

House BILL NO. 372

INTRODUCED BY

Quintin McKee Fisher

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A PERSON WHO PASSES THE GENERAL SECURITIES PRINCIPAL'S EXAMINATION IS ALSO REQUIRED TO PASS THE UNIFORM INVESTMENT ADVISER LAW EXAMINATION; ELIMINATING THE REQUIREMENT THAT A SALESPERSON DUALY REGISTERED AS INVESTMENT ADVISER REPRESENTATIVE WITH A BROKER-DEALER DUALY REGISTERED AS AN INVESTMENT ADVISER PAY THE \$50 FEE TO REGISTER AS AN INVESTMENT ADVISER REPRESENTATIVE; AMENDING SECTIONS 30-10-201 AND 30-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 30-10-201, MCA, is amended to read:

"30-10-201. Registration of broker-dealers, salespersons, investment advisers, and investment adviser representatives. (1) It is unlawful for a person to transact business in this state as a broker-dealer or salesperson, except as provided in 30-10-105, unless the person is registered under parts 1 through 3 of this chapter.

(2) It is unlawful for a broker-dealer or issuer to employ a salesperson to represent the broker-dealer or issuer in this state, except in transactions exempt under 30-10-105, unless the salesperson is registered under parts 1 through 3 of this chapter.

(3) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) the person is so registered under parts 1 through 3 of this chapter;

(b) the person is registered as a broker-dealer under parts 1 through 3 of this chapter;

(c) the person's only clients in this state are:

(i) investment companies, as defined in the Investment Company Act of 1940, or insurance companies;

(ii) other investment advisers;

(iii) broker-dealers;

1 (iv) banks;  
2 (v) trust companies;  
3 (vi) savings and loan associations;  
4 (vii) employee benefit plans with assets of not less than \$1 million;  
5 (viii) governmental agencies or instrumentalities, whether acting for themselves or as trustees with  
6 investment control; or

7 (ix) other institutional investors as are designated by rule or order of the commissioner; or

8 (d) the person does not have a place of business in this state and during any 12 consecutive  
9 months does not direct business communications in this state in any manner to more than five present or  
10 prospective clients, other than those specified in subsection (3)(c), whether or not the person or any of the  
11 persons to whom the communications are directed are then present in this state.

12 (4) A broker-dealer or a salesperson, acting as an agent for an issuer or as an agent for a  
13 broker-dealer in the offer or sale of securities for an issuer, or an investment adviser or investment adviser  
14 representative may apply for registration by filing an application in the form ~~as~~ that the commissioner  
15 prescribes and payment of the fee prescribed in 30-10-209. A salesperson acting as agent for an issuer or  
16 broker-dealer who is not currently in compliance with the financial responsibility requirements prescribed  
17 by the Securities Exchange Act of 1934 and by regulations adopted under it, may, in the discretion of the  
18 commissioner, be required to file with the commissioner a bond of a surety company duly authorized to  
19 transact business in this state. The bond ~~shall~~ must be in an amount determined by the commissioner,  
20 payable to the state of Montana and conditioned upon the faithful compliance with the provisions of parts  
21 1 through 3 of this chapter, and provide that upon failure to comply, the salesperson is liable to any and  
22 all persons who may suffer loss by reason ~~thereof~~ of a failure to comply.

23 (5) The application ~~shall~~ must contain whatever information the commissioner requires. A  
24 registration application of a broker-dealer, salesperson, investment adviser, or investment adviser  
25 representative may not be withdrawn before the commissioner approves or denies the registration, without  
26 the express written consent of the commissioner.

27 (6) When the registration requirements are met, the commissioner shall make the registration  
28 effective. An effective registration of a broker-dealer, salesperson, investment adviser, or investment  
29 adviser representative may not be withdrawn or terminated without the express written consent of the  
30 commissioner.

1           (7) Except as provided in subsection (6), registration of a broker-dealer, salesperson, investment  
2 adviser, or investment adviser representative:

3           (a) is effective until December 31 following the registration or any other time as the commissioner  
4 may by rule adopt; and

5           (b) may be renewed.

6           (8) The registration of a salesperson is not effective during any period when the salesperson is not  
7 associated with an issuer or a registered broker-dealer specified in the application. When a salesperson  
8 begins or terminates a connection with an issuer or registered broker-dealer, the salesperson and the issuer  
9 or broker-dealer shall promptly notify the commissioner.

10          (9) The registration of an investment adviser representative is not effective during any period when  
11 the person is not associated with an investment adviser registered under this act and specified in the  
12 application. When an investment adviser representative begins or terminates a connection with an  
13 investment adviser, the investment adviser shall promptly notify the commissioner.

14          (10) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser  
15 representative may be renewed by filing, prior to the expiration of the registration, an application containing  
16 information as the commissioner may require to indicate any material change in the information contained  
17 in the original application or any renewal application for registration as a broker-dealer, salesperson,  
18 investment adviser, or investment adviser representative filed by the applicant, payment of the prescribed  
19 fee, and, in the case of a broker-dealer who is not a member of NASD, inc., by filing a financial statement  
20 showing the financial condition of the broker-dealer as of a date within 90 days. A registered broker-dealer  
21 or investment adviser may file an application for registration of a successor, to become effective upon  
22 approval of the commissioner.

23          (11) Every registered broker-dealer and investment adviser shall make and keep accounts and other  
24 records, except with respect to securities exempt under 30-10-104(1), as may be prescribed by the  
25 commissioner. All required records must be preserved for 3 years unless the commissioner prescribes  
26 otherwise for particular types of records. All the records of a registered broker-dealer or investment adviser  
27 are subject at any time or from time to time to reasonable periodic, special, or other examinations, within  
28 or outside this state, by representatives of the commissioner, as the commissioner considers necessary or  
29 appropriate in the public interest or for the protection of investors.

