

# HOUSE BILL REPORT

## HB 1460

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As Reported By House Committee On:  
Financial Institutions & Insurance

**Title:** An act relating to performance-based compensation of investment advisers.

**Brief Description:** Regulating investment advisory contracts.

**Sponsors:** Representatives Zellinsky, Mielke and R. Meyers; by request of Department of Licensing.

**Brief History:**

Reported by House Committee on:  
Financial Institutions & Insurance, February 18, 1993,  
DP.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 16 members:  
Representatives Zellinsky, Chair; Scott, Vice Chair; Mielke,  
Ranking Minority Member; Dyer, Assistant Ranking Minority  
Member; Anderson; Dellwo; Dorn; Grant; R. Johnson; Kessler;  
Kremen; Lemmon; R. Meyers; Reams; Schmidt; and Tate.

**Staff:** Charlie Gavigan (786-7430).

**Background:** An investment advisor is prohibited from entering an investment advisory contract that allows the investment advisor to be compensated based on the capital gains or appreciation of the client's funds. However, an investment advisor may be compensated based on a fund average for a definite period or date.

The federal Investment Advisors Act of 1940 contains a similar prohibition on compensation. In interpreting this prohibition, the Securities and Exchange Commission has adopted a regulation that exempts certain compensation arrangements. The criteria for exemption include minimum financial means of the client, requirements on how the compensation is calculated, and the disclosure of material information by the investment advisor to the client.

**Summary of Bill:** The director of the Department of Licensing is authorized to adopt rules delineating permissible performance-based compensation arrangement for investment advisers. The director may adopt rules

permitting compensation arrangements authorized under the Securities and Exchange Commission's regulations and the federal Investment Advisors Act of 1940.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** These changes to state law will permit the Department of Licensing to authorize compensation systems for use by investment advisors that have been approved by the Securities and Exchange Commission.

**Testimony Against:** None.

**Witnesses:** Mike Stevenson, Department of Licensing (pro); and Walt Corneille, International Association of Financial Planners (pro).