



1 school, or other district office that is filled by the  
2 people at an election.

3 (6) "Contribution" means:

4 (a) an advance, gift, loan, conveyance, deposit,  
5 payment, or distribution of money or anything of value to  
6 influence an election;

7 (b) a transfer of funds between political committees;

8 (c) the payment by a person other than a candidate or  
9 political committee of compensation for the personal  
10 services of another person that are rendered to a candidate  
11 or political committee; but

12 (d) "contribution" does not mean services provided  
13 without compensation by individuals volunteering a portion  
14 or all of their time on behalf of a candidate or political  
15 committee, nor meals and lodging provided by individuals in  
16 their private residence for a candidate or other individual.

17 (7) "Expenditure" means a purchase, payment,  
18 distribution, loan, advance, promise, pledge, or gift of  
19 money or anything of value made for the purpose of  
20 influencing the results of an election, but "expenditure"  
21 does not mean:

22 (a) services, food, or lodging provided in a manner  
23 that they are not contributions under this act; nor

24 (b) payments by a candidate for his personal travel  
25 expenses or for food, clothing, lodging, or personal

1 necessities for himself and his family.

2 (8) "Anything of value" means any goods that have a  
3 certain utility to the recipient that is real and that  
4 ordinarily is not given away free, but is purchased.

5 (9) "Political committee" means a combination of two  
6 or more individuals, or a person other than an individual,  
7 the primary or incidental purpose of which is to support or  
8 oppose a candidate or issue or to influence the result of an  
9 election by any expenditure.

10 (10) "Individual" means a human being.

11 (11) "Person" means an individual, corporation,  
12 association, firm, partnership, cooperative, committee,  
13 club, union, or other organization or group of individuals,  
14 or a candidate as defined in subsection (1) of this section.

15 Section 3. Reports of contributions and expenditures  
16 required. (1) Each candidate and political committee shall  
17 file periodic reports of contributions and expenditures made  
18 by or on the behalf of a candidate or political committee.  
19 All reports required by this section shall be filed with the  
20 commissioner and with the county clerk and recorder of the  
21 county in which a candidate is a resident or the political  
22 committee has its headquarters. However, where residency  
23 within a district, county, city, or town is not a  
24 prerequisite for being a candidate, copies of all reports  
25 shall be filed with the county clerk and recorder of the

1 county in which the election is to be held, or if the  
 2 election is to be held in more than one county, with the  
 3 clerk and recorder in the county that the commissioner shall  
 4 specify.

5 (2) In lieu of all contribution and expenditure  
 6 reports required by this act, the commissioner shall accept  
 7 copies of the reports filed by candidates for congress and  
 8 president of the United States, and their political  
 9 committees, pursuant to the requirements of federal law.

10 (3) Candidates for a state office filled by a  
 11 statewide vote of all the voters of Montana, the political  
 12 committees for such candidates, and political committees  
 13 organized to support or oppose a statewide issue, shall file  
 14 reports:

15 (a) on the tenth day of March and September, in each  
 16 year that an election is to be held, and on the fifteenth  
 17 and fifth days next preceeding the date on which an election  
 18 is held, and within twenty-four (24) hours after receiving a  
 19 contribution of five-hundred dollars (\$500) or more at any  
 20 time after the last pre-election report;

21 (b) not more than twenty (20) days after the date of  
 22 the election;

23 (c) on the tenth day of March and September of each  
 24 year following an election so long as there is an unexpended  
 25 balance or an expenditure deficit in a campaign account; and

1 (d) whenever a candidate or political committee  
 2 finally closes its books.

3 (4) Candidates for a state district office, including  
 4 but not limited to, candidates for the Legislature, public  
 5 service commission, or district court judge, their political  
 6 committees, and political committees organized to support or  
 7 oppose district issues, shall file reports:

8 (a) on the tenth day next preceeding the date on which  
 9 an election is held, and within twenty-four (24) hours after  
 10 receiving a contribution of one hundred dollars (\$100) or  
 11 more at any time after the last pre-election report;

12 (b) not more than twenty (20) days after the date of  
 13 the election;

14 (c) whenever a candidate or political committee  
 15 finally closes its books.

16 (5) Candidates for any other public office, their  
 17 political committees, and political committees organized to  
 18 support or oppose local issues, shall be required to file  
 19 the reports specified in subsection (4) only if the total  
 20 amount of contributions received or the total amount of  
 21 funds expended for an election, excluding the filing fee  
 22 paid by the candidate, exceed two hundred dollars (\$200).

23 (6) All reports required by this section shall be  
 24 complete as of the date prescribed by the commissioner,  
 25 which shall not be less than five (5) or more than ten (10)

1 days before the date of filing as specified in subsections  
2 (2) through (5) of this section.

3 (7) The commissioner shall adopt rules and regulations  
4 that will permit political committees, including political  
5 parties, to file copies of a single comprehensive report  
6 when they support or oppose more than one candidate or  
7 issue.

8 (3) Reports filed under this section shall be filed to  
9 cover the following time periods:

10 (a) The initial report shall cover all contributions  
11 received or expenditures made by a candidate or political  
12 committee prior to the time that a person became a candidate  
13 as defined in subsection (1) of section 2 until the date  
14 prescribed by the commissioner for the filing of the  
15 appropriate initial report pursuant to subsections (2)  
16 through (5) of this section.

17 (b) Subsequent periodic reports shall cover the period  
18 of time from the closing of the previous report to a date  
19 prescribed by the commissioner, which shall not be less than  
20 five (5) days or more than ten (10) days before the date of  
21 filing;

22 (c) Final reports shall cover the period of time from  
23 the last periodic report to the final closing of the books  
24 of the candidate or political committee.

25 Section 4. What reports must disclose. Each report

1 required by this act shall disclose: (1) The amount of  
2 cash on hand at the beginning of the reporting period.

3 (2) The full name and mailing address (occupation and  
4 the principal place of business, if any) of each person who  
5 has made aggregate contributions, other than loans, of  
6 twenty-five dollars (\$25) or more to the candidate or  
7 political committee (including the purchase of tickets for  
8 events such as dinners, luncheons, rallies, and similar  
9 fund-raising events) within the reporting period together  
10 with the aggregate amount of those contributions, and the  
11 total amount of contributions made by that person.

12 (3) The total sum of individual contributions made to  
13 or for the political committee or candidate and not reported  
14 under subsection (2) of this section.

15 (4) The name and address of each political committee  
16 or candidate from which the reporting committee or candidate  
17 received any transfer of funds together with the amount and  
18 dates of all those transfers.

19 (5) Each loan from any person during the reporting  
20 period together with the full names and mailing addresses  
21 (occupation and principal place of business, if any) of the  
22 lender and endorsers, if any, and the date and amount of  
23 each loan.

24 (6) The amount and nature of debts and obligations  
25 owed to a political committee or candidates in the form

1 prescribed by the commissioner.

2 (7) An itemized account of proceeds from:

3 (a) the sale of tickets to each dinner, luncheon,  
4 rally, and other fund-raising events;

5 (b) mass collections made at such an event; and

6 (c) sales of items such as political campaign pins,  
7 buttons, badges, flags, emblems, hats, banners, literature,  
8 and similar materials.

9 (8) Each contribution, rebate, refund, or other  
10 receipt not otherwise listed under subsections (2) through  
11 (6) of this section during the reporting period.

12 (9) The total sum of all receipts received by or for  
13 the committee or candidate during the reporting period.

14 (10) The full name and mailing address (occupation and  
15 the principal place of business, if any) of each person to  
16 whom expenditures have been made by the committee or  
17 candidate during the reporting period, including the amount,  
18 date, and purpose of each expenditure and the total amount  
19 of expenditures made to each person.

20 (11) The full name and mailing addresses (occupation  
21 and the principal place of business, if any) of each person  
22 to whom an expenditure for personal services, salaries, and  
23 reimbursed expenses have been made, including the amount,  
24 date, and purpose of that expenditure and the total amount  
25 of expenditures made to each person.

1 (12) The total sum of expenditures made by a political  
2 committee or candidate during the reporting period.

3 (13) The name and address of each political committee  
4 or candidate to which the reporting committee or candidate  
5 made any transfer of funds together with the amount and  
6 dates of all those transfers.

7 (14) The name of any person to whom a loan was made  
8 during the reporting period, including the full name and  
9 mailing address (occupation and principal place of business,  
10 if any) of that person, and the full name and mailing  
11 address (occupation and principal place of business, if any)  
12 of the endorsers, if any, and the date and amount of each  
13 loan.

14 (15) The amount and nature of debts and obligations  
15 owed by a political committee or candidate in the form  
16 prescribed by the commissioner.

17 (16) Other information that may be required by the  
18 commissioner to fully disclose the sources and disposition  
19 of funds used to support or oppose candidates.

20 Section 5. Reports must be certified as true and  
21 correct. (1) A report required by this act to be filed by a  
22 candidate or political committee shall be verified as true  
23 and correct by the oath or affirmation of the individual  
24 filing the report. The individual filing the report shall  
25 be the candidate or an officer of a political committee who

1 is on file as an officer of the committee with the  
2 commissioner. The oath or affirmation shall be made before  
3 an officer authorized to administer oaths.

4 (2) A copy of a report or statement shall be preserved  
5 by the individual filing it for a period of time to be  
6 designated by the commissioner.

7 (3) The commissioner may promulgate rules and  
8 regulations regarding the extent to which organizations that  
9 are not primarily political committees, but are incidentally  
10 political committees shall report their politically related  
11 activities in accordance with this act.

12 Section 6. Campaign treasurer and campaign depository.

13 (1) Each candidate for nomination or election to office and  
14 each political committee shall appoint one (1) campaign  
15 treasurer. No contribution shall be received or expenditure  
16 made by or on behalf of a candidate or political committee  
17 until the candidate or political committee appoints a  
18 campaign treasurer and certifies the name and address of the  
19 campaign treasurer pursuant to this section. The  
20 certification, which shall include an organizational  
21 statement, properly acknowledged by a notary public, and  
22 setting forth of the name and address of the campaign  
23 treasurer and all other officers, if any, of the political  
24 committee, shall be filed with the commissioner and the  
25 appropriate county clerk and recorder as specified for the

1 filing of reports in section 3.

2 (2) A campaign treasurer may appoint deputy campaign  
3 treasurers, but not more than one (1) in each county in  
4 which the campaign is conducted. Each candidate and  
5 political committee shall certify the full name and complete  
6 address of the campaign treasurer and all deputy campaign  
7 treasurers with the office with whom the candidate or the  
8 political committee is required to file reports.

9 (3) Any campaign or deputy campaign treasurer  
10 appointed pursuant to this section shall be a registered  
11 voter in this state. An individual may be appointed and  
12 serve as a campaign treasurer of a candidate and a political  
13 committee or two (2) or more candidates and political  
14 committees. A candidate may appoint himself as his own  
15 campaign or deputy campaign treasurer. No individual may  
16 serve as a campaign or deputy campaign treasurer or perform  
17 any duty required of a campaign or deputy campaign treasurer  
18 of a candidate or political committee until he has been  
19 designated and his name certified by the candidate or  
20 political committee.

21 (4) Deputy campaign treasurers may exercise any of the  
22 powers and duties of a campaign treasurer as set forth in  
23 this act when specifically authorized in writing to do so by  
24 the campaign treasurer and the candidate in the case of a  
25 candidate, or the campaign treasurer and the chairman of the

1 political committee in the case of a political committee.

2 (5) A candidate or political committee may remove his  
3 or its campaign or deputy campaign treasurer. The removal  
4 of any treasurer or deputy treasurer shall immediately be  
5 reported to the officer with whom the name of the campaign  
6 treasurer was originally filed. In case of death,  
7 resignation, or removal of his or its campaign treasurer  
8 before compliance with any obligation of a campaign  
9 treasurer under this act, the candidate or political  
10 committee shall appoint a successor and certify the name and  
11 address of the successor as specified in subsection (1) of  
12 this section.