30          (12) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer,

1 salesperson, investment adviser, or investment adviser representative if the commissioner finds that the  
2 order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or  
3 investment adviser, any partner, officer, director, person occupying a similar status or performing similar  
4 functions, or person directly or indirectly controlling the broker-dealer or investment adviser:

5 (a) has filed an application for registration under this section ~~which~~ that, as of its effective date  
6 or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material  
7 respect or contained any statement ~~which~~ that was, in the light of the circumstances under which it was  
8 made, false or misleading with respect to any material fact;

9 (b) has willfully violated or willfully failed to comply with any provision of parts 1 through 3 of this  
10 chapter or a predecessor law or any rule or order under parts 1 through 3 of this chapter or a predecessor  
11 law;

12 (c) has been convicted of any misdemeanor involving a security or any aspect of the securities  
13 business or any felony;

14 (d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging  
15 in or continuing any conduct or practice involving any aspect of the securities business;

16 (e) is the subject of an order of the commissioner denying, suspending, or revoking registration as  
17 a broker-dealer, salesperson, investment adviser, or investment adviser representative;

18 (f) is the subject of an adjudication or determination, within the past 5 years, by a securities or  
19 commodities agency or administrator of another state or a court of competent jurisdiction, that the person  
20 has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act  
21 of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act or the securities or  
22 commodities law of any other state;

23 (g) has engaged in dishonest or unethical practices in the securities business;

24 (h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the  
25 sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order  
26 against a broker-dealer or investment adviser under this subsection (12) without a finding of insolvency as  
27 to the broker-dealer or investment adviser;

28 (i) has not complied with a condition imposed by the commissioner under this section or is not  
29 qualified on the basis of such factors as training, experience, or knowledge of the securities business;

30 (j) has failed to pay the proper filing fee, but the commissioner may enter only a denial order under

1 this subsection (12), and the commissioner shall vacate any order when the deficiency has been corrected;  
2 or

3 (k) has failed to reasonably supervise the person's salespersons or employees or investment adviser  
4 representatives or employees to assure their compliance with this act.

5 (13) The commissioner may not institute a suspension or revocation proceeding on the basis of a  
6 fact or transaction known to the commissioner when registration became effective unless the proceeding  
7 is instituted within 30 days after the date on which the registration became effective.

8 (14) The commissioner may by order summarily postpone or suspend registration pending final  
9 determination of any proceeding under this section.

10 (15) Upon the entry of the order under subsection (12) of this section, the commissioner shall  
11 promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant  
12 or registrant is a salesperson or investment adviser representative, that it has been entered and of the  
13 reasons for the order and that if requested by the applicant or registrant within 15 days after the receipt  
14 of the commissioner's notification the matter will be promptly set for hearing. If a hearing is not requested  
15 within 15 days and none is ordered by the commissioner, the order will remain in effect until it is modified  
16 or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and  
17 opportunity for hearing, may modify or vacate the order or extend it until final determination.

18 (16) If the commissioner finds that any registrant or applicant for registration is no longer in  
19 existence or has ceased to do business as a broker-dealer, salesperson, investment adviser, or investment  
20 adviser representative or is subject to an adjudication of mental incompetence or to the control of a  
21 committee, conservator, or guardian or cannot be located after reasonable search, the commissioner may  
22 by order cancel the registration or application.

23 (17) The commissioner may, after suspending or revoking registration of any broker-dealer,  
24 salesperson, investment adviser, or investment adviser representative, impose a fine not to exceed \$5,000  
25 upon the broker-dealer, salesperson, investment adviser, or investment adviser representative. The fine is  
26 in addition to all other penalties imposed by the laws of this state and must be collected by the  
27 commissioner in the name of the state of Montana and deposited in the general fund. Imposition of any fine  
28 under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any  
29 broker-dealer, salesperson, investment adviser, or investment adviser representative fails to pay a fine  
30 referred to in this subsection, the amount of the fine is a lien upon all of the assets and property of the

1 broker-dealer, salesperson, investment adviser, or investment adviser representative in this state and may  
 2 be recovered by suit by the commissioner and deposited in the general fund. Failure of a broker-dealer,  
 3 salesperson, investment adviser, or investment adviser representative to pay a fine also constitutes a  
 4 forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

5 (18) A sole proprietor registered as a broker-dealer or investment adviser who does not employ  
 6 other salespersons or investment adviser representatives, other than the sole proprietor, is not required to  
 7 register as both a broker-dealer and a salesperson or as an investment adviser and an investment adviser  
 8 representative if the sole proprietor meets the examination requirements established by the commissioner  
 9 by rule.

10 (19) A person who is subject to the provisions of this section and who has passed the general  
 11 securities principal's examination is not required to also pass the uniform investment adviser law  
 12 examination. The commissioner shall by rule provide for a form that a person who passes the general  
 13 securities principal's examination shall file with the commissioner as a verification of having passed the  
 14 examination unless the commissioner can verify electronically that the person has passed the exam."

15

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

17 "**30-10-209. Fees.** The following fees must be paid in advance under the provisions of parts 1  
 18 through 3 of this chapter:

19 (1) (a) For the registration of securities by notification, coordination, or qualification, there ~~shall~~  
 20 must be paid to the commissioner for the first year of registration a registration fee of \$200 for the first  
 21 \$100,000 of initial issue or portion thereof in this state, based on offering price, plus 1/10 of 1% for any  
 22 excess over \$100,000, with a maximum of \$1,000.

23 (b) Each succeeding year ~~thereafter~~, a registration of securities may be renewed, prior to its  
 24 termination date, for an additional year upon consent of the commissioner and payment of an additional  
 25 registration fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to  
 26 be offered in this state during that year, even though the maximum fee was paid the preceding year. The  
 27 additional registration fee may not be less than \$200 or more than \$1,000. The registration statement for  
 28 the securities may be amended to increase the amount of securities to be offered.

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

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

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

9 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$200 for original  
10 registration and \$200 for each annual renewal.

11 (b) For registration of a salesperson or investment adviser representative, the fee is \$50 for original  
12 registration with each employer, \$50 for each annual renewal, and \$50 for each transfer. A salesperson  
13 who is dually registered as an investment adviser representative with a broker-dealer dually registered as  
14 an investment adviser is not required to pay the \$50 fee to register as an investment adviser representative.

15 (3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the  
16 cost to the department.

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

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

22 (6) Except for portfolio registration fees established in this section, all fees, examination charges,  
23 miscellaneous charges, fines, and penalties collected by the commissioner pursuant to parts 1 through 3  
24 of this chapter and the rules adopted under parts 1 through 3 of this chapter must be deposited in the  
25 general fund."

26  
27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

28 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0372, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating the requirement that a person who passes the general securities principal's exam is also required to pass the uniform investment adviser law exam; eliminating the requirement that a salesperson dually registered as investment adviser representative with broker-dealer dually registered as an investment adviser pay the \$50 fee to register as an investment adviser representative.

