

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

400X0308

## SENATE BILL NO. 46

Introduced by: The Committee on Appropriations at the request of the Department of Labor  
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the notice filing fee for open-end management  
2 companies from a variable level tiered structure to a flat fixed fee.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 47-31B-302 be amended to read:

5 47-31B-302. (a) Required filing of records. With respect to a federal covered security, as  
6 defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)), that is not  
7 otherwise exempt under §§ 47-31B-201 through 47-31B-203, a rule adopted or order issued  
8 under this chapter may require the filing of any or all of the following records:

9 (1) Before the initial offer of a federal covered security in this state, all records that are  
10 part of a federal registration statement filed with the Securities and Exchange  
11 Commission under the Securities Act of 1933 and a consent to service of process  
12 complying with § 47-31B-611 signed by the issuer and the payment of a fee of five  
13 hundred one thousand dollars for any open-end management companies with total net  
14 ~~assets of fifty million dollars or less, or a filing fee of one thousand dollars for~~  
15 ~~open-end management companies with total net assets of more than fifty million~~



1           ~~dollars but less than two hundred fifty million dollars, or a filing fee of two thousand~~  
2           ~~dollars for open-end management companies with total net assets equal to or greater~~  
3           ~~than two hundred fifty million dollars~~ company; two hundred and fifty dollars for any  
4           closed end management ~~companies~~ company; or a filing fee of one hundred fifty  
5           dollars for any unit investment ~~trusts~~ trust. A renewal filing is required annually,  
6           including those documents that the director by rule or order may require and a fee as  
7           provided in this subparagraph a(1). An initial or renewal filing includes a separate fee  
8           for each portfolio, series, class, or other designation. ~~An initial or renewal filing shall~~  
9           ~~include the most recent financial statement showing the nets assets of each portfolio,~~  
10          ~~series, class, or other designation, unless the maximum fee of two thousand dollars~~  
11          ~~is paid.~~

12          (2) After the initial offer of the federal covered security in this state, all records that are  
13          part of an amendment to a federal registration statement filed with the Securities and  
14          Exchange Commission under the Securities Act of 1933. Any amendment that  
15          includes a name change to any filing, including any portfolio, series, class, or other  
16          designation, must include a fifty dollar filing fee for each name change of each  
17          portfolio, series, class, or other designation.

18          (b) Notice filing effectiveness and renewal. A notice filing under subsection (a) is effective  
19          for one year commencing on the later of the notice filing or the effectiveness of the offering filed  
20          with the Securities and Exchange Commission. On or before expiration, the issuer may renew  
21          a notice filing by filing a copy of those records filed by the issuer with the Securities and  
22          Exchange Commission that are required by rule or order under this chapter to be filed and by  
23          paying a renewal fee as set forth in subsection a(1). A previously filed consent to service of  
24          process complying with § 47-31B-611 may be incorporated by reference in a renewal. A

1 renewed notice filing becomes effective upon the expiration of the filing being renewed.

2 (c) Notice filings for federal covered securities under Section 18(b)(4) (D). With respect to  
3 a security that is a federal covered security under Section 18(b)(4)(D) of the Securities Act of  
4 1933 (15 U.S.C. § 77r(b)(4)(D)), a rule under this chapter may require a notice filing by or on  
5 behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the  
6 Securities and Exchange Commission, and a consent to service of process complying with § 47-  
7 31B-611 signed by the issuer not later than fifteen days after the first sale of the federal covered  
8 security in this state and the payment of a fee of two hundred fifty dollars; and the payment of  
9 a fee of two hundred seventy-five dollars for any late filing.

10 (d) Stop orders. Except with respect to a federal security under Section 18(b)(1) of the  
11 Securities Act of 1933 (15 U.S.C. § 77r(b)(1)), if the director finds that there is a failure to  
12 comply with a notice or fee requirement of this section, the director may issue a stop order  
13 suspending the offer and sale of a federal covered security in this state. If the deficiency is  
14 corrected, the stop order is void as of the time of its issuance and no penalty may be imposed  
15 by the director.