13 (6) Each candidate and each political committee shall  
14 designate one (1) primary campaign depository for the  
15 purpose of depositing all contributions received and  
16 disbursing all expenditures made by the candidate or  
17 political committee. The candidate or political committee  
18 may also designate one (1) secondary depository in each  
19 county in which an election is held and in which the  
20 candidate or committee participates. Deputy campaign  
21 treasurers may make deposits in and make expenditures from  
22 secondary depositories when authorized to do so as provided  
23 in subsection (4) of this section. Only a bank authorized  
24 to transact business in Montana may be designated as a  
25 campaign depository. The candidate or political committee

1 shall file the name and address of each primary and  
2 secondary depository so designated at the same time and with  
3 the same officer with whom the candidate or committee files  
4 the name of his or its campaign treasurer pursuant to  
5 subsection (1) of this section. Nothing in this subsection  
6 shall prevent a political committee or candidate from having  
7 more than one campaign account in the same depository.

8 Section 7. Deposit of contributions--statement of  
9 campaign treasurer. All funds received by the campaign  
10 treasurer or any deputy campaign treasurer of any candidate  
11 or political committee shall be deposited prior to the end  
12 of the fifth business day following their receipt (Sundays  
13 and holidays excluded) in a checking account in a campaign  
14 depository designated pursuant to section 6 of this act. A  
15 statement showing the amount received from or provided by  
16 each person and the account in which the funds are deposited  
17 shall be prepared by the campaign treasurer at the time the  
18 deposit is made. This statement along with the receipt form  
19 for cash contributions deposited at the same time and a  
20 deposit slip for the deposit shall be kept by the treasurer  
21 as a part of his records.

22 Section 8. Treasurer to keep records--inspections.

23 (1) The campaign treasurer of each candidate and each  
24 political committee shall keep detailed accounts, current  
25 within not more than ten (10) days after the date of

1 receiving a contribution or making an expenditure, of all  
 2 contributions received and all expenditures made by or on  
 3 behalf of the candidate or political committee that are  
 4 required to be set forth in a statement filed under this  
 5 act.

6 (2) Accounts kept by the campaign treasurer of a  
 7 candidate or political committee may be inspected under  
 8 reasonable circumstances before, during, or after the  
 9 election to which the accounts refer by the campaign  
 10 treasurer of any opposing candidate or political committee  
 11 in the same electoral district. The right of inspection may  
 12 be enforced by appropriate writ issued by any court of  
 13 competent jurisdiction. The campaign treasurers of  
 14 political committees supporting a candidate may be joined  
 15 with the campaign treasurer of the candidate as respondents  
 16 in such a proceeding.

17 (3) Accounts kept by a campaign treasurer of a  
 18 candidate shall be preserved by the campaign treasurer for a  
 19 period coinciding with the term of office for which the  
 20 person was a candidate.

21 Section 9. Petty cash funds allowed. (1) The  
 22 campaign treasurer for each candidate or political committee  
 23 is authorized to withdraw the following amount each week  
 24 from the primary depository for the purpose of providing a  
 25 petty cash fund for the candidate or political committee:

1 (a) for all candidates for nomination or election on a  
 2 statewide basis and all political committees operating on a  
 3 statewide basis, one hundred dollars (\$100) per week; and

4 (b) for all other candidates and political committees,  
 5 twenty dollars (\$20) per week.

6 (2) The petty cash fund may be spent for office  
 7 supplies, transportation expenses, and other necessities in  
 8 an amount of less than ten dollars (\$10). Petty cash shall  
 9 not be used for the purchase of time, space, or services  
 10 from any communications medium.

11 Section 10. Commissioner--how appointed,  
 12 qualifications, and offices. (1) There is hereby created  
 13 the position of commissioner of campaign finances and  
 14 practices, who shall be appointed by a majority of a four  
 15 (4) member selection committee which shall be comprised of  
 16 the speaker of the house, the president of the senate and  
 17 the minority floor leaders of both houses of the Montana  
 18 legislature. However, if a majority of the members of the  
 19 selection committee cannot agree upon the selection of a  
 20 commissioner within thirty (30) days after the passage and  
 21 approval of this act, the Montana supreme court shall  
 22 appoint a fifth public member to the selection committee.  
 23 The majority of the five (5) members of the selection  
 24 committee shall then select the commissioner.

25 (2) The individual selected to serve as the



1 commissioner of campaign finances and practices shall be  
 2 appointed for a five (5) year term, but he shall thereafter  
 3 be ineligible to serve as the commissioner of campaign  
 4 finances and practices and shall be precluded from being a  
 5 candidate for public office as defined in this act for a  
 6 period of five (5) years from the time that his term as  
 7 commissioner expires.

8 (3) If for any reason a vacancy should occur in the  
 9 position of commissioner, a successor shall be appointed  
 10 within thirty (30) days as provided in subsection (1) to  
 11 serve out the unexpired term. An individual who is selected  
 12 to serve out the unexpired term of a preceding commissioner  
 13 shall be entitled to be reappointed for a five (5) year term  
 14 as provided in subsection (3).

15 (4) The commissioner may be removed from office by  
 16 impeachment as provided in sections 95-2801 and 95-2802,  
 17 R.C.M. 1947. He may also be prosecuted by the appropriate  
 18 county attorney for official misconduct as specified in  
 19 section 94-7-401, R.C.M. 1947.

20 (5) The commissioner of campaign finances and  
 21 practices shall receive the same salary as a state district  
 22 court judge and shall receive the same salary increases  
 23 awarded such judges.

24 (6) The office of the commissioner shall be attached  
 25 to the office of the secretary of state for administrative

1 purposes only as specified in section 82A-108, except that  
 2 the provisions of subsections (1)(b), (1)(c), (2)(a),  
 3 (2)(b), (2)(d), (2)(e), and (3)(a) of section 82A-103,  
 4 R.C.M. 1947, do not apply.

5 Section 11. Powers and duties of the commissioner. The  
 6 commissioner shall exercise the following powers and perform  
 7 the following duties: (1) The commissioner of campaign  
 8 finances and practices shall be responsible for  
 9 investigating all of the alleged violations of the election  
 10 laws contained in Title 23, R.C.M. 1947, and shall in  
 11 conjunction with the county attorneys, be responsible for  
 12 enforcing all of the state's election laws.

13 (2) The commissioner shall select an appropriate staff  
 14 to enforce the provisions of Title 23, R.C.M. 1947, and he  
 15 shall have the power to hire and fire all personnel under  
 16 his supervision.

17 (3) The commissioner may hire or retain attorneys who  
 18 are properly licensed to practice before the supreme court  
 19 of the state of Montana to prosecute violations of Title 23,  
 20 R.C.M. 1947. Any properly licensed attorney so retained or  
 21 hired shall exercise the powers of a special attorney  
 22 general and he shall have the power to prosecute, subject to  
 23 the control and supervision of the commissioner and the  
 24 provisions of section 13, any criminal or civil action  
 25 arising out of a violation of any provision of Title 23,

1 R.C.M. 1947. All prosecutions shall be brought in the state  
2 district court for the county in which a violation has  
3 occurred or in the district court for Lewis and Clark  
4 County. The authority to prosecute as prescribed by this  
5 section includes the authority to:

6 (a) institute proceedings for the arrest of persons  
7 charged with or reasonably suspected of criminal violations  
8 of Title 23, R.C.M. 1947;

9 (b) attend and give advice to a grand jury when cases  
10 involving criminal violations of Title 23, R.C.M. 1947, are  
11 presented;

12 (c) draw and file indictments, informations, and  
13 criminal complaints;

14 (d) prosecute all actions for the recovery of debts,  
15 fines, penalties, and forfeitures accruing to the state or  
16 county from persons convicted of violating Title 23, R.C.M.  
17 1947; and

18 (e) do any other act necessary to successfully  
19 prosecute a violation of any provision of Title 23, R.C.M.  
20 1947.

21 (4) The commissioner shall prescribe forms for  
22 statements and other information required to be filed  
23 pursuant to Title 23, R.C.M. 1947, and furnish forms and  
24 appropriate information to persons required to file  
25 statements and information.

1 (5) The commissioner shall prepare and publish a  
2 manual prescribing a uniform system for accounts for use by  
3 persons required to file statements pursuant to Title 23,  
4 R.C.M. 1947.

5 (6) The commissioner shall accept and file any  
6 information voluntarily supplied that exceeds the  
7 requirements of Title 23, R.C.M. 1947.

8 (7) The commissioner shall prescribe the manner in  
9 which the county clerks and recorders shall receive, file,  
10 collate, and maintain reports filed with them under Title  
11 23, R.C.M. 1947.

12 (8) The commissioner shall make statements and other  
13 information filed with his office available for public  
14 inspection and copying during regular office hours, and make  
15 copying facilities available free of charge or at a charge  
16 not to exceed actual cost.

17 (9) The commissioner shall preserve statements and  
18 other information filed with his office for a period of ten  
19 (10) years from date of receipt.

20 (10) The commissioner shall prepare and publish  
21 summaries of the statements received.

22 (11) The commissioner shall prepare and publish such  
23 other reports as he may deem appropriate.

24 (12) The commissioner shall provide for wide public  
25 dissemination of summaries and reports.

1 (13) The commissioner shall have the authority to  
 2 investigate all statements filed pursuant to the provisions  
 3 of Title 23, R.C.M. 1947, and shall also investigate alleged  
 4 failures to file any statement or the alleged falsification  
 5 of any statement filed pursuant to the provisions of Title  
 6 23, R.C.M. 1947. Upon the submission of a written complaint  
 7 by any individual, the commissioner shall also investigate  
 8 any other alleged violation of the provisions of Title 23,  
 9 R.C.M. 1947, or any rule or regulation adopted pursuant  
 10 thereto.

11 (14) The commissioner shall promulgate and publish  
 12 rules and regulations to carry out the provisions of Title  
 13 23, R.C.M. 1947, and shall promulgate such rules in  
 14 conformance with the Montana Administrative Procedure Act.

15 (15) The commissioner shall at the close of each  
 16 fiscal year report to the legislature and the governor  
 17 concerning the action he has taken, including the names,  
 18 salaries, and duties of all individuals in his employ and  
 19 the money he has disbursed. The commissioner shall also  
 20 make further reports on the matters within his jurisdiction  
 21 as the legislature may prescribe and shall also make  
 22 recommendations for further legislation as may appear  
 23 desirable.

24 (16) The commissioner shall be responsible for  
 25 preparing, administering and allocating the budget for his

1 office.

2 (17) The commissioner shall have the power to inspect  
 3 any records, accounts or books that must be kept pursuant to  
 4 the provisions of Title 23, R.C.M. 1947, which are held by  
 5 any political committee or candidate so long as such  
 6 inspection is made during reasonable office hours.

7 (18) The commissioner shall have the power to issue  
 8 orders of noncompliance as prescribed by section 12.

9 (19) The commissioner shall exercise all of the powers  
 10 conferred upon him by this act or any other provision of  
 11 state law in any jurisdiction or political subdivision of  
 12 the state.

13 (20) After receiving the final campaign contribution  
 14 and expenditure report filed as required by Title 23, R.C.M.  
 15 1947, the commissioner shall inform the secretary of state,  
 16 or the city or county clerk and recorder that each candidate  
 17 who has been properly elected to any public office has filed  
 18 his final contribution and expenditure report as specified  
 19 in section 3 of this act.

20 (21) The commissioner shall have the authority to  
 21 administer oaths and affirmations, subpoena witnesses,  
 22 compel their attendance, take evidence, and require the  
 23 production of any books, papers, correspondence, memoranda,  
 24 bank account statements of a political committee or  
 25 candidate, or other records which are relevant or material.

1 for the purpose of conducting any investigation pursuant to  
2 the provisions of Title 23, R.C.M. 1947.

3 Section 12. Examination of statements and issuance of  
4 orders of noncompliance. (1) Each statement filed with the  
5 commissioner during an election or within sixty (60) days  
6 thereafter shall be inspected within ten (10) days after the  
7 date upon which the statement is filed. If a person has not  
8 satisfied the provisions of Title 23, R.C.M. 1947, the  
9 commissioner shall immediately notify a person of the  
10 noncompliance. Such an order of noncompliance shall be  
11 issued when:

12 (a) upon examination of the official ballot, it  
13 appears that the person has failed to file a statement as  
14 required by law or that a statement filed by a person does  
15 not conform to law; or

16 (b) it is determined that a statement filed with the  
17 commissioner does not conform to the requirements of Title  
18 23, R.C.M. 1947, or that a person has failed to file a  
19 statement required by law.