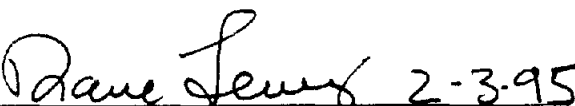
ASSUMPTIONS:

1. Only those investment personnel dually registered in the same firm are affected by this legislation.
2. Because the act is effective on passage and approval, FY95 fees may be reduced, but it is assumed the impact is immaterial.
3. In FY96 the number of individuals dually licensed is estimated at 526, with a revenue impact of \$26,300 (526 x \$50). In FY97 the total is estimated at 580, or revenue of \$29,000 (580 x \$50).
4. Fees paid are deposited to the general fund and amount to \$50 for each individual affected.

FISCAL IMPACT:

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Registration fees		
General fund (01)	(26,300)	(29,000)

 2-3-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

\_\_\_\_\_  
JEANETTE MCKEE, PRIMARY SPONSOR      DATE

Fiscal Note for HB0372, as introduced

HB 372



APPROVED BY COMMITTEE  
ON BUSINESS AND LABOR

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House BILL NO. 372

INTRODUCED BY

*Garrett McKee*

*Fisher*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A PERSON WHO PASSES THE GENERAL SECURITIES PRINCIPAL'S EXAMINATION IS ALSO REQUIRED TO PASS THE UNIFORM INVESTMENT ADVISER LAW EXAMINATION; ELIMINATING THE REQUIREMENT THAT A SALESPERSON DUALY REGISTERED AS INVESTMENT ADVISER REPRESENTATIVE WITH A BROKER-DEALER DUALY REGISTERED AS AN INVESTMENT ADVISER PAY THE \$50 FEE TO REGISTER AS AN INVESTMENT ADVISER REPRESENTATIVE; AMENDING SECTIONS 30-10-201 AND 30-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 30-10-201, MCA, is amended to read:

**"30-10-201. Registration of broker-dealers, salespersons, investment advisers, and investment adviser representatives.** (1) It is unlawful for a person to transact business in this state as a broker-dealer or salesperson, except as provided in 30-10-105, unless the person is registered under parts 1 through 3 of this chapter.

(2) It is unlawful for a broker-dealer or issuer to employ a salesperson to represent the broker-dealer or issuer in this state, except in transactions exempt under 30-10-105, unless the salesperson is registered under parts 1 through 3 of this chapter.

(3) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) the person is so registered under parts 1 through 3 of this chapter;

(b) the person is registered as a broker-dealer under parts 1 through 3 of this chapter;

(c) the person's only clients in this state are:

(i) investment companies, as defined in the Investment Company Act of 1940, or insurance companies;

(ii) other investment advisers;

(iii) broker-dealers;

1 (iv) banks;  
2 (v) trust companies;  
3 (vi) savings and loan associations;  
4 (vii) employee benefit plans with assets of not less than \$1 million;  
5 (viii) governmental agencies or instrumentalities, whether acting for themselves or as trustees with  
6 investment control; or

7 (ix) other institutional investors as are designated by rule or order of the commissioner; or

8 (d) the person does not have a place of business in this state and during any 12 consecutive  
9 months does not direct business communications in this state in any manner to more than five present or  
10 prospective clients, other than those specified in subsection (3)(c), whether or not the person or any of the  
11 persons to whom the communications are directed are then present in this state.

12 (4) A broker-dealer or a salesperson, acting as an agent for an issuer or as an agent for a  
13 broker-dealer in the offer or sale of securities for an issuer, or an investment adviser or investment adviser  
14 representative may apply for registration by filing an application in the form ~~as~~ that the commissioner  
15 prescribes and payment of the fee prescribed in 30-10-209. A salesperson acting as agent for an issuer or  
16 broker-dealer who is not currently in compliance with the financial responsibility requirements prescribed  
17 by the Securities Exchange Act of 1934 and by regulations adopted under it, may, in the discretion of the  
18 commissioner, be required to file with the commissioner a bond of a surety company duly authorized to  
19 transact business in this state. The bond ~~shall~~ must be in an amount determined by the commissioner,  
20 payable to the state of Montana and conditioned upon the faithful compliance with the provisions of parts  
21 1 through 3 of this chapter, and provide that upon failure to comply, the salesperson is liable to any and  
22 all persons who may suffer loss by reason ~~thereof~~ of a failure to comply.

23 (5) The application ~~shall~~ must contain whatever information the commissioner requires. A  
24 registration application of a broker-dealer, salesperson, investment adviser, or investment adviser  
25 representative may not be withdrawn before the commissioner approves or denies the registration, without  
26 the express written consent of the commissioner.

27 (6) When the registration requirements are met, the commissioner shall make the registration  
28 effective. An effective registration of a broker-dealer, salesperson, investment adviser, or investment  
29 adviser representative may not be withdrawn or terminated without the express written consent of the  
30 commissioner.

1           (7) Except as provided in subsection (6), registration of a broker-dealer, salesperson, investment  
2 adviser, or investment adviser representative:

3           (a) is effective until December 31 following the registration or any other time as the commissioner  
4 may by rule adopt; and

5           (b) may be renewed.

6           (8) The registration of a salesperson is not effective during any period when the salesperson is not  
7 associated with an issuer or a registered broker-dealer specified in the application. When a salesperson  
8 begins or terminates a connection with an issuer or registered broker-dealer, the salesperson and the issuer  
9 or broker-dealer shall promptly notify the commissioner.

10          (9) The registration of an investment adviser representative is not effective during any period when  
11 the person is not associated with an investment adviser registered under this act and specified in the  
12 application. When an investment adviser representative begins or terminates a connection with an  
13 investment adviser, the investment adviser shall promptly notify the commissioner.

14          (10) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser  
15 representative may be renewed by filing, prior to the expiration of the registration, an application containing  
16 information as the commissioner may require to indicate any material change in the information contained  
17 in the original application or any renewal application for registration as a broker-dealer, salesperson,  
18 investment adviser, or investment adviser representative filed by the applicant, payment of the prescribed  
19 fee, and, in the case of a broker-dealer who is not a member of NASD, inc., by filing a financial statement  
20 showing the financial condition of the broker-dealer as of a date within 90 days. A registered broker-dealer  
21 or investment adviser may file an application for registration of a successor, to become effective upon  
22 approval of the commissioner.

