

HOUSE BILL NO. 66

INTRODUCED BY T. MOORE

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REAUTHORIZING THE SECURITIES RESTITUTION ASSISTANCE FUND; EXTENDING THE SUNSET DATE OF THE RESTITUTION FUND TO JUNE 30, 2027; AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA; AMENDING SECTION 16, CHAPTER 58, LAWS OF 2011, AND SECTION 55, CHAPTER 151, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 general fund -- exceptions.** (1) Except as provided in subsection (2), all fees and miscellaneous charges received by the commissioner pursuant to parts 1 through 3 of this chapter must be deposited in the general fund.

(2) (a) All notice filing fees collected under 30-10-209(1)(d) and examination costs collected under 30-10-210 must be deposited in the state special revenue fund in an account to the credit of the state auditor's office. [Subject to legislative fund transfer,] the funds allocated by this subsection (2)(a) to the state special revenue account may be used only to defray the expenses of the state auditor's office in discharging its administrative and regulatory powers and duties in relation to notice filing under 30-10-209(1)(d) and examinations.

(b) Any fees in excess of the amount required for the purposes listed in subsection (2)(a) must be deposited in the general fund.

(c) On or after July 1, 2019, 4.5% of the total fees collected annually under 30-10-209(1)(b) must be deposited in the securities restitution assistance fund provided for in 30-10-1004. The remainder must be deposited in the general fund. On or after July 1, ~~2024~~ 2027, all fees collected annually under 30-10-209(1)(b) must be deposited in the general fund. (Bracketed language in subsection (2)(a) terminates June 30, 2021--

1 sec. 1, Ch. 395, L. 2019.)"

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

4 **"30-10-209. Fees.** The following fees must be paid in advance under the provisions of parts 1 through  
5 3 of this chapter:

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

10 (b) Each succeeding year, a registration of securities or a notice filing of a federal covered security  
11 may be renewed, prior to its termination date, for an additional year upon consent of the commissioner and  
12 payment of a renewal fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are  
13 to be offered in this state during that year. The renewal fee may not be less than \$200 or more than \$1,000.  
14 The registration or the notice filing may be amended to increase the amount of securities to be offered.

15 (c) If a registrant or issuer of federal covered securities sells securities in excess of the aggregate  
16 amount registered for sale in this state or for which a notice filing has been submitted, the registrant or issuer  
17 may file an amendment to the registration statement or notice filing to include the excess sales. If the registrant  
18 or issuer of a federal covered security fails to file an amendment before the expiration date of the registration  
19 order or notice, the registrant or issuer shall pay a filing fee for the excess sales of three times the amount  
20 calculated in the manner specified in subsection (1)(b). Registration or notice of the excess securities is  
21 effective retroactively to the date of the existing registration or notice.

22 (d) Each series, portfolio, or other subdivision of an investment company or similar issuer is treated as  
23 a separate issuer of securities. The issuer shall pay a notice filing fee to be calculated as provided in  
24 subsections (1)(a) through (1)(c). The notice filing fee collected by the commissioner must be deposited in the  
25 state special revenue account provided for in 30-10-115. The issuer shall pay a fee of \$50 for each filing made  
26 for the purpose of changing the name of a series, portfolio, or other subdivision of an investment company or  
27 similar issuer.

28 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$400 for original

1 registration and \$400 for each annual renewal.

2 (b) (i) For registration of a salesperson or investment adviser representative, the fee:

3 (A) for an out-of-state salesperson or investment adviser representative is \$100 for original  
4 registration with each employer, \$100 for each annual renewal, and \$100 for each transfer; and

5 (B) for an in-state salesperson or investment adviser representative is \$50 for original registration with  
6 each employer, \$50 for each annual renewal, and \$50 for each transfer.

7 (ii) A salesperson who is registered as an investment adviser representative with a broker-dealer  
8 registered as an investment adviser is not required to pay the fee in subsection (2)(b)(i)(A) or (2)(b)(i)(B) to  
9 register as an investment adviser representative.

10 (c) For a federal covered adviser, the fee is \$400 for the initial notice filing and \$400 for each annual  
11 renewal.

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

14 (4) For a request for an exemption under 30-10-105(15), the fee must be established by the  
15 commissioner by rule. For a request for any other exemption or an exception to the provisions of parts 1  
16 through 3 of this chapter, the fee is \$100.

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

19 (6) (a) Except as provided in subsection (6)(b), all fees, miscellaneous charges, fines, and penalties  
20 collected by the commissioner pursuant to parts 1 through 3 of this chapter and the rules adopted under parts 1  
21 through 3 of this chapter must be deposited in the general fund.

22 (b) From March 7, 2013, through June 30, ~~2024~~ 2027, the fees collected under subsection (1)(b), the  
23 notice filing fees provided for in subsection (1)(d), and the amounts collected for examination costs under 30-  
24 10-210 are subject to deposit as provided in 30-10-115(2). On or after July 1, ~~2024~~ 2027, the notice filing fees  
25 provided for in subsection (1)(d) and the amounts collected for examination costs under 30-10-210 are subject  
26 to deposit as provided in 30-10-115(2)."

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28 **Section 3.** Section 16, Chapter 58, Laws of 2011, is amended to read:

1           **"Section 16. Termination.** ~~[This act] terminates~~ [Sections 1 through 9 and 11] terminate June 30,  
2 ~~2017~~ 2027."

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4           **Section 4.** Section 55, Chapter 151, Laws of 2017, is amended to read:

5           **"Section 55. Termination** ~~[This act] terminates~~ [Sections 1 through 9 and 11] terminate June 30,  
6 ~~2017~~ 2021 2027."

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8           NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are  
9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
10 the part remains in effect in all valid applications that are severable from the invalid applications.

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12           NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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