20 (2) If an order of noncompliance is issued during a  
21 campaign period, or within sixty (60) days after an  
22 election, a candidate or political committee shall submit  
23 the necessary information five (5) days after receiving the  
24 notice of noncompliance. Upon a failure to submit the  
25 required information within the time specified, the

1 appropriate county attorney or the commissioner shall have  
2 the authority to initiate a civil or criminal action  
3 pursuant to the procedures outlined in section 13.

4 (3) If an order of noncompliance is issued during any  
5 other period than that described in subsection (2), a  
6 candidate or political committee shall submit the necessary  
7 information within ten (10) days after receiving the notice  
8 of noncompliance. Upon a failure to submit the required  
9 information within the time specified, the appropriate  
10 county attorney or the commissioner shall initiate a civil  
11 or criminal action pursuant to the procedures outlined in  
12 section 13.

13 (4) A candidate or political treasurer aggrieved by  
14 the issuance of an order of noncompliance may seek judicial  
15 review in the district court of the county in which the  
16 candidate resides or the county in which the political  
17 committee has its headquarters. All petitions for judicial  
18 review filed pursuant to this act shall be expeditiously  
19 reviewed by the appropriate district court.

20 (5) Within one hundred and twenty (120) days after the  
21 date of each election, the commissioner shall examine and  
22 compare each statement or report filed with the commissioner  
23 pursuant to the provisions of Title 23, R.C.M. 1947, to  
24 determine whether a statement or report conforms to the  
25 provisions of the law. The examination shall include a

1 comparison of all reports and statements received by the  
 2 commissioner pursuant to the requirements of Title 23,  
 3 R.C.M. 1947. The commissioner may investigate the source  
 4 and authenticity of any contribution or expenditure listed  
 5 in any report or statement filed pursuant to Title 23,  
 6 R.C.M. 1947, or the alleged failure to report any  
 7 contribution or expenditure required to be reported pursuant  
 8 to Title 23, R.C.M. 1947.

9 Section 13. Prosecutions and powers of the county  
 10 attorney. (1) When the commissioner determines that there  
 11 appears to be sufficient evidence to justify a civil or  
 12 criminal prosecution as specified in section 18, he shall  
 13 notify the county attorney of the county in which the  
 14 alleged violation occurred and shall arrange to transmit to  
 15 the county attorney all information relevant to the alleged  
 16 violation. If the county attorney fails to initiate the  
 17 appropriate civil or criminal action within thirty (30) days  
 18 after he receives notification of the alleged violation, the  
 19 commissioner may then initiate the appropriate legal action.

20 (2) A county attorney may at any time prior to the  
 21 expiration of the thirty (30) day time period specified in  
 22 subsection (1) waive his right to prosecute and thereby  
 23 authorize the commissioner to initiate the appropriate civil  
 24 or criminal action as specified in section 18.

25 (3) The provisions of subsection (1) do not apply to a

1 situation in which the alleged violation has been committed  
 2 by the county attorney of a county. In this instance, the  
 3 commissioner is authorized to directly prosecute any alleged  
 4 violation of Title 23, R.C.M. 1947.

5 (4) If a prosecution is undertaken by the  
 6 commissioner, all court costs associated with the  
 7 prosecution shall be paid by the state of Montana.

8 (5) Nothing in this act shall prevent a county  
 9 attorney from inspecting any records, accounts, or books  
 10 which must be kept pursuant to the provisions of Title 23,  
 11 R.C.M. 1947, that are held by any political committee or  
 12 candidate involved in an election to be held within the  
 13 county. However, such inspections must be conducted during  
 14 reasonable office hours.

15 (6) A county attorney shall have the authority to  
 16 administer oaths and affirmations, subpoena witnesses,  
 17 compel their attendance, take evidence, and require the  
 18 production of any books, correspondence, memoranda, bank  
 19 account statements of a political committee or candidate, or  
 20 other records which are relevant or material for the purpose  
 21 of conducting any investigation pursuant to the provisions  
 22 of Title 23, R.C.M. 1947.

23 Section 14. Right to inspect current accounts and  
 24 reports. Every individual shall have the right to inspect  
 25 any report or current account that must be kept or filed

1 pursuant to the provisions of Title 23, R.C.M. 1947, but  
 2 only if such inspection will occur during reasonable office  
 3 hours and in such a manner that normal office functions will  
 4 not be unnecessarily interrupted.

5 Section 15. Duties of county clerk and recorder.

6 (1) A county clerk and recorder shall maintain all records  
 7 and statements filed pursuant to the provisions of Title 23,  
 8 R.C.M. 1947, for a period of ten (10) years from the date of  
 9 receipt.

10 (2) A county clerk and recorder shall accept and file  
 11 any information voluntarily supplied that exceeds the  
 12 requirements of Title 23, R.C.M. 1947.

13 (3) A county clerk and recorder shall file, code, and  
 14 cross-index all reports and statements filed as prescribed  
 15 by the commissioner.

16 (4) A county clerk and recorder shall make statements  
 17 and other information filed with his office available for  
 18 public inspection and copying during regular office hours,  
 19 and make copying facilities available free of charge or at a  
 20 charge not to exceed actual cost.

21 Section 16. Names not to be printed on ballot.

22 (1) The name of a candidate shall not be printed on the  
 23 official ballot for a general or special election if the  
 24 candidate or a political treasurer for a candidate fails to  
 25 file any statement as required by Title 23, R.C.M. 1947.

1 (2) A vacancy on an official ballot under this section  
 2 may be filled in the manner provided by law, but not by the  
 3 name of the same candidate.

4 (3) In carrying out the mandate of this section, the  
 5 commissioner must by a written statement notify the  
 6 secretary of state or the city or county clerk or the clerk  
 7 of a school district, that a candidate, or a candidate's  
 8 political treasurer, has not complied with the provisions of  
 9 Title 23, R.C.M. 1947, as described in subsection (1) and  
 10 that a candidate's name should not be printed on the  
 11 official ballot.

12 Section 17. Certificates of election may be withheld.  
 13 No certificate of election shall be granted to any candidate  
 14 until his political treasurer has filed the reports and  
 15 statements that must be filed pursuant to the provisions of  
 16 Title 23, R.C.M. 1947. No candidate for an elective office  
 17 may assume the powers and duties of that office until he has  
 18 received a certificate of election as provided by law. A  
 19 certificate of election shall only be issued by the public  
 20 official responsible for issuing a certificate or commission  
 21 after receiving written assurance from the commissioner that  
 22 a candidate has filed all of the reports that must be filed  
 23 pursuant to the provisions of Title 23, R.C.M. 1947.

24 Section 18. Penalties. (1) A person who falsely  
 25 reports or deliberately fails to include any information

1 required by Title 23, R.C.M. 1947, or who falsely reports  
 2 or deliberately fails to report any contribution or  
 3 expenditure as required by Title 23, R.C.M. 1947, may be  
 4 guilty of false swearing, or unsworn falsification to  
 5 authorities as applicable and upon conviction shall be  
 6 punished as provided in sections 94-7-203 or 94-7-204 for  
 7 each separate violation.

8 (2) Any person who accepts a contribution prohibited  
 9 by Title 23, R.C.M. 1947, or makes a contribution in excess  
 10 of the amounts specified in Title 23, R.C.M. 1947, or in any  
 11 manner other than that provided in Title 23, R.C.M. 1947, is  
 12 guilty of a violation and upon conviction shall be fined not  
 13 to exceed one thousand dollars (\$1,000) or be imprisoned in  
 14 the county jail for a term not to exceed six (6) months, or  
 15 both, for each separate violation.

16 (3) Any person who violates any other provision of  
 17 Title 23, R.C.M. 1947, upon conviction, shall be fined not  
 18 to exceed one thousand dollars (\$1,000) or be imprisoned in  
 19 the county jail for a term not to exceed six (6) months, or  
 20 both, for each separate violation.

21 (4) If a court of competent jurisdiction finds that  
 22 the violation of any provision of Title 23, R.C.M. 1947, by  
 23 any candidate or political committee probably affected the  
 24 outcome of any election, the result of that election may be  
 25 held void and a special election held within sixty (60) days

1 of that finding, or where the violation occurred during a  
 2 primary election, the court may direct the appropriate  
 3 political party to select a new candidate according to the  
 4 provisions of state law and the custom of the party. Any  
 5 action to void an election shall be commenced within one (1)  
 6 year of the date of the election in question.

7 (5) Except as provided in subsection (4), any action  
 8 brought pursuant to the provisions of Title 23, R.C.M. 1947,  
 9 must be commenced within four (4) years after the date when  
 10 the violation occurred.

11 (6) In addition to all other penalties prescribed by  
 12 this act:

13 (a) Any candidate who is convicted of violating any  
 14 provision of Title 23, R.C.M. 1947, shall be ineligible to  
 15 be a candidate for any public office in the state of Montana  
 16 for a period of five (5) years from the date of conviction;

17 (b) Any campaign treasurer who is convicted of  
 18 violating any provision of Title 23, R.C.M. 1947, shall be  
 19 ineligible to be a candidate for any public office or to  
 20 hold the position of campaign treasurer in any campaign in  
 21 the state of Montana for a period of five (5) years from the  
 22 date of conviction.

23 (7) In any action brought pursuant to the provisions  
 24 of Title 23, R.C.M. 1947, the appropriate state district  
 25 court shall have the power to enjoin any person to prevent

1 the doing of any act herein prohibited, or to compel the  
2 performance of any act herein required.

3 (8) Nothing in this section shall prevent a county  
4 attorney or the commissioner from seeking a penalty  
5 otherwise specifically provided for in Title 23, R.C.M.  
6 1947.

7 (9) All fines and forfeitures imposed pursuant to this  
8 section shall be deposited in the state general fund.

9 Section 19. Citizen's right to sue. Any person  
10 residing within a jurisdiction in which an election occurs  
11 may sue for injunctive relief to enjoin violations or to  
12 compel compliance with the provisions of Title 23, R.C.M.  
13 1947. However, a court may not entertain a suit filed  
14 pursuant to this section unless the plaintiff has filed a  
15 complaint with the commissioner prior to seeking injunctive  
16 relief. The court may award to a plaintiff or a defendant  
17 who prevails his costs of litigation, including reasonable  
18 attorney's fees.

19 Section 20. Secretary of state must furnish copies of  
20 this act to appropriate officials. The secretary of state  
21 shall, at the expense of the state, furnish the county  
22 clerk, and the city and town clerks, copies of Title 23,  
23 chapter 47, R.C.M. 1947. The public official with whom a  
24 candidate files a declaration or certificate of nomination  
25 shall transmit a copy of Title 23, chapter 47, R.C.M. 1947,

1 to the candidate. Such copies shall also be furnished to  
2 any other person required to file a statement. Upon his own  
3 information, or at the written request of any voter, the  
4 secretary of state shall provide a copy of Title 23, chapter  
5 47, R.C.M. 1947, to any other individual who may be a  
6 candidate, or who may otherwise be required to make a  
7 statement required by this act.

8 Section 21. Section 23-4701, R.C.M. 1947, is amended  
9 to read as follows:

10 "23-4701. Violation of election laws by certain  
11 officers a ~~felony~~  misdemeanor. Every person charged with  
12 the performance of any duty, under the provisions of any law  
13 of this state relating to elections, or the registration of  
14 the names of electors, or the canvassing of the returns of  
15 election, who willfully neglects or refuses to perform such  
16 duty, or who, in his official capacity, knowingly and  
17 fraudulently acts in contravention or violation of any of  
18 the provisions of such laws, is, ~~unless a different~~  
19 ~~punishment for such acts or omissions is prescribed by this~~  
20 ~~code~~, punishable by fine not exceeding one thousand dollars  
21 (\$1,000), or by imprisonment in ~~the state prison a county~~  
22  jail not exceeding ~~five years~~  six (6) months, or both."

23 Section 22. Severability. It is the intent of the  
24 legislative assembly that if part of this act is invalid,  
25 all valid parts that are severable from the invalid part



1 remain in effect. If a part of this act is invalid in one  
2 or more of its applications, the part remains in effect in  
3 all valid applications that are severable from the invalid  
4 applications.