23          (11) Every registered broker-dealer and investment adviser shall make and keep accounts and other  
24 records, except with respect to securities exempt under 30-10-104(1), as may be prescribed by the  
25 commissioner. All required records must be preserved for 3 years unless the commissioner prescribes  
26 otherwise for particular types of records. All the records of a registered broker-dealer or investment adviser  
27 are subject at any time or from time to time to reasonable periodic, special, or other examinations, within  
28 or outside this state, by representatives of the commissioner, as the commissioner considers necessary or  
29 appropriate in the public interest or for the protection of investors.

30          (12) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer,

1 salesperson, investment adviser, or investment adviser representative if the commissioner finds that the  
2 order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or  
3 investment adviser, any partner, officer, director, person occupying a similar status or performing similar  
4 functions, or person directly or indirectly controlling the broker-dealer or investment adviser:

5 (a) has filed an application for registration under this section ~~which~~ that, as of its effective date  
6 or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material  
7 respect or contained any statement ~~which~~ that was, in the light of the circumstances under which it was  
8 made, false or misleading with respect to any material fact;

9 (b) has willfully violated or willfully failed to comply with any provision of parts 1 through 3 of this  
10 chapter or a predecessor law or any rule or order under parts 1 through 3 of this chapter or a predecessor  
11 law;

12 (c) has been convicted of any misdemeanor involving a security or any aspect of the securities  
13 business or any felony;

14 (d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging  
15 in or continuing any conduct or practice involving any aspect of the securities business;

16 (e) is the subject of an order of the commissioner denying, suspending, or revoking registration as  
17 a broker-dealer, salesperson, investment adviser, or investment adviser representative;

18 (f) is the subject of an adjudication or determination, within the past 5 years, by a securities or  
19 commodities agency or administrator of another state or a court of competent jurisdiction, that the person  
20 has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act  
21 of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act or the securities or  
22 commodities law of any other state;

23 (g) has engaged in dishonest or unethical practices in the securities business;

24 (h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the  
25 sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order  
26 against a broker-dealer or investment adviser under this subsection (12) without a finding of insolvency as  
27 to the broker-dealer or investment adviser;

28 (i) has not complied with a condition imposed by the commissioner under this section or is not  
29 qualified on the basis of such factors as training, experience, or knowledge of the securities business;

30 (j) has failed to pay the proper filing fee, but the commissioner may enter only a denial order under

1 this subsection (12), and the commissioner shall vacate any order when the deficiency has been corrected;  
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3 (k) has failed to reasonably supervise the person's salespersons or employees or investment adviser  
4 representatives or employees to assure their compliance with this act.

5 (13) The commissioner may not institute a suspension or revocation proceeding on the basis of a  
6 fact or transaction known to the commissioner when registration became effective unless the proceeding  
7 is instituted within 30 days after the date on which the registration became effective.

8 (14) The commissioner may by order summarily postpone or suspend registration pending final  
9 determination of any proceeding under this section.

10 (15) Upon the entry of the order under subsection (12) of this section, the commissioner shall  
11 promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant  
12 or registrant is a salesperson or investment adviser representative, that it has been entered and of the  
13 reasons for the order and that if requested by the applicant or registrant within 15 days after the receipt  
14 of the commissioner's notification the matter will be promptly set for hearing. If a hearing is not requested  
15 within 15 days and none is ordered by the commissioner, the order will remain in effect until it is modified  
16 or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and  
17 opportunity for hearing, may modify or vacate the order or extend it until final determination.

18 (16) If the commissioner finds that any registrant or applicant for registration is no longer in  
19 existence or has ceased to do business as a broker-dealer, salesperson, investment adviser, or investment  
20 adviser representative or is subject to an adjudication of mental incompetence or to the control of a  
21 committee, conservator, or guardian or cannot be located after reasonable search, the commissioner may  
22 by order cancel the registration or application.

23 (17) The commissioner may, after suspending or revoking registration of any broker-dealer,  
24 salesperson, investment adviser, or investment adviser representative, impose a fine not to exceed \$5,000  
25 upon the broker-dealer, salesperson, investment adviser, or investment adviser representative. The fine is  
26 in addition to all other penalties imposed by the laws of this state and must be collected by the  
27 commissioner in the name of the state of Montana and deposited in the general fund. Imposition of any fine  
28 under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any  
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2 be recovered by suit by the commissioner and deposited in the general fund. Failure of a broker-dealer,  
3 salesperson, investment adviser, or investment adviser representative to pay a fine also constitutes a  
4 forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

5 (18) A sole proprietor registered as a broker-dealer or investment adviser who does not employ  
6 other salespersons or investment adviser representatives, other than the sole proprietor, is not required to  
7 register as both a broker-dealer and a salesperson or as an investment adviser and an investment adviser  
8 representative if the sole proprietor meets the examination requirements established by the commissioner  
9 by rule.

10 (19) A person who is subject to the provisions of this section and who has passed the general  
11 securities principal's examination is not required to also pass the uniform investment adviser law  
12 examination. The commissioner shall by rule provide for a form that a person who passes the general  
13 securities principal's examination shall file with the commissioner as a verification of having passed the  
14 examination unless the commissioner can verify electronically that the person has passed the exam."

15

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

17 "**30-10-209. Fees.** The following fees must be paid in advance under the provisions of parts 1  
18 through 3 of this chapter:

19 (1) (a) For the registration of securities by notification, coordination, or qualification, there ~~shall~~  
20 must be paid to the commissioner for the first year of registration a registration fee of \$200 for the first  
21 \$100,000 of initial issue or portion thereof in this state, based on offering price, plus 1/10 of 1% for any  
22 excess over \$100,000, with a maximum of \$1,000.

23 (b) Each succeeding year ~~thereafter~~, a registration of securities may be renewed, prior to its  
24 termination date, for an additional year upon consent of the commissioner and payment of an additional  
25 registration fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to  
26 be offered in this state during that year, even though the maximum fee was paid the preceding year. The  
27 additional registration fee may not be less than \$200 or more than \$1,000. The registration statement for  
28 the securities may be amended to increase the amount of securities to be offered.

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

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

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

9 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$200 for original  
10 registration and \$200 for each annual renewal.

11 (b) For registration of a salesperson or investment adviser representative, the fee is \$50 for original  
12 registration with each employer, \$50 for each annual renewal, and \$50 for each transfer. A salesperson  
13 who is dually registered as an investment adviser representative with a broker-dealer dually registered as  
14 an investment adviser is not required to pay the \$50 fee to register as an investment adviser representative.

