 13 separate issuer of securities. The issuer shall pay a
 14 portfolio registration fee to be calculated as provided in
 15 subsections (1)(a) through (1)(c). The portfolio
 16 registration fee collected by the commissioner must be
 17 deposited in the state special revenue account provided for
 18 in 30-10-115.

19 (2) (a) For registration of a broker-dealer or
 20 investment adviser, the fee ~~shall-be~~ is \$200 for original
 21 registration and \$200 for each annual renewal.

22 (b) For registration of a salesman or investment
 23 adviser representative, the fee ~~shall-be~~ is \$50 for original
 24 registration with each employer, \$50 for each annual
 25 renewal, and \$50 for each transfer.

1 (3) For certified or uncertified copies of any
 2 documents filed with the commissioner, the fee ~~shall-be~~ is
 3 the cost to the department.

4 (4) For a request for an exemption under 30-10-105(15),
 5 the fee ~~shall~~ must be established by the commissioner by
 6 rule. For a request for any other exemption or an exception
 7 to the provisions of parts 1 through 3 of this chapter, the
 8 fee ~~shall-be~~ is \$50.

9 (5) All fees are considered fully earned when received.
 10 In the event of overpayment, only those amounts in excess of
 11 \$10 may be refunded.

12 (6) ~~All~~ Except for portfolio registration fees
 13 established in this section, all fees, examination charges,
 14 miscellaneous charges, fines, and penalties collected by the
 15 commissioner pursuant to parts 1 through 3 of this chapter
 16 and the rules adopted hereunder under parts 1 through 3 of
 17 this chapter must be deposited in the general fund."

-End-