5 Section 23. Effective date. This act shall become  
6 effective on January 1, 1976, and the first reporting period  
7 for any existing candidate or political committee shall  
8 begin on the effective date of this act.

9 Section 24. Sections 23-4722, 23-4725, 23-4726,  
10 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733 through  
11 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, and  
12 23-4775, R.C.M. 1947, are repealed.

-End-

Approved by Committee  
on State Administration

SENATE BILL NO. 76

INTRODUCED BY GREELY, WATT, ROMNEY

(BY REQUEST OF THE GOVERNOR)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING THE COMMISSIONER, IN CONJUNCTION WITH THE COUNTY ATTORNEYS, TO ENFORCE MONTANA'S ELECTION LAWS AND TO REGULATE MONTANA'S CAMPAIGN FINANCE LAWS AS SPECIFIED IN TITLE 23, R.C.M. 1947; SPECIFYING THE POWERS AND DUTIES OF COUNTY ATTORNEYS AND OTHER LOCAL OFFICIALS; REQUIRING CANDIDATES AND POLITICAL COMMITTEES TO DESIGNATE A CAMPAIGN TREASURER AND A CAMPAIGN DEPOSITORY; AUTHORIZING THE CREATION OF A PETTY CASH FUND FOR ALL CANDIDATES AND POLITICAL COMMITTEES; ~~AUTHORIZING OFFENSES TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT,~~ PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTION 23-4701; REPEALING SECTIONS 23-4722, 23-4725, 23-4726, 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734, 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, AND 23-4775; AND PROVIDING FOR AN EFFECTIVE DATE."

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

Section 1. Statement of purpose. It is the purpose of this act to establish clear and consistent requirements for

the full disclosure and reporting of the sources and disposition of funds used in Montana to support or oppose candidates, political committees, or issues, and to consolidate and clarify the authority to enforce the election and campaign finance laws as specified in Title 23, R.C.M. 1947.

Section 2. Definitions. As used in Title 23, chapter 47, R.C.M. 1947: (1) "Candidate" means an individual who has filed a declaration of nomination, certificate of nomination, or acceptance of nomination for public office as required by law, but does not include a candidate for national office who is subject to the provisions of federal election campaign laws.

(2) "Commissioner" means the commissioner of campaign finances and practices as described in section 10 of this act.

(3) "Election" means a general, special, or primary election held to choose a public officer or submit an issue for the approval or rejection of the people.

(4) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection including, but not limited to, initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

1 (5) "Public office" means a state, county, municipal,  
2 school, or other district office that is filled by the  
3 people at an election.

4 (6) "Contribution" means:

5 (a) an advance, gift, loan, conveyance, deposit,  
6 payment, or distribution of money or anything of value to  
7 influence an election;

8 (b) a transfer of funds between political committees;

9 (c) the payment by a person other than a candidate or  
10 political committee of compensation for the personal  
11 services of another person that are rendered to a candidate  
12 or political committee; but

13 (d) "contribution" does not mean services provided  
14 without compensation by individuals volunteering a portion  
15 or all of their time on behalf of a candidate or political  
16 committee, nor meals and lodging provided by individuals in  
17 their private residence for a candidate or other individual.

18 (7) "Expenditure" means a purchase, payment,  
19 distribution, loan, advance, promise, pledge, or gift of  
20 money or anything of value made for the purpose of  
21 influencing the results of an election, but "expenditure"  
22 does not mean:

23 (a) services, food, or lodging provided in a manner  
24 that they are not contributions under this act; nor

25 (b) payments by a candidate for his personal travel

1 expenses or for food, clothing, lodging, or personal  
2 necessities for himself and his family.

3 (8) "Anything of value" means any goods that have a  
4 certain utility to the recipient that is real and that  
5 ordinarily is not given away free, but is purchased.

6 (9) "Political committee" means a combination of two  
7 or more individuals, or a person other than an individual,  
8 the primary or incidental purpose of which is to support or  
9 oppose a candidate or issue or to influence the result of an  
10 election by any expenditure.

11 (10) "Individual" means a human being.

12 (11) "Person" means an individual, corporation,  
13 association, firm, partnership, cooperative, committee,  
14 club, union, or other organization or group of individuals,  
15 or a candidate as defined in subsection (1) of this section.

16 Section 3. Reports of contributions and expenditures  
17 required. (1) Each candidate and political committee shall  
18 file periodic reports of contributions and expenditures made  
19 by or on the behalf of a candidate or political committee.  
20 All reports required by this section shall be filed with the  
21 commissioner and with the county clerk and recorder of the  
22 county in which a candidate is a resident or the political  
23 committee has its headquarters. However, where residency  
24 within a district, county, city, or town is not a  
25 prerequisite for being a candidate, copies of all reports

1 shall be filed with the county clerk and recorder of the  
2 county in which the election is to be held, or if the  
3 election is to be held in more than one county, with the  
4 clerk and recorder in the county that the commissioner shall  
5 specify.

6 (2) In lieu of all contribution and expenditure  
7 reports required by this act, the commissioner shall accept  
8 copies of the reports filed by candidates for congress and  
9 president of the United States, and their political  
10 committees, pursuant to the requirements of federal law.

11 (3) Candidates for a state office filled by a  
12 statewide vote of all the voters of Montana, the political  
13 committees for such candidates, and political committees  
14 organized to support or oppose a statewide issue, shall file  
15 reports:

16 (a) on the tenth day of March and September, in each  
17 year that an election is to be held, and on the fifteenth  
18 and fifth days next preceding the date on which an election  
19 is held, and within twenty-four (24) hours after receiving a  
20 contribution of five-hundred dollars (\$500) or more at any  
21 time after the last pre-election report;

22 (b) not more than twenty (20) days after the date of  
23 the election;

24 (c) on the tenth day of March and September of each  
25 year following an election so long as there is an unexpended

1 balance or an expenditure deficit in a campaign account; and

2 (d) whenever a candidate or political committee  
3 finally closes its books.

4 (4) Candidates for a state district office, including  
5 but not limited to, candidates for the legislature, public  
6 service commission, or district court judge, their political  
7 committees, and political committees organized to support or  
8 oppose district issues, shall file reports:

9 (a) on the tenth day next preceding the date on which  
10 an election is held, and within twenty-four (24) hours after  
11 receiving a contribution of one hundred dollars (\$100) or  
12 more at any time after the last pre-election report;

13 (b) not more than twenty (20) days after the date of  
14 the election;

15 (c) whenever a candidate or political committee  
16 finally closes its books.

17 (5) Candidates for any other public office, their  
18 political committees, and political committees organized to  
19 support or oppose local issues, shall be required to file  
20 the reports specified in subsection (4) only if the total  
21 amount of contributions received or the total amount of  
22 funds expended for an election, excluding the filing fee  
23 paid by the candidate, exceed ~~two~~ FIVE hundred dollars  
24 ~~(\$200)~~ (\$500).

25 (6) All reports required by this section shall be

1 complete as of the date prescribed by the commissioner,  
 2 which shall not be less than five (5)<sup>\*</sup> or more than ten (10)  
 3 days before the date of filing as specified in subsections  
 4 (2) through (5) of this section.

5 (7) The commissioner shall adopt rules and regulations  
 6 that will permit political committees, including political  
 7 parties, to file copies of a single comprehensive report  
 8 when they support or oppose more than one candidate or  
 9 issue.

10 (8) Reports filed under this section shall be filed to  
 11 cover the following time periods:

12 (a) The initial report shall cover all contributions  
 13 received or expenditures made by a candidate or political  
 14 committee prior to the time that a person became a candidate  
 15 as defined in subsection (1) of section 2 until the date  
 16 prescribed by the commissioner for the filing of the  
 17 appropriate initial report pursuant to subsections (2)  
 18 through (5) of this section.

19 (b) Subsequent periodic reports shall cover the period  
 20 of time from the closing of the previous report to a date  
 21 prescribed by the commissioner, which shall not be less than  
 22 five (5) days or more than ten (10) days before the date of  
 23 filing;

24 (c) Final reports shall cover the period of time from  
 25 the last periodic report to the final closing of the books

1 of the candidate or political committee.

2 Section 4. What reports must disclose. Each report  
 3 required by this act shall disclose THE FOLLOWING  
 4 INFORMATION, EXCEPT THAT A CANDIDATE SHALL ONLY BE REQUIRED  
 5 TO REPORT THE INFORMATION SPECIFIED IN THIS SECTION IF THE  
 6 TRANSACTIONS INVOLVED WERE UNDERTAKEN FOR THE PURPOSE OF  
 7 INFLUENCING AN ELECTION: (1) The amount of cash on hand at  
 8 the beginning of the reporting period.

9 (2) The full name and mailing address (occupation and  
 10 the principal place of business, if any) of each person who  
 11 has made aggregate contributions, other than loans, of  
 12 twenty-five dollars (\$25) or more to the candidate or  
 13 political committee (including the purchase of tickets for  
 14 events such as dinners, luncheons, rallies, and similar  
 15 fund-raising events) within the reporting period together  
 16 with the aggregate amount of those contributions, and the  
 17 total amount of contributions made by that person.

18 (3) The total sum of individual contributions made to  
 19 or for the political committee or candidate and not reported  
 20 under subsection (2) of this section.

21 (4) The name and address of each political committee  
 22 or candidate from which the reporting committee or candidate  
 23 received any transfer of funds together with the amount and  
 24 dates of all those transfers.

25 (5) Each loan from any person during the reporting

1 period together with the full names and mailing addresses  
2 (occupation and principal place of business, if any) of the  
3 lender and endorsers, if any, and the date and amount of  
4 each loan.

5 (6) The amount and nature of debts and obligations  
6 owed to a political committee or candidates in the form  
7 prescribed by the commissioner.

8 (7) An itemized account of proceeds from:

9 (a) the sale of tickets to each dinner, luncheon,  
10 rally, and other fund-raising events;

11 (b) mass collections made at such an event; and

12 (c) sales of items such as political campaign pins,  
13 buttons, badges, flags, emblems, hats, banners, literature,  
14 and similar materials.

15 (8) Each contribution, rebate, refund, or other  
16 receipt not otherwise listed under subsections (2) through  
17 (6) of this section during the reporting period.

18 (9) The total sum of all receipts received by or for  
19 the committee or candidate during the reporting period.

20 (10) The full name and mailing address (occupation and  
21 the principal place of business, if any) of each person to  
22 whom expenditures have been made by the committee or  
23 candidate during the reporting period, including the amount,  
24 date, and purpose of each expenditure and the total amount  
25 of expenditures made to each person.

1 (11) The full name and mailing addresses (occupation  
2 and the principal place of business, if any) of each person  
3 to whom an expenditure for personal services, salaries, and  
4 reimbursed expenses have been made, including the amount,  
5 date, and purpose of that expenditure and the total amount  
6 of expenditures made to each person.

7 (12) The total sum of expenditures made by a political  
8 committee or candidate during the reporting period.

9 (13) The name and address of each political committee  
10 or candidate to which the reporting committee or candidate  
11 made any transfer of funds together with the amount and  
12 dates of all those transfers.

13 (14) The name of any person to whom a loan was made  
14 during the reporting period, including the full name and  
15 mailing address (occupation and principal place of business,  
16 if any) of that person, and the full name and mailing  
17 address (occupation and principal place of business, if any)  
18 of the endorsers, if any, and the date and amount of each  
19 loan.

20 (15) The amount and nature of debts and obligations  
21 owed by a political committee or candidate in the form  
22 prescribed by the commissioner.

23 (16) Other information that may be required by the  
24 commissioner to fully disclose the sources and disposition  
25 of funds used to support or oppose candidates OR ISSUES.

1 Section 5. Reports must be certified as true and  
 2 correct. (1) A report required by this act to be filed by a  
 3 candidate or political committee shall be verified as true  
 4 and correct by the oath or affirmation of the individual  
 5 filing the report. The individual filing the report shall  
 6 be the candidate or an officer of a political committee who  
 7 is on file as an officer of the committee with the  
 8 commissioner. The oath or affirmation shall be made before  
 9 an officer authorized to administer oaths.

10 (2) A copy of a report or statement shall be preserved  
 11 by the individual filing it for a period of time to be  
 12 designated by the commissioner.