15 (3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the  
16 cost to the department.

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

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

22 (6) Except for portfolio registration fees established in this section, all fees, examination charges,  
23 miscellaneous charges, fines, and penalties collected by the commissioner pursuant to parts 1 through 3  
24 of this chapter and the rules adopted under parts 1 through 3 of this chapter must be deposited in the  
25 general fund."  
26

27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

28 -END-

House BILL NO. 372

INTRODUCED BY

Garrett McKee Fisher

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A PERSON WHO PASSES THE GENERAL SECURITIES PRINCIPAL'S EXAMINATION IS ALSO REQUIRED TO PASS THE UNIFORM INVESTMENT ADVISER LAW EXAMINATION; ELIMINATING THE REQUIREMENT THAT A SALESPERSON DUALY REGISTERED AS INVESTMENT ADVISER REPRESENTATIVE WITH A BROKER-DEALER DUALY REGISTERED AS AN INVESTMENT ADVISER PAY THE \$50 FEE TO REGISTER AS AN INVESTMENT ADVISER REPRESENTATIVE; AMENDING SECTIONS 30-10-201 AND 30-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 30-10-201, MCA, is amended to read:

**"30-10-201. Registration of broker-dealers, salespersons, investment advisers, and investment adviser representatives.** (1) It is unlawful for a person to transact business in this state as a broker-dealer or salesperson, except as provided in 30-10-105, unless the person is registered under parts 1 through 3 of this chapter.

(2) It is unlawful for a broker-dealer or issuer to employ a salesperson to represent the broker-dealer or issuer in this state, except in transactions exempt under 30-10-105, unless the salesperson is registered under parts 1 through 3 of this chapter.

(3) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) the person is so registered under parts 1 through 3 of this chapter;

(b) the person is registered as a broker-dealer under parts 1 through 3 of this chapter;

(c) the person's only clients in this state are:

(i) investment companies, as defined in the Investment Company Act of 1940, or insurance companies;

(ii) other investment advisers;

(iii) broker-dealers;



- 1 (iv) banks;  
2 (v) trust companies;  
3 (vi) savings and loan associations;  
4 (vii) employee benefit plans with assets of not less than \$1 million;  
5 (viii) governmental agencies or instrumentalities, whether acting for themselves or as trustees with  
6 investment control; or

7 (ix) other institutional investors as are designated by rule or order of the commissioner; or

8 (d) the person does not have a place of business in this state and during any 12 consecutive  
9 months does not direct business communications in this state in any manner to more than five present or  
10 prospective clients, other than those specified in subsection (3)(c), whether or not the person or any of the  
11 persons to whom the communications are directed are then present in this state.

12 (4) A broker-dealer or a salesperson, acting as an agent for an issuer or as an agent for a  
13 broker-dealer in the offer or sale of securities for an issuer, or an investment adviser or investment adviser  
14 representative may apply for registration by filing an application in the form ~~as~~ that the commissioner  
15 prescribes and payment of the fee prescribed in 30-10-209. A salesperson acting as agent for an issuer or  
16 broker-dealer who is not currently in compliance with the financial responsibility requirements prescribed  
17 by the Securities Exchange Act of 1934 and by regulations adopted under it, may, in the discretion of the  
18 commissioner, be required to file with the commissioner a bond of a surety company duly authorized to  
19 transact business in this state. The bond ~~shall~~ must be in an amount determined by the commissioner,  
20 payable to the state of Montana and conditioned upon the faithful compliance with the provisions of parts  
21 1 through 3 of this chapter, and provide that upon failure to comply, the salesperson is liable to any and  
22 all persons who may suffer loss by reason ~~thereof~~ of a failure to comply.

23 (5) The application ~~shall~~ must contain whatever information the commissioner requires. A  
24 registration application of a broker-dealer, salesperson, investment adviser, or investment adviser  
25 representative may not be withdrawn before the commissioner approves or denies the registration, without  
26 the express written consent of the commissioner.

27 (6) When the registration requirements are met, the commissioner shall make the registration  
28 effective. An effective registration of a broker-dealer, salesperson, investment adviser, or investment  
29 adviser representative may not be withdrawn or terminated without the express written consent of the  
30 commissioner.

1 (7) Except as provided in subsection (6), registration of a broker-dealer, salesperson, investment  
2 adviser, or investment adviser representative:

3 (a) is effective until December 31 following the registration or any other time as the commissioner  
4 may by rule adopt; and

5 (b) may be renewed.

6 (8) The registration of a salesperson is not effective during any period when the salesperson is not  
7 associated with an issuer or a registered broker-dealer specified in the application. When a salesperson  
8 begins or terminates a connection with an issuer or registered broker-dealer, the salesperson and the issuer  
9 or broker-dealer shall promptly notify the commissioner.

10 (9) The registration of an investment adviser representative is not effective during any period when  
11 the person is not associated with an investment adviser registered under this act and specified in the  
12 application. When an investment adviser representative begins or terminates a connection with an  
13 investment adviser, the investment adviser shall promptly notify the commissioner.

14 (10) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser  
15 representative may be renewed by filing, prior to the expiration of the registration, an application containing  
16 information as the commissioner may require to indicate any material change in the information contained  
17 in the original application or any renewal application for registration as a broker-dealer, salesperson,  
18 investment adviser, or investment adviser representative filed by the applicant, payment of the prescribed  
19 fee, and, in the case of a broker-dealer who is not a member of NASD, inc., by filing a financial statement  
20 showing the financial condition of the broker-dealer as of a date within 90 days. A registered broker-dealer  
21 or investment adviser may file an application for registration of a successor, to become effective upon  
22 approval of the commissioner.

23 (11) Every registered broker-dealer and investment adviser shall make and keep accounts and other  
24 records, except with respect to securities exempt under 30-10-104(1), as may be prescribed by the  
25 commissioner. All required records must be preserved for 3 years unless the commissioner prescribes  
26 otherwise for particular types of records. All the records of a registered broker-dealer or investment adviser  
27 are subject at any time or from time to time to reasonable periodic, special, or other examinations, within  
28 or outside this state, by representatives of the commissioner, as the commissioner considers necessary or  
29 appropriate in the public interest or for the protection of investors.

30 (12) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer,

1 salesperson, investment adviser, or investment adviser representative if the commissioner finds that the  
2 order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or  
3 investment adviser, any partner, officer, director, person occupying a similar status or performing similar  
4 functions, or person directly or indirectly controlling the broker-dealer or investment adviser:

5 (a) has filed an application for registration under this section ~~which~~ that, as of its effective date  
6 or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material  
7 respect or contained any statement ~~which~~ that was, in the light of the circumstances under which it was  
8 made, false or misleading with respect to any material fact;

9 (b) has willfully violated or willfully failed to comply with any provision of parts 1 through 3 of this  
10 chapter or a predecessor law or any rule or order under parts 1 through 3 of this chapter or a predecessor  
11 law;

12 (c) has been convicted of any misdemeanor involving a security or any aspect of the securities  
13 business or any felony;

14 (d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging  
15 in or continuing any conduct or practice involving any aspect of the securities business;

16 (e) is the subject of an order of the commissioner denying, suspending, or revoking registration as  
17 a broker-dealer, salesperson, investment adviser, or investment adviser representative;

18 (f) is the subject of an adjudication or determination, within the past 5 years, by a securities or  
19 commodities agency or administrator of another state or a court of competent jurisdiction, that the person  
20 has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act  
21 of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act or the securities or  
22 commodities law of any other state;

23 (g) has engaged in dishonest or unethical practices in the securities business;

24 (h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the  
25 sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order  
26 against a broker-dealer or investment adviser under this subsection (12) without a finding of insolvency as  
27 to the broker-dealer or investment adviser;

28 (i) has not complied with a condition imposed by the commissioner under this section or is not  
29 qualified on the basis of such factors as training, experience, or knowledge of the securities business;

30 (j) has failed to pay the proper filing fee, but the commissioner may enter only a denial order under

1 this subsection (12), and the commissioner shall vacate any order when the deficiency has been corrected;  
2 or

3 (k) has failed to reasonably supervise the person's salespersons or employees or investment adviser  
4 representatives or employees to assure their compliance with this act.

5 (13) The commissioner may not institute a suspension or revocation proceeding on the basis of a  
6 fact or transaction known to the commissioner when registration became effective unless the proceeding  
7 is instituted within 30 days after the date on which the registration became effective.

8 (14) The commissioner may by order summarily postpone or suspend registration pending final  
9 determination of any proceeding under this section.

10 (15) Upon the entry of the order under subsection (12) of this section, the commissioner shall  
11 promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant  
12 or registrant is a salesperson or investment adviser representative, that it has been entered and of the  
13 reasons for the order and that if requested by the applicant or registrant within 15 days after the receipt  
14 of the commissioner's notification the matter will be promptly set for hearing. If a hearing is not requested  
15 within 15 days and none is ordered by the commissioner, the order will remain in effect until it is modified  
16 or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and  
17 opportunity for hearing, may modify or vacate the order or extend it until final determination.

18 (16) If the commissioner finds that any registrant or applicant for registration is no longer in  
19 existence or has ceased to do business as a broker-dealer, salesperson, investment adviser, or investment  
20 adviser representative or is subject to an adjudication of mental incompetence or to the control of a  
21 committee, conservator, or guardian or cannot be located after reasonable search, the commissioner may  
22 by order cancel the registration or application.

23 (17) The commissioner may, after suspending or revoking registration of any broker-dealer,  
24 salesperson, investment adviser, or investment adviser representative, impose a fine not to exceed \$5,000  
25 upon the broker-dealer, salesperson, investment adviser, or investment adviser representative. The fine is  
26 in addition to all other penalties imposed by the laws of this state and must be collected by the  
27 commissioner in the name of the state of Montana and deposited in the general fund. Imposition of any fine  
28 under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any  
29 broker-dealer, salesperson, investment adviser, or investment adviser representative fails to pay a fine  
30 referred to in this subsection, the amount of the fine is a lien upon all of the assets and property of the

1 broker-dealer, salesperson, investment adviser, or investment adviser representative in this state and may  
2 be recovered by suit by the commissioner and deposited in the general fund. Failure of a broker-dealer,  
3 salesperson, investment adviser, or investment adviser representative to pay a fine also constitutes a  
4 forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

5 (18) A sole proprietor registered as a broker-dealer or investment adviser who does not employ  
6 other salespersons or investment adviser representatives, other than the sole proprietor, is not required to  
7 register as both a broker-dealer and a salesperson or as an investment adviser and an investment adviser  
8 representative if the sole proprietor meets the examination requirements established by the commissioner  
9 by rule.

10 (19) A person who is subject to the provisions of this section and who has passed the general  
11 securities principal's examination is not required to also pass the uniform investment adviser law  
12 examination. The commissioner shall by rule provide for a form that a person who passes the general  
13 securities principal's examination shall file with the commissioner as a verification of having passed the  
14 examination unless the commissioner can verify electronically that the person has passed the exam."

15  
16 **Section 2.** Section 30-10-209, MCA, is amended to read:

17 **"30-10-209. Fees.** The following fees must be paid in advance under the provisions of parts 1  
18 through 3 of this chapter:

19 (1) (a) For the registration of securities by notification, coordination, or qualification, there ~~shall~~  
20 must be paid to the commissioner for the first year of registration a registration fee of \$200 for the first  
21 \$100,000 of initial issue or portion thereof in this state, based on offering price, plus 1/10 of 1% for any  
22 excess over \$100,000, with a maximum of \$1,000.

23 (b) Each succeeding year ~~thereafter~~, a registration of securities may be renewed, prior to its  
24 termination date, for an additional year upon consent of the commissioner and payment of an additional  
25 registration fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to  
26 be offered in this state during that year, even though the maximum fee was paid the preceding year. The  
27 additional registration fee may not be less than \$200 or more than \$1,000. The registration statement for  
28 the securities may be amended to increase the amount of securities to be offered.

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

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

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

9 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$200 for original  
10 registration and \$200 for each annual renewal.

11 (b) For registration of a salesperson or investment adviser representative, the fee is \$50 for original  
12 registration with each employer, \$50 for each annual renewal, and \$50 for each transfer. A salesperson  
13 who is dually registered as an investment adviser representative with a broker-dealer dually registered as  
14 an investment adviser is not required to pay the \$50 fee to register as an investment adviser representative.

15 (3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the  
16 cost to the department.