13 (3) The commissioner may promulgate rules and  
 14 regulations regarding the extent to which organizations that  
 15 are not primarily political committees, but are incidentally  
 16 political committees shall report their politically related  
 17 activities in accordance with this act.

18 Section 6. Campaign treasurer and campaign depository.

19 (1) Each candidate for nomination or election to office and  
 20 each political committee shall appoint one (1) campaign  
 21 treasurer. No contribution shall be received or expenditure  
 22 made by or on behalf of a candidate or political committee  
 23 until the candidate or political committee appoints a  
 24 campaign treasurer and certifies the name and address of the  
 25 campaign treasurer pursuant to this section. The

1 certification, which shall include an organizational  
 2 statement, properly acknowledged by a notary public, and  
 3 setting forth of the name and address of the campaign  
 4 treasurer and all other officers, if any, of the political  
 5 committee, shall be filed with the commissioner and the  
 6 appropriate county clerk and recorder as specified for the  
 7 filing of reports in section 3.

8 (2) A campaign treasurer may appoint deputy campaign  
 9 treasurers, but not more than one (1) in each county in  
 10 which the campaign is conducted. Each candidate and  
 11 political committee shall certify the full name and complete  
 12 address of the campaign treasurer and all deputy campaign  
 13 treasurers with the office with whom the candidate or the  
 14 political committee is required to file reports.

15 (3) Any campaign or deputy campaign treasurer  
 16 appointed pursuant to this section shall be a registered  
 17 voter in this state. An individual may be appointed and  
 18 serve as a campaign treasurer of a candidate and a political  
 19 committee or two (2) or more candidates and political  
 20 committees. A candidate may appoint himself as his own  
 21 campaign or deputy campaign treasurer. No individual may  
 22 serve as a campaign or deputy campaign treasurer or perform  
 23 any duty required of a campaign or deputy campaign treasurer  
 24 of a candidate or political committee until he has been  
 25 designated and his name certified by the candidate or

1 political committee.

2 (4) Deputy campaign treasurers may exercise any of the  
3 powers and duties of a campaign treasurer as set forth in  
4 this act when specifically authorized in writing to do so by  
5 the campaign treasurer and the candidate in the case of a  
6 candidate, or the campaign treasurer and the chairman of the  
7 political committee in the case of a political committee.

8 (5) A candidate or political committee may remove his  
9 or its campaign or deputy campaign treasurer. The removal  
10 of any treasurer or deputy treasurer shall immediately be  
11 reported to the officer with whom the name of the campaign  
12 treasurer was originally filed. In case of death,  
13 resignation, or removal of his or its campaign treasurer  
14 before compliance with any obligation of a campaign  
15 treasurer under this act, the candidate or political  
16 committee shall appoint a successor and certify the name and  
17 address of the successor as specified in subsection (1) of  
18 this section.

19 (6) Each candidate and each political committee shall  
20 designate one (1) primary campaign depository for the  
21 purpose of depositing all contributions received and  
22 disbursing all expenditures made by the candidate or  
23 political committee. The candidate or political committee  
24 may also designate one (1) secondary depository in each  
25 county in which an election is held and in which the

1 candidate or committee participates. Deputy campaign  
2 treasurers may make deposits in and make expenditures from  
3 secondary depositories when authorized to do so as provided  
4 in subsection (4) of this section. Only a bank authorized  
5 to transact business in Montana may be designated as a  
6 campaign depository. The candidate or political committee  
7 shall file the name and address of each primary and  
8 secondary depository so designated at the same time and with  
9 the same officer with whom the candidate or committee files  
10 the name of his or its campaign treasurer pursuant to  
11 subsection (1) of this section. Nothing in this subsection  
12 shall prevent a political committee or candidate from having  
13 more than one campaign account in the same depository.

14 Section 7. Deposit of contributions--statement of  
15 campaign treasurer. All funds received by the campaign  
16 treasurer or any deputy campaign treasurer of any candidate  
17 or political committee shall be deposited prior to the end  
18 of the fifth business day following their receipt (Sundays  
19 and holidays excluded) in a checking account in a campaign  
20 depository designated pursuant to section 6 of this act. A  
21 statement showing the amount received from or provided by  
22 each person and the account in which the funds are deposited  
23 shall be prepared by the campaign treasurer at the time the  
24 deposit is made. This statement along with the receipt form  
25 for cash contributions deposited at the same time and a



1 deposit slip for the deposit shall be kept by the treasurer  
2 as a part of his records.

3 Section 8. Treasurer to keep records--inspections.  
4 (1) The campaign treasurer of each candidate and each  
5 political committee shall keep detailed accounts, current  
6 within not more than ten (10) days after the date of  
7 receiving a contribution or making an expenditure, of all  
8 contributions received and all expenditures made by or on  
9 behalf of the candidate or political committee that are  
10 required to be set forth in a statement filed under this  
11 act.

12 (2) Accounts kept by the campaign treasurer of a  
13 candidate or political committee may be inspected under  
14 reasonable circumstances before, during, or after the  
15 election to which the accounts refer by the campaign  
16 treasurer of any opposing candidate or political committee  
17 in the same electoral district. The right of inspection may  
18 be enforced by appropriate writ issued by any court of  
19 competent jurisdiction. The campaign treasurers of  
20 political committees supporting a candidate may be joined  
21 with the campaign treasurer of the candidate as respondents  
22 in such a proceeding.

23 (3) Accounts kept by a campaign treasurer of a  
24 candidate shall be preserved by the campaign treasurer for a  
25 period coinciding with the term of office for which the

1 person was a candidate.

2 Section 9. Petty cash funds allowed. (1) The  
3 campaign treasurer for each candidate or political committee  
4 is authorized to withdraw the following amount each week  
5 from the primary depository for the purpose of providing a  
6 petty cash fund for the candidate or political committee:

7 (a) for all candidates for nomination or election on a  
8 statewide basis and all political committees operating on a  
9 statewide basis, one hundred dollars (\$100) per week; and  
10 (b) for all other candidates and political committees,  
11 twenty dollars (\$20) per week.

12 (2) The petty cash fund may be spent for office  
13 supplies, transportation expenses, and other necessities in  
14 an amount of less than ten dollars (\$10). Petty cash shall  
15 not be used for the purchase of time, space, or services  
16 from any communications medium.

17 Section 10. Commissioner -- how appointed,  
18 qualifications, and offices. (1) There is hereby created  
19 the position of commissioner of campaign finances and  
20 practices, who shall be appointed by a majority of a four  
21 (4) member selection committee which shall be comprised of  
22 the speaker of the house, the president of the senate and  
23 the minority floor leaders of both houses of the Montana  
24 legislature. However, if a majority of the members of the  
25 selection committee cannot agree upon the selection of a

1 commissioner within thirty (30) days after the passage and  
 2 approval of this act, the Montana supreme court shall  
 3 appoint a fifth public member to the selection committee.  
 4 The majority of the five (5) members of the selection  
 5 committee shall then select the commissioner.

6 (2) The individual selected to serve as the  
 7 commissioner of campaign finances and practices shall be  
 8 appointed for a five (5) year term, but he shall thereafter  
 9 be ineligible to serve as the commissioner of campaign  
 10 finances and practices and shall be precluded from being a  
 11 candidate for public office as defined in this act for a  
 12 period of five (5) years from the time that his term as  
 13 commissioner expires.

14 (3) If for any reason a vacancy should occur in the  
 15 position of commissioner, a successor shall be appointed  
 16 within thirty (30) days as provided in subsection (1) to  
 17 serve out the unexpired term. An individual who is selected  
 18 to serve out the unexpired term of a preceding commissioner  
 19 shall be entitled to be reappointed for a five (5) year term  
 20 as provided in subsection ~~(3)~~ (1).

21 (4) The commissioner may be removed from office by  
 22 impeachment as provided in sections 95-2801 and 95-2802,  
 23 R.C.M. 1947. He may also be prosecuted by the appropriate  
 24 county attorney for official misconduct as specified in  
 25 section 94-7-401, R.C.M. 1947.

1 (5) The commissioner of campaign finances and  
 2 practices shall receive the same salary as a state district  
 3 court judge and shall receive the same salary increases  
 4 awarded such judges.

5 (6) The office of the commissioner shall be attached  
 6 to the office of the secretary of state for administrative  
 7 purposes only as specified in section 82A-108, except that  
 8 the provisions of subsections (1)(b), (1)(c), (2)(a),  
 9 (2)(b), (2)(d), (2)(e), and (3)(a) of section 82A-108,  
 10 R.C.M. 1947, do not apply.

11 Section 11. Powers and duties of the commissioner. The  
 12 commissioner shall exercise the following powers and perform  
 13 the following duties: (1) The commissioner of campaign  
 14 finances and practices shall be responsible for  
 15 investigating all of the alleged violations of the election  
 16 laws contained in Title 23, R.C.M. 1947, and shall in  
 17 conjunction with the county attorneys, be responsible for  
 18 enforcing all of the state's election laws.

19 (2) The commissioner shall select an appropriate staff  
 20 to enforce the provisions of Title 23, R.C.M. 1947, and he  
 21 shall have the power to hire and fire all personnel under  
 22 his supervision.

23 (3) The commissioner may hire or retain attorneys who  
 24 are properly licensed to practice before the supreme court  
 25 of the state of Montana to prosecute violations of Title 23,

1 R.C.M. 1947. Any properly licensed attorney so retained or  
 2 hired shall exercise the powers of a special attorney  
 3 general and he shall have the power to prosecute, subject to  
 4 the control and supervision of the commissioner and the  
 5 provisions of section 13, any criminal or civil action  
 6 arising out of a violation of any provision of Title 23,  
 7 R.C.M. 1947. All prosecutions shall be brought in the state  
 8 district court for the county in which a violation has  
 9 occurred or in the district court for Lewis and Clark  
 10 County. The authority to prosecute as prescribed by this  
 11 section includes the authority to:

12 (a) institute proceedings for the arrest of persons  
 13 charged with or reasonably suspected of criminal violations  
 14 of Title 23, R.C.M. 1947;

15 (b) attend and give advice to a grand jury when cases  
 16 involving criminal violations of Title 23, R.C.M. 1947, are  
 17 presented;

18 (c) draw and file indictments, informations, and  
 19 criminal complaints;

20 (d) prosecute all actions for the recovery of debts,  
 21 fines, penalties, and forfeitures accruing to the state or  
 22 county from persons convicted of violating Title 23, R.C.M.  
 23 1947; and

24 (e) do any other act necessary to successfully  
 25 prosecute a violation of any provision of Title 23, R.C.M.

1 1947.

2 (4) The commissioner shall prescribe forms for  
 3 statements and other information required to be filed  
 4 pursuant to Title 23, R.C.M. 1947, and furnish forms and  
 5 appropriate information to persons required to file  
 6 statements and information.

7 (5) The commissioner shall prepare and publish a  
 8 manual prescribing a uniform system for accounts for use by  
 9 persons required to file statements pursuant to Title 23,  
 10 R.C.M. 1947.

11 (6) The commissioner shall accept and file any  
 12 information voluntarily supplied that exceeds the  
 13 requirements of Title 23, R.C.M. 1947.

14 (7) The commissioner shall prescribe the manner in  
 15 which the county clerks and recorders shall receive, file,  
 16 collate, and maintain reports filed with them under Title  
 17 23, R.C.M. 1947.

18 (8) The commissioner shall make statements and other  
 19 information filed with his office available for public  
 20 inspection and copying during regular office hours, and make  
 21 copying facilities available free of charge or at a charge  
 22 not to exceed actual cost.

23 (9) The commissioner shall preserve statements and  
 24 other information filed with his office for a period of ten  
 25 (10) years from date of receipt.

1 (10) The commissioner shall prepare and publish  
2 summaries of the statements received.

3 (11) The commissioner shall prepare and publish such  
4 other reports as he may deem appropriate.

5 (12) The commissioner shall provide for wide public  
6 dissemination of summaries and reports.

7 (13) The commissioner shall have the authority to  
8 investigate all statements filed pursuant to the provisions  
9 of Title 23, R.C.M. 1947, and shall also investigate alleged  
10 failures to file any statement or the alleged falsification  
11 of any statement filed pursuant to the provisions of Title  
12 23, R.C.M. 1947. Upon the submission of a written complaint  
13 by any individual, the commissioner shall also investigate  
14 any other alleged violation of the provisions of Title 23,  
15 R.C.M. 1947, or any rule or regulation adopted pursuant  
16 thereto.