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

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

22 (6) Except for portfolio registration fees established in this section, all fees, examination charges,  
23 miscellaneous charges, fines, and penalties collected by the commissioner pursuant to parts 1 through 3  
24 of this chapter and the rules adopted under parts 1 through 3 of this chapter must be deposited in the  
25 general fund."  
26

27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

28

-END-

HOUSE BILL NO. 372

INTRODUCED BY MCKEE, FISHER

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A PERSON WHO PASSES THE GENERAL SECURITIES PRINCIPAL'S EXAMINATION IS ALSO REQUIRED TO PASS THE UNIFORM INVESTMENT ADVISER LAW EXAMINATION; ELIMINATING THE REQUIREMENT THAT A SALESPERSON DUALY REGISTERED AS INVESTMENT ADVISER REPRESENTATIVE WITH A BROKER-DEALER DUALY REGISTERED AS AN INVESTMENT ADVISER PAY THE \$50 FEE TO REGISTER AS AN INVESTMENT ADVISER REPRESENTATIVE; AMENDING SECTIONS 30-10-201 AND 30-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 30-10-201, MCA, is amended to read:

"30-10-201. Registration of broker-dealers, salespersons, investment advisers, and investment adviser representatives. (1) It is unlawful for a person to transact business in this state as a broker-dealer or salesperson, except as provided in 30-10-105, unless the person is registered under parts 1 through 3 of this chapter.

(2) It is unlawful for a broker-dealer or issuer to employ a salesperson to represent the broker-dealer or issuer in this state, except in transactions exempt under 30-10-105, unless the salesperson is registered under parts 1 through 3 of this chapter.

(3) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

- (a) the person is so registered under parts 1 through 3 of this chapter;
- (b) the person is registered as a broker-dealer under parts 1 through 3 of this chapter;
- (c) the person's only clients in this state are:
  - (i) investment companies, as defined in the Investment Company Act of 1940, or insurance companies;
  - (ii) other investment advisers;
  - (iii) broker-dealers;

- 1 (iv) banks;  
 2 (v) trust companies;  
 3 (vi) savings and loan associations;  
 4 (vii) employee benefit plans with assets of not less than \$1 million;  
 5 (viii) governmental agencies or instrumentalities, whether acting for themselves or as trustees with  
 6 investment control; or

7 (ix) other institutional investors as are designated by rule or order of the commissioner; or

8 (d) the person does not have a place of business in this state and during any 12 consecutive  
 9 months does not direct business communications in this state in any manner to more than five present or  
 10 prospective clients, other than those specified in subsection (3)(c), whether or not the person or any of the  
 11 persons to whom the communications are directed are then present in this state.

12 (4) A broker-dealer or a salesperson, acting as an agent for an issuer or as an agent for a  
 13 broker-dealer in the offer or sale of securities for an issuer, or an investment adviser or investment adviser  
 14 representative may apply for registration by filing an application in the form ~~as~~ that the commissioner  
 15 prescribes and payment of the fee prescribed in 30-10-209. A salesperson acting as agent for an issuer or  
 16 broker-dealer who is not currently in compliance with the financial responsibility requirements prescribed  
 17 by the Securities Exchange Act of 1934 and by regulations adopted under it, may, in the discretion of the  
 18 commissioner, be required to file with the commissioner a bond of a surety company duly authorized to  
 19 transact business in this state. The bond ~~shall~~ must be in an amount determined by the commissioner,  
 20 payable to the state of Montana and conditioned upon the faithful compliance with the provisions of parts  
 21 1 through 3 of this chapter, and provide that upon failure to comply, the salesperson is liable to any and  
 22 all persons who may suffer loss by reason ~~thereof~~ of a failure to comply.

23 (5) The application ~~shall~~ must contain whatever information the commissioner requires. A  
 24 registration application of a broker-dealer, salesperson, investment adviser, or investment adviser  
 25 representative may not be withdrawn before the commissioner approves or denies the registration, without  
 26 the express written consent of the commissioner.

27 (6) When the registration requirements are met, the commissioner shall make the registration  
 28 effective. An effective registration of a broker-dealer, salesperson, investment adviser, or investment  
 29 adviser representative may not be withdrawn or terminated without the express written consent of the  
 30 commissioner.



1 (7) Except as provided in subsection (6), registration of a broker-dealer, salesperson, investment  
2 adviser, or investment adviser representative:

3 (a) is effective until December 31 following the registration or any other time as the commissioner  
4 may by rule adopt; and

5 (b) may be renewed.

6 (8) The registration of a salesperson is not effective during any period when the salesperson is not  
7 associated with an issuer or a registered broker-dealer specified in the application. When a salesperson  
8 begins or terminates a connection with an issuer or registered broker-dealer, the salesperson and the issuer  
9 or broker-dealer shall promptly notify the commissioner.

10 (9) The registration of an investment adviser representative is not effective during any period when  
11 the person is not associated with an investment adviser registered under this act and specified in the  
12 application. When an investment adviser representative begins or terminates a connection with an  
13 investment adviser, the investment adviser shall promptly notify the commissioner.

14 (10) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser  
15 representative may be renewed by filing, prior to the expiration of the registration, an application containing  
16 information as the commissioner may require to indicate any material change in the information contained  
17 in the original application or any renewal application for registration as a broker-dealer, salesperson,  
18 investment adviser, or investment adviser representative filed by the applicant, payment of the prescribed  
19 fee, and, in the case of a broker-dealer who is not a member of NASD, inc., by filing a financial statement  
20 showing the financial condition of the broker-dealer as of a date within 90 days. A registered broker-dealer  
21 or investment adviser may file an application for registration of a successor, to become effective upon  
22 approval of the commissioner.

23 (11) Every registered broker-dealer and investment adviser shall make and keep accounts and other  
24 records, except with respect to securities exempt under 30-10-104(1), as may be prescribed by the  
25 commissioner. All required records must be preserved for 3 years unless the commissioner prescribes  
26 otherwise for particular types of records. All the records of a registered broker-dealer or investment adviser  
27 are subject at any time or from time to time to reasonable periodic, special, or other examinations, within  
28 or outside this state, by representatives of the commissioner, as the commissioner considers necessary or  
29 appropriate in the public interest or for the protection of investors.