17 (14) The commissioner shall promulgate and publish  
18 rules and regulations to carry out the provisions of Title  
19 23, R.C.M. 1947, and shall promulgate such rules in  
20 conformance with the Montana Administrative Procedure Act.

21 (15) The commissioner shall at the close of each  
22 fiscal year report to the legislature and the governor  
23 concerning the action he has taken, including the names,  
24 salaries, and duties of all individuals in his employ and  
25 the money he has disbursed. The commissioner shall also

1 make further reports on the matters within his jurisdiction  
2 as the legislature may prescribe and shall also make  
3 recommendations for further legislation as may appear  
4 desirable.

5 (16) The commissioner shall be responsible for  
6 preparing, administering and allocating the budget for his  
7 office.

8 (17) The commissioner shall have the power to inspect  
9 any records, accounts or books that must be kept pursuant to  
10 the provisions of Title 23, R.C.M. 1947, which are held by  
11 any political committee or candidate so long as such  
12 inspection is made during reasonable office hours.

13 (18) The commissioner shall have the power to issue  
14 orders of noncompliance as prescribed by section 12.

15 (19) The commissioner shall exercise all of the powers  
16 conferred upon him by this act or any other provision of  
17 state law in any jurisdiction or political subdivision of  
18 the state.

19 (20) After receiving the final campaign contribution  
20 and expenditure report filed as required by Title 23, R.C.M.  
21 1947, the commissioner shall inform the secretary of state,  
22 or the city or county clerk and recorder that each candidate  
23 who has been properly elected to any public office has filed  
24 his final contribution and expenditure report as specified  
25 in section 3 of this act.

1 (21) The commissioner shall have the authority to  
 2 administer oaths and affirmations, subpoena witnesses,  
 3 compel their attendance, take evidence, and require the  
 4 production of any books, papers, correspondence, memoranda,  
 5 bank account statements of a political committee or  
 6 candidate, or other records which are relevant or material  
 7 for the purpose of conducting any investigation pursuant to  
 8 the provisions of Title 23, R.C.M. 1947.

9 Section 12. Examination of statements and issuance of  
 10 orders of noncompliance. (1) Each statement filed with the  
 11 commissioner during an election or within sixty (60) days  
 12 thereafter shall be inspected within ten (10) days after the  
 13 date upon which the statement is filed. If a person has not  
 14 satisfied the provisions of Title 23, R.C.M. 1947, the  
 15 commissioner shall immediately notify a person of the  
 16 noncompliance. Such an order of noncompliance shall be  
 17 issued when:

18 (a) upon examination of the official ballot, it  
 19 appears that the person has failed to file a statement as  
 20 required by law or that a statement filed by a person does  
 21 not conform to law; or

22 (b) it is determined that a statement filed with the  
 23 commissioner does not conform to the requirements of Title  
 24 23, R.C.M. 1947, or that a person has failed to file a  
 25 statement required by law.

1 (2) If an order of noncompliance is issued during a  
 2 campaign period, or within sixty (60) days after an  
 3 election, a candidate or political committee shall submit  
 4 the necessary information five (5) days after receiving the  
 5 notice of noncompliance. Upon a failure to submit the  
 6 required information within the time specified, the  
 7 appropriate county attorney or the commissioner shall have  
 8 the authority to initiate a civil or criminal action  
 9 pursuant to the procedures outlined in section 13.

10 (3) If an order of noncompliance is issued during any  
 11 other period than that described in subsection (2), a  
 12 candidate or political committee shall submit the necessary  
 13 information within ten (10) days after receiving the notice  
 14 of noncompliance. Upon a failure to submit the required  
 15 information within the time specified, the appropriate  
 16 county attorney or the commissioner shall initiate a civil  
 17 or criminal action pursuant to the procedures outlined in  
 18 section 13.

19 (4) A candidate or political treasurer aggrieved by  
 20 the issuance of an order of noncompliance may seek judicial  
 21 review in the district court of the county in which the  
 22 candidate resides or the county in which the political  
 23 committee has its headquarters. All petitions for judicial  
 24 review filed pursuant to this act shall be expeditiously  
 25 reviewed by the appropriate district court.

1 (5) Within one hundred and twenty (120) days after the  
 2 date of each election, the commissioner shall examine and  
 3 compare each statement or report filed with the commissioner  
 4 pursuant to the provisions of Title 23, R.C.M. 1947, to  
 5 determine whether a statement or report conforms to the  
 6 provisions of the law. The examination shall include a  
 7 comparison of all reports and statements received by the  
 8 commissioner pursuant to the requirements of Title 23,  
 9 R.C.M. 1947. The commissioner may investigate the source  
 10 and authenticity of any contribution or expenditure listed  
 11 in any report or statement filed pursuant to Title 23,  
 12 R.C.M. 1947, or the alleged failure to report any  
 13 contribution or expenditure required to be reported pursuant  
 14 to Title 23, R.C.M. 1947.

15 Section 13. Prosecutions and powers of the county  
 16 attorney. (1) When the commissioner determines that there  
 17 appears to be sufficient evidence to justify a civil or  
 18 criminal prosecution as specified in section 18, he shall  
 19 notify the county attorney of the county in which the  
 20 alleged violation occurred and shall arrange to transmit to  
 21 the county attorney all information relevant to the alleged  
 22 violation. If the county attorney fails to initiate the  
 23 appropriate civil or criminal action within thirty (30) days  
 24 after he receives notification of the alleged violation, the  
 25 commissioner may then initiate the appropriate legal action.

1 (2) A county attorney may at any time prior to the  
 2 expiration of the thirty (30) day time period specified in  
 3 subsection (1) waive his right to prosecute and thereby  
 4 authorize the commissioner to initiate the appropriate civil  
 5 or criminal action as specified in section 18.

6 (3) The provisions of subsection (1) do not apply to a  
 7 situation in which the alleged violation has been committed  
 8 by the county attorney of a county. In this instance, the  
 9 commissioner is authorized to directly prosecute any alleged  
 10 violation of Title 23, R.C.M. 1947.

11 (4) If a prosecution is undertaken by the  
 12 commissioner, all court costs associated with the  
 13 prosecution shall be paid by the state of Montana.

14 (5) Nothing in this act shall prevent a county  
 15 attorney from inspecting any records, accounts, or books  
 16 which must be kept pursuant to the provisions of Title 23,  
 17 R.C.M. 1947, that are held by any political committee or  
 18 candidate involved in an election to be held within the  
 19 county. However, such inspections must be conducted during  
 20 reasonable office hours.

21 (6) A county attorney shall have the authority to  
 22 administer oaths and affirmations, subpoena witnesses,  
 23 compel their attendance, take evidence, and require the  
 24 production of any books, correspondence, memoranda, bank  
 25 account statements of a political committee or candidate, or

1 other records which are relevant or material for the purpose  
2 of conducting any investigation pursuant to the provisions  
3 of Title 23, R.C.M. 1947.

4 Section 14. Right to inspect current accounts and  
5 reports. Every individual shall have the right to inspect  
6 any report or current account that must be kept or filed  
7 pursuant to the provisions of Title 23, R.C.M. 1947, but  
8 only if such inspection will occur during reasonable office  
9 hours and in such a manner that normal office functions will  
10 not be unnecessarily interrupted.

11 Section 15. Duties of county clerk and recorder.

12 (1) A county clerk and recorder shall maintain all records  
13 and statements filed pursuant to the provisions of Title 23,  
14 R.C.M. 1947, for a period of ten (10) years from the date of  
15 receipt.

16 (2) A county clerk and recorder shall accept and file  
17 any information voluntarily supplied that exceeds the  
18 requirements of Title 23, R.C.M. 1947.

19 (3) A county clerk and recorder shall file, code, and  
20 cross-index all reports and statements filed as prescribed  
21 by the commissioner.

22 (4) A county clerk and recorder shall make statements  
23 and other information filed with his office available for  
24 public inspection and copying during regular office hours,  
25 and make copying facilities available free of charge or at a

1 charge not to exceed actual cost.

2 Section 16. Names not to be printed on ballot.

3 (1) The name of a candidate shall not be printed on the  
4 official ballot for a general or special election if the  
5 candidate or a political treasurer for a candidate fails to  
6 file any statement as required by Title 23, R.C.M. 1947.

7 (2) A vacancy on an official ballot under this section  
8 may be filled in the manner provided by law, but not by the  
9 name of the same candidate.

10 (3) In carrying out the mandate of this section, the  
11 commissioner must by a written statement notify the  
12 secretary of state or the city or county clerk or the clerk  
13 of a school district, that a candidate, or a candidate's  
14 political treasurer, has not complied with the provisions of  
15 Title 23, R.C.M. 1947, as described in subsection (1) and  
16 that a candidate's name should not be printed on the  
17 official ballot.

18 Section 17. Certificates of election may be withheld.  
19 No certificate of election shall be granted to any candidate  
20 until his political treasurer has filed the reports and  
21 statements that must be filed pursuant to the provisions of  
22 Title 23, R.C.M. 1947. No candidate for an elective office  
23 may assume the powers and duties of that office until he has  
24 received a certificate of election as provided by law. A  
25 certificate of election shall only be issued by the public

1 official responsible for issuing a certificate or commission  
 2 after receiving written assurance from the commissioner that  
 3 a candidate has filed all of the reports that must be filed  
 4 pursuant to the provisions of Title 23, R.C.M. 1947.

5 Section 18. Penalties. (1) A person who ~~falsely~~  
 6 ~~reports~~ KNOWINGLY SUBMITS A FALSE REPORT or deliberately  
 7 fails to include any information required by Title 23,  
 8 R.C.M. 1947, or who ~~falsely--reports~~ KNOWINGLY SUBMITS A  
 9 FALSE REPORT or deliberately fails to report any  
 10 contribution or expenditure as required by Title 23, R.C.M.  
 11 1947, may be guilty of false swearing, or unsworn  
 12 falsification to authorities as applicable and upon  
 13 conviction shall be punished as provided in sections  
 14 94-7-203 or 94-7-204 for each separate violation.

15 (2) Any person who accepts a contribution prohibited  
 16 by Title 23, R.C.M. 1947, or makes a contribution in excess  
 17 of the amounts specified in Title 23, R.C.M. 1947, or in any  
 18 manner other than that provided in Title 23, R.C.M. 1947, is  
 19 guilty of a violation and upon conviction shall be fined not  
 20 to exceed one thousand dollars (\$1,000) or be imprisoned in  
 21 the county jail for a term not to exceed six (6) months, or  
 22 both, for each separate violation.

23 (3) Any person who violates any other provision of  
 24 Title 23, R.C.M. 1947, upon conviction, shall be fined not  
 25 to exceed one thousand dollars (\$1,000) or be imprisoned in

1 the county jail for a term not to exceed six (6) months, or  
 2 both, for each separate violation.

3 (4) If a court of competent jurisdiction finds that  
 4 the violation of any provision of Title 23, R.C.M. 1947, by  
 5 any candidate or political committee probably affected the  
 6 outcome of any election, the result of that election may be  
 7 held void and a special election held within sixty (60) days  
 8 of that finding, or where the violation occurred during a  
 9 primary election, the court may direct the appropriate  
 10 political party to select a new candidate according to the  
 11 provisions of state law and the custom of the party. Any  
 12 action to void an election shall be commenced within one (1)  
 13 year of the date of the election in question.

14 (5) Except as provided in subsection (4), any action  
 15 brought pursuant to the provisions of Title 23, R.C.M. 1947,  
 16 must be commenced within four (4) years after the date when  
 17 the violation occurred.

18 (6) In addition to all other penalties prescribed by  
 19 this act:

20 (a) Any candidate who is convicted of violating any  
 21 provision of Title 23, R.C.M. 1947, shall be ineligible to  
 22 be a candidate for any public office in the state of Montana  
 23 for a period of five (5) years from the date of conviction;

24 (b) Any campaign treasurer who is convicted of  
 25 violating any provision of Title 23, R.C.M. 1947, shall be



1 ineligible to be a candidate for any public office or to  
2 hold the position of campaign treasurer in any campaign in  
3 the state of Montana for a period of five (5) years from the  
4 date of conviction.

5 (7) In any action brought pursuant to the provisions  
6 of Title 23, R.C.M. 1947, the appropriate state district  
7 court shall have the power to enjoin any person to prevent  
8 the doing of any act herein prohibited, or to compel the  
9 performance of any act herein required.

10 (8) Nothing in this section shall prevent a county  
11 attorney or the commissioner from seeking a penalty  
12 otherwise specifically provided for in Title 23, R.C.M.  
13 1947.

14 (9) All fines and forfeitures imposed pursuant to this  
15 section shall be deposited in the state general fund.

16 ~~Section 19. Citizen's right to sue. Any person~~  
17 ~~residing within a jurisdiction in which an election occurs~~  
18 ~~may sue for injunctive relief to enjoin violations or to~~  
19 ~~compel compliance with the provisions of Title 23, R.C.M.~~  
20 ~~1947. However, a court may not entertain a suit filed~~  
21 ~~pursuant to this section unless the plaintiff has filed a~~  
22 ~~complaint with the commissioner prior to seeking injunctive~~  
23 ~~relief. The court may award to a plaintiff or a defendant~~  
24 ~~who prevails his costs of litigation, including reasonable~~  
25 ~~attorney's fees.~~

1 Section 19. Secretary of state must furnish copies of  
2 this act to appropriate officials. The secretary of state  
3 shall, at the expense of the state, furnish the county  
4 clerk, and the city and town clerks, copies of Title 23,  
5 chapter 47, R.C.M. 1947. The public official with whom a  
6 candidate files a declaration or certificate of nomination  
7 shall transmit a copy of Title 23, chapter 47, R.C.M. 1947,  
8 to the candidate. Such copies shall also be furnished to  
9 any other person required to file a statement. Upon his own  
10 information, or at the written request of any voter, the  
11 secretary of state shall provide a copy of Title 23, chapter  
12 47, R.C.M. 1947, to any other individual who may be a  
13 candidate, or who may otherwise be required to make a  
14 statement required by this act.

15 Section 20. Section 23-4701, R.C.M. 1947, is amended  
16 to read as follows:

17 "23-4701. Violation of election laws by certain  
18 officers a felony misdemeanor. Every person charged with  
19 the performance of any duty, under the provisions of any law  
20 of this state relating to elections, or the registration of  
21 the names of electors, or the canvassing of the returns of  
22 election, who willfully neglects or refuses to perform such  
23 duty, or who, in his official capacity, knowingly and  
24 fraudulently acts in contravention or violation of any of  
25 the provisions of such laws, is, ~~unless a different~~

1 ~~punishment--for-such-acts-or-omissions-is-prescribed-by-this~~  
 2 ~~code,~~ punishable by fine not exceeding one thousand dollars  
 3 ~~(\$1,000), or by imprisonment in the-state-prison a county~~  
 4 ~~jail not exceeding five-years six (6) months, or both."~~

5 Section 21. Severability. It is the intent of the  
 6 legislative assembly that if part of this act is invalid,  
 7 all valid parts that are severable from the invalid part  
 8 remain in effect. If a part of this act is invalid in one  
 9 or more of its applications, the part remains in effect in  
 10 all valid applications that are severable from the invalid  
 11 applications.

12 Section 22. Effective date. This act shall become  
 13 ~~effective on-January-17-1976,-and~~ UPON PASSAGE AND APPROVAL,  
 14 EXCEPT THAT the first reporting period for any existing  
 15 candidate or political committee shall begin on the  
 16 ~~effective-date-of-this-act~~ JANUARY 1, 1976.

17 Section 23. Sections 23-4722, 23-4725, 23-4726,  
 18 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733 through  
 19 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, and  
 20 23-4775, R.C.M. 1947, are repealed.

-End-

SENATE BILL NO. 76

INTRODUCED BY GREELY, WATT, ROMNEY

(BY REQUEST OF THE GOVERNOR)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING THE COMMISSIONER, IN CONJUNCTION WITH THE COUNTY ATTORNEYS, TO ENFORCE MONTANA'S ELECTION LAWS AND TO REGULATE MONTANA'S CAMPAIGN FINANCE LAWS AS SPECIFIED IN TITLE 23, R.C.M. 1947; SPECIFYING THE POWERS AND DUTIES OF COUNTY ATTORNEYS AND OTHER LOCAL OFFICIALS; REQUIRING CANDIDATES AND POLITICAL COMMITTEES TO DESIGNATE A CAMPAIGN TREASURER AND A CAMPAIGN DEPOSITORY; AUTHORIZING THE CREATION OF A PETTY CASH FUND FOR ALL CANDIDATES AND POLITICAL COMMITTEES; ~~AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT;~~ PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTION 23-4701; REPEALING SECTIONS 23-4722, 23-4725, 23-4726, 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734, 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, AND 23-4775; AND PROVIDING FOR AN EFFECTIVE DATE."

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

Section 1. Statement of purpose. It is the purpose of this act to establish clear and consistent requirements for

the full disclosure and reporting of the sources and disposition of funds used in Montana to support or oppose candidates, political committees, or issues, and to consolidate and clarify the authority to enforce the election and campaign finance laws as specified in Title 23, R.C.M. 1947.

Section 2. Definitions. As used in Title 23, chapter 47, R.C.M. 1947: (1) "Candidate" means an individual who has filed a declaration of nomination, certificate of nomination, or acceptance of nomination for public office as required by law, but does not include a candidate for national office who is subject to the provisions of federal election campaign laws.

(2) "Commissioner" means the commissioner of campaign finances and practices as described in section 10 of this act.

(3) "Election" means a general, special, or primary election held to choose a public officer or submit an issue for the approval or rejection of the people.

(4) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection including, but not limited to, initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

1 (5) "Public office" means a state, county, municipal,  
 2 school, or other district office that is filled by the  
 3 people at an election.

4 (6) "Contribution" means:

5 (a) an advance, gift, loan, conveyance, deposit,  
 6 payment, or distribution of money or anything of value to  
 7 influence an election;

8 (b) a transfer of funds between political committees;

9 (c) the payment by a person other than a candidate or  
 10 political committee of compensation for the personal  
 11 services of another person that are rendered to a candidate  
 12 or political committee; but

13 (d) "contribution" does not mean services provided  
 14 without compensation by individuals volunteering a portion  
 15 or all of their time on behalf of a candidate or political  
 16 committee, nor meals and lodging provided by individuals in  
 17 their private residence for a candidate or other individual.

18 (7) "Expenditure" means a purchase, payment,  
 19 distribution, loan, advance, promise, pledge, or gift of  
 20 money or anything of value made for the purpose of  
 21 influencing the results of an election, but "expenditure"  
 22 does not mean:

23 (a) services, food, or lodging provided in a manner  
 24 that they are not contributions under this act; nor

25 (b) payments by a candidate for his personal travel

1 expenses or for food, clothing, lodging, or personal  
 2 necessities for himself and his family.

3 (8) "Anything of value" means any goods that have a  
 4 certain utility to the recipient that is real and that  
 5 ordinarily is not given away free, but is purchased.

6 (9) "Political committee" means a combination of two  
 7 or more individuals, or a person other than an individual,  
 8 the primary or incidental purpose of which is to support or  
 9 oppose a candidate or issue or to influence the result of an  
 10 election by any expenditure.

11 (10) "Individual" means a human being.

12 (11) "Person" means an individual, corporation,  
 13 association, firm, partnership, cooperative, committee,  
 14 club, union, or other organization or group of individuals,  
 15 or a candidate as defined in subsection (1) of this section.

16 Section 3. Reports of contributions and expenditures  
 17 required. (1) Each candidate and political committee shall  
 18 file periodic reports of contributions and expenditures made  
 19 by or on the behalf of a candidate or political committee.  
 20 All reports required by this section shall be filed with the  
 21 commissioner and with the county clerk and recorder of the  
 22 county in which a candidate is a resident or the political  
 23 committee has its headquarters. However, where residency  
 24 within a district, county, city, or town is not a  
 25 prerequisite for being a candidate, copies of all reports

1 shall be filed with the county clerk and recorder of the  
2 county in which the election is to be held, or if the  
3 election is to be held in more than one county, with the  
4 clerk and recorder in the county that the commissioner shall  
5 specify.

6 (2) In lieu of all contribution and expenditure  
7 reports required by this act, the commissioner shall accept  
8 copies of the reports filed by candidates for congress and  
9 president of the United States, and their political  
10 committees, pursuant to the requirements of federal law.

11 (3) Candidates for a state office filled by a  
12 statewide vote of all the voters of Montana, the political  
13 committees for such candidates, and political committees  
14 organized to support or oppose a statewide issue, shall file  
15 reports:

16 (a) on the tenth day of March and September, in each  
17 year that an election is to be held, and on the fifteenth  
18 and fifth days next preceding the date on which an election  
19 is held, and within twenty-four (24) hours after receiving a  
20 contribution of five-hundred dollars (\$500) or more at any  
21 time after the last pre-election report;

22 (b) not more than twenty (20) days after the date of  
23 the election;

24 (c) on the tenth day of March and September of each  
25 year following an election so long as there is an unexpended

1 balance or an expenditure deficit in a campaign account; and  
2 (d) whenever a candidate or political committee  
3 finally closes its books.

4 (4) Candidates for a state district office, including  
5 but not limited to, candidates for the legislature, public  
6 service commission, or district court judge, their political  
7 committees, and political committees organized to support or  
8 oppose district issues, shall file reports:

9 (a) on the tenth day next preceding the date on which  
10 an election is held, and within twenty-four (24) hours after  
11 receiving a contribution of one hundred dollars (\$100) or  
12 more at any time after the last pre-election report;

13 (b) not more than twenty (20) days after the date of  
14 the election;

15 (c) whenever a candidate or political committee  
16 finally closes its books.

17 (5) Candidates for any other public office, their  
18 political committees, and political committees organized to  
19 support or oppose local issues, shall be required to file  
20 the reports specified in subsection (4) only if the total  
21 amount of contributions received or the total amount of  
22 funds expended for an election, excluding the filing fee  
23 paid by the candidate, exceed ~~two~~ FIVE hundred dollars  
24 ~~(\$200)~~ (\$500).

25 (6) All reports required by this section shall be

1 complete as of the date prescribed by the commissioner,  
 2 which shall not be less than five (5) or more than ten (10)  
 3 days before the date of filing as specified in subsections  
 4 (2) through (5) of this section.

5 (7) The commissioner shall adopt rules and regulations  
 6 that will permit political committees, including political  
 7 parties, to file copies of a single comprehensive report  
 8 when they support or oppose more than one candidate or  
 9 issue.

10 (8) Reports filed under this section shall be filed to  
 11 cover the following time periods:

12 (a) The initial report shall cover all contributions  
 13 received or expenditures made by a candidate or political  
 14 committee prior to the time that a person became a candidate  
 15 as defined in subsection (1) of section 2 until the date  
 16 prescribed by the commissioner for the filing of the  
 17 appropriate initial report pursuant to subsections (2)  
 18 through (5) of this section.

19 (b) Subsequent periodic reports shall cover the period  
 20 of time from the closing of the previous report to a date  
 21 prescribed by the commissioner, which shall not be less than  
 22 five (5) days or more than ten (10) days before the date of  
 23 filing;

24 (c) Final reports shall cover the period of time from  
 25 the last periodic report to the final closing of the books

1 of the candidate or political committee.

2 Section 4. What reports must disclose. Each report  
 3 required by this act shall disclose THE FOLLOWING  
 4 INFORMATION, EXCEPT THAT A CANDIDATE SHALL ONLY BE REQUIRED  
 5 TO REPORT THE INFORMATION SPECIFIED IN THIS SECTION IF THE  
 6 TRANSACTIONS INVOLVED WERE UNDERTAKEN FOR THE PURPOSE OF  
 7 INFLUENCING AN ELECTION: (1) The amount of cash on hand at  
 8 the beginning of the reporting period.

9 (2) The full name and mailing address (occupation and  
 10 the principal place of business, if any) of each person who  
 11 has made aggregate contributions, other than loans, of  
 12 twenty-five dollars (\$25) or more to the candidate or  
 13 political committee (including the purchase of tickets for  
 14 events such as dinners, luncheons, rallies, and similar  
 15 fund-raising events) within the reporting period together  
 16 with the aggregate amount of those contributions, and the  
 17 total amount of contributions made by that person.