30 (12) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer,

1 salesperson, investment adviser, or investment adviser representative if the commissioner finds that the  
2 order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or  
3 investment adviser, any partner, officer, director, person occupying a similar status or performing similar  
4 functions, or person directly or indirectly controlling the broker-dealer or investment adviser:

5 (a) has filed an application for registration under this section ~~which~~ that, as of its effective date  
6 or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material  
7 respect or contained any statement ~~which~~ that was, in the light of the circumstances under which it was  
8 made, false or misleading with respect to any material fact;

9 (b) has willfully violated or willfully failed to comply with any provision of parts 1 through 3 of this  
10 chapter or a predecessor law or any rule or order under parts 1 through 3 of this chapter or a predecessor  
11 law;

12 (c) has been convicted of any misdemeanor involving a security or any aspect of the securities  
13 business or any felony;

14 (d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging  
15 in or continuing any conduct or practice involving any aspect of the securities business;

16 (e) is the subject of an order of the commissioner denying, suspending, or revoking registration as  
17 a broker-dealer, salesperson, investment adviser, or investment adviser representative;

18 (f) is the subject of an adjudication or determination, within the past 5 years, by a securities or  
19 commodities agency or administrator of another state or a court of competent jurisdiction, that the person  
20 has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act  
21 of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act or the securities or  
22 commodities law of any other state;

23 (g) has engaged in dishonest or unethical practices in the securities business;

24 (h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the  
25 sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order  
26 against a broker-dealer or investment adviser under this subsection (12) without a finding of insolvency as  
27 to the broker-dealer or investment adviser;

28 (i) has not complied with a condition imposed by the commissioner under this section or is not  
29 qualified on the basis of such factors as training, experience, or knowledge of the securities business;

30 (j) has failed to pay the proper filing fee, but the commissioner may enter only a denial order under

1 this subsection (12), and the commissioner shall vacate any order when the deficiency has been corrected;  
2 or

3 (k) has failed to reasonably supervise the person's salespersons or employees or investment adviser  
4 representatives or employees to assure their compliance with this act.

5 (13) The commissioner may not institute a suspension or revocation proceeding on the basis of a  
6 fact or transaction known to the commissioner when registration became effective unless the proceeding  
7 is instituted within 30 days after the date on which the registration became effective.

8 (14) The commissioner may by order summarily postpone or suspend registration pending final  
9 determination of any proceeding under this section.

10 (15) Upon the entry of the order under subsection (12) of this section, the commissioner shall  
11 promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant  
12 or registrant is a salesperson or investment adviser representative, that it has been entered and of the  
13 reasons for the order and that if requested by the applicant or registrant within 15 days after the receipt  
14 of the commissioner's notification the matter will be promptly set for hearing. If a hearing is not requested  
15 within 15 days and none is ordered by the commissioner, the order will remain in effect until it is modified  
16 or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and  
17 opportunity for hearing, may modify or vacate the order or extend it until final determination.

18 (16) If the commissioner finds that any registrant or applicant for registration is no longer in  
19 existence or has ceased to do business as a broker-dealer, salesperson, investment adviser, or investment  
20 adviser representative or is subject to an adjudication of mental incompetence or to the control of a  
21 committee, conservator, or guardian or cannot be located after reasonable search, the commissioner may  
22 by order cancel the registration or application.

23 (17) The commissioner may, after suspending or revoking registration of any broker-dealer,  
24 salesperson, investment adviser, or investment adviser representative, impose a fine not to exceed \$5,000  
25 upon the broker-dealer, salesperson, investment adviser, or investment adviser representative. The fine is  
26 in addition to all other penalties imposed by the laws of this state and must be collected by the  
27 commissioner in the name of the state of Montana and deposited in the general fund. Imposition of any fine  
28 under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any  
29 broker-dealer, salesperson, investment adviser, or investment adviser representative fails to pay a fine  
30 referred to in this subsection, the amount of the fine is a lien upon all of the assets and property of the

1 broker-dealer, salesperson, investment adviser, or investment adviser representative in this state and may  
 2 be recovered by suit by the commissioner and deposited in the general fund. Failure of a broker-dealer,  
 3 salesperson, investment adviser, or investment adviser representative to pay a fine also constitutes a  
 4 forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

5 (18) A sole proprietor registered as a broker-dealer or investment adviser who does not employ  
 6 other salespersons or investment adviser representatives, other than the sole proprietor, is not required to  
 7 register as both a broker-dealer and a salesperson or as an investment adviser and an investment adviser  
 8 representative if the sole proprietor meets the examination requirements established by the commissioner  
 9 by rule.

10 (19) A person who is subject to the provisions of this section and who has passed the general  
 11 securities principal's examination is not required to also pass the uniform investment adviser law  
 12 examination. The commissioner shall by rule provide for a form that a person who passes the general  
 13 securities principal's examination shall file with the commissioner as a verification of having passed the  
 14 examination unless the commissioner can verify electronically that the person has passed the exam."

15  
 16 **Section 2.** Section 30-10-209, MCA, is amended to read:

17 "30-10-209. **Fees.** The following fees must be paid in advance under the provisions of parts 1  
 18 through 3 of this chapter:

19 (1) (a) For the registration of securities by notification, coordination, or qualification, there ~~shall~~  
 20 must be paid to the commissioner for the first year of registration a registration fee of \$200 for the first  
 21 \$100,000 of initial issue or portion thereof in this state, based on offering price, plus 1/10 of 1% for any  
 22 excess over \$100,000, with a maximum of \$1,000.

23 (b) Each succeeding year ~~thereafter~~, a registration of securities may be renewed, prior to its  
 24 termination date, for an additional year upon consent of the commissioner and payment of an additional  
 25 registration fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to  
 26 be offered in this state during that year, even though the maximum fee was paid the preceding year. The  
 27 additional registration fee may not be less than \$200 or more than \$1,000. The registration statement for  
 28 the securities may be amended to increase the amount of securities to be offered.

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

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

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

9 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$200 for original  
10 registration and \$200 for each annual renewal.

11 (b) For registration of a salesperson or investment adviser representative, the fee is \$50 for original  
12 registration with each employer, \$50 for each annual renewal, and \$50 for each transfer. A salesperson  
13 who is dually registered as an investment adviser representative with a broker-dealer dually registered as  
14 an investment adviser is not required to pay the \$50 fee to register as an investment adviser representative.

15 (3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the  
16 cost to the department.

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

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

22 (6) Except for portfolio registration fees established in this section, all fees, examination charges,  
23 miscellaneous charges, fines, and penalties collected by the commissioner pursuant to parts 1 through 3  
24 of this chapter and the rules adopted under parts 1 through 3 of this chapter must be deposited in the  
25 general fund."

26

27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

28

-END-