18 (3) The total sum of individual contributions made to  
 19 or for the political committee or candidate and not reported  
 20 under subsection (2) of this section.

21 (4) The name and address of each political committee  
 22 or candidate from which the reporting committee or candidate  
 23 received any transfer of funds together with the amount and  
 24 dates of all those transfers.

25 (5) Each loan from any person during the reporting

1 period together with the full names and mailing addresses  
2 (occupation and principal place of business, if any) of the  
3 lender and endorsers, if any, and the date and amount of  
4 each loan.

5 (6) The amount and nature of debts and obligations  
6 owed to a political committee or candidates in the form  
7 prescribed by the commissioner.

8 (7) An itemized account of proceeds from:

9 (a) the sale of tickets to each dinner, luncheon,  
10 rally, and other fund-raising events;

11 (b) mass collections made at such an event; and

12 (c) sales of items such as political campaign pins,  
13 buttons, badges, flags, emblems, hats, banners, literature,  
14 and similar materials.

15 (8) Each contribution, rebate, refund, or other  
16 receipt not otherwise listed under subsections (2) through  
17 (6) of this section during the reporting period.

18 (9) The total sum of all receipts received by or for  
19 the committee or candidate during the reporting period.

20 (10) The full name and mailing address (occupation and  
21 the principal place of business, if any) of each person to  
22 whom expenditures have been made by the committee or  
23 candidate during the reporting period, including the amount,  
24 date, and purpose of each expenditure and the total amount  
25 of expenditures made to each person.

1 (11) The full name and mailing addresses (occupation  
2 and the principal place of business, if any) of each person  
3 to whom an expenditure for personal services, salaries, and  
4 reimbursed expenses have been made, including the amount,  
5 date, and purpose of that expenditure and the total amount  
6 of expenditures made to each person.

7 (12) The total sum of expenditures made by a political  
8 committee or candidate during the reporting period.

9 (13) The name and address of each political committee  
10 or candidate to which the reporting committee or candidate  
11 made any transfer of funds together with the amount and  
12 dates of all those transfers.

13 (14) The name of any person to whom a loan was made  
14 during the reporting period, including the full name and  
15 mailing address (occupation and principal place of business,  
16 if any) of that person, and the full name and mailing  
17 address (occupation and principal place of business, if any)  
18 of the endorsers, if any, and the date and amount of each  
19 loan.

20 (15) The amount and nature of debts and obligations  
21 owed by a political committee or candidate in the form  
22 prescribed by the commissioner.

23 (16) Other information that may be required by the  
24 commissioner to fully disclose the sources and disposition  
25 of funds used to support or oppose candidates OR ISSUES.

1 Section 5. Reports must be certified as true and  
 2 correct. (1) A report required by this act to be filed by a  
 3 candidate or political committee shall be verified as true  
 4 and correct by the oath or affirmation of the individual  
 5 filing the report. The individual filing the report shall  
 6 be the candidate or an officer of a political committee who  
 7 is on file as an officer of the committee with the  
 8 commissioner. The oath or affirmation shall be made before  
 9 an officer authorized to administer oaths.

10 (2) A copy of a report or statement shall be preserved  
 11 by the individual filing it for a period of time to be  
 12 designated by the commissioner.

13 (3) The commissioner may promulgate rules and  
 14 regulations regarding the extent to which organizations that  
 15 are not primarily political committees, but are incidentally  
 16 political committees shall report their politically related  
 17 activities in accordance with this act.

18 Section 6. Campaign treasurer and campaign depository.

19 (1) Each candidate for nomination or election to office and  
 20 each political committee shall appoint one (1) campaign  
 21 treasurer. No contribution shall be received or expenditure  
 22 made by or on behalf of a candidate or political committee  
 23 until the candidate or political committee appoints a  
 24 campaign treasurer and certifies the name and address of the  
 25 campaign treasurer pursuant to this section. The

1 certification, which shall include an organizational  
 2 statement, properly acknowledged by a notary public, and  
 3 setting forth of the name and address of the campaign  
 4 treasurer and all other officers, if any, of the political  
 5 committee, shall be filed with the commissioner and the  
 6 appropriate county clerk and recorder as specified for the  
 7 filing of reports in section 3.

8 (2) A campaign treasurer may appoint deputy campaign  
 9 treasurers, but not more than one (1) in each county in  
 10 which the campaign is conducted. Each candidate and  
 11 political committee shall certify the full name and complete  
 12 address of the campaign treasurer and all deputy campaign  
 13 treasurers with the office with whom the candidate or the  
 14 political committee is required to file reports.

15 (3) Any campaign or deputy campaign treasurer  
 16 appointed pursuant to this section shall be a registered  
 17 voter in this state. An individual may be appointed and  
 18 serve as a campaign treasurer of a candidate and a political  
 19 committee or two (2) or more candidates and political  
 20 committees. A candidate may appoint himself as his own  
 21 campaign or deputy campaign treasurer. No individual may  
 22 serve as a campaign or deputy campaign treasurer or perform  
 23 any duty required of a campaign or deputy campaign treasurer  
 24 of a candidate or political committee until he has been  
 25 designated and his name certified by the candidate or



1 political committee.

2 (4) Deputy campaign treasurers may exercise any of the  
3 powers and duties of a campaign treasurer as set forth in  
4 this act when specifically authorized in writing to do so by  
5 the campaign treasurer and the candidate in the case of a  
6 candidate, or the campaign treasurer and the chairman of the  
7 political committee in the case of a political committee.

8 (5) A candidate or political committee may remove his  
9 or its campaign or deputy campaign treasurer. The removal  
10 of any treasurer or deputy treasurer shall immediately be  
11 reported to the officer with whom the name of the campaign  
12 treasurer was originally filed. In case of death,  
13 resignation, or removal of his or its campaign treasurer  
14 before compliance with any obligation of a campaign  
15 treasurer under this act, the candidate or political  
16 committee shall appoint a successor and certify the name and  
17 address of the successor as specified in subsection (1) of  
18 this section.

19 (6) Each candidate and each political committee shall  
20 designate one (1) primary campaign depository for the  
21 purpose of depositing all contributions received and  
22 disbursing all expenditures made by the candidate or  
23 political committee. The candidate or political committee  
24 may also designate one (1) secondary depository in each  
25 county in which an election is held and in which the

1 candidate or committee participates. Deputy campaign  
2 treasurers may make deposits in and make expenditures from  
3 secondary depositories when authorized to do so as provided  
4 in subsection (4) of this section. Only a bank authorized  
5 to transact business in Montana may be designated as a  
6 campaign depository. The candidate or political committee  
7 shall file the name and address of each primary and  
8 secondary depository so designated at the same time and with  
9 the same officer with whom the candidate or committee files  
10 the name of his or its campaign treasurer pursuant to  
11 subsection (1) of this section. Nothing in this subsection  
12 shall prevent a political committee or candidate from having  
13 more than one campaign account in the same depository.

14 Section 7. Deposit of contributions--statement of  
15 campaign treasurer. All funds received by the campaign  
16 treasurer or any deputy campaign treasurer of any candidate  
17 or political committee shall be deposited prior to the end  
18 of the fifth business day following their receipt (Sundays  
19 and holidays excluded) in a checking account in a campaign  
20 depository designated pursuant to section 6 of this act. A  
21 statement showing the amount received from or provided by  
22 each person and the account in which the funds are deposited  
23 shall be prepared by the campaign treasurer at the time the  
24 deposit is made. This statement along with the receipt form  
25 for cash contributions deposited at the same time and a

1 deposit slip for the deposit shall be kept by the treasurer  
2 as a part of his records.

3 Section 8. Treasurer to keep records--inspections.

4 (1) The campaign treasurer of each candidate and each  
5 political committee shall keep detailed accounts, current  
6 within not more than ten (10) days after the date of  
7 receiving a contribution or making an expenditure, of all  
8 contributions received and all expenditures made by or on  
9 behalf of the candidate or political committee that are  
10 required to be set forth in a statement filed under this  
11 act.

12 (2) Accounts kept by the campaign treasurer of a  
13 candidate or political committee may be inspected under  
14 reasonable circumstances before, during, or after the  
15 election to which the accounts refer by the campaign  
16 treasurer of any opposing candidate or political committee  
17 in the same electoral district. The right of inspection may  
18 be enforced by appropriate writ issued by any court of  
19 competent jurisdiction. The campaign treasurers of  
20 political committees supporting a candidate may be joined  
21 with the campaign treasurer of the candidate as respondents  
22 in such a proceeding.

23 (3) Accounts kept by a campaign treasurer of a  
24 candidate shall be preserved by the campaign treasurer for a  
25 period coinciding with the term of office for which the

1 person was a candidate.

2 Section 9. Petty cash funds allowed. (1) The  
3 campaign treasurer for each candidate or political committee  
4 is authorized to withdraw the following amount each week  
5 from the primary depository for the purpose of providing a  
6 petty cash fund for the candidate or political committee:

7 (a) for all candidates for nomination or election on a  
8 statewide basis and all political committees operating on a  
9 statewide basis, one hundred dollars (\$100) per week; and  
10 (b) for all other candidates and political committees,  
11 twenty dollars (\$20) per week.

12 (2) The petty cash fund may be spent for office  
13 supplies, transportation expenses, and other necessities in  
14 an amount of less than ten dollars (\$10). Petty cash shall  
15 not be used for the purchase of time, space, or services  
16 from any communications medium.

17 Section 10. Commissioner -- how appointed,  
18 qualifications, and offices. (1) There is hereby created  
19 the position of commissioner of campaign finances and  
20 practices, who shall be appointed by a majority of a four  
21 (4) member selection committee which shall be comprised of  
22 the speaker of the house, the president of the senate and  
23 the minority floor leaders of both houses of the Montana  
24 legislature. However, if a majority of the members of the  
25 selection committee cannot agree upon the selection of a

1 commissioner within thirty (30) days after the passage and  
 2 approval of this act, the Montana supreme court shall  
 3 appoint a fifth public member to the selection committee.  
 4 The majority of the five (5) members of the selection  
 5 committee shall then select the commissioner.

6 (2) The individual selected to serve as the  
 7 commissioner of campaign finances and practices shall be  
 8 appointed for a five (5) year term, but he shall thereafter  
 9 be ineligible to serve as the commissioner of campaign  
 10 finances and practices and shall be precluded from being a  
 11 candidate for public office as defined in this act for a  
 12 period of five (5) years from the time that his term as  
 13 commissioner expires.

14 (3) If for any reason a vacancy should occur in the  
 15 position of commissioner, a successor shall be appointed  
 16 within thirty (30) days as provided in subsection (1) to  
 17 serve out the unexpired term. An individual who is selected  
 18 to serve out the unexpired term of a preceding commissioner  
 19 shall be entitled to be reappointed for a five (5) year term  
 20 as provided in subsection ~~(3)~~ (1).

21 (4) The commissioner may be removed from office by  
 22 impeachment as provided in sections 95-2801 and 95-2802,  
 23 R.C.M. 1947. He may also be prosecuted by the appropriate  
 24 county attorney for official misconduct as specified in  
 25 section 94-7-401, R.C.M. 1947.

1 (5) The commissioner of campaign finances and  
 2 practices shall receive the same salary as a state district  
 3 court judge and shall receive the same salary increases  
 4 awarded such judges.

5 (6) The office of the commissioner shall be attached  
 6 to the office of the secretary of state for administrative  
 7 purposes only as specified in section 82A-108, except that  
 8 the provisions of subsections (1)(b), (1)(c), (2)(a),  
 9 (2)(b), (2)(d), (2)(e), and (3)(a) of section 82A-108,  
 10 R.C.M. 1947, do not apply.

11 Section 11. Powers and duties of the commissioner. The  
 12 commissioner shall exercise the following powers and perform  
 13 the following duties: (1) The commissioner of campaign  
 14 finances and practices shall be responsible for  
 15 investigating all of the alleged violations of the election  
 16 laws contained in Title 23, R.C.M. 1947, and shall in  
 17 conjunction with the county attorneys, be responsible for  
 18 enforcing all of the state's election laws.

19 (2) The commissioner shall select an appropriate staff  
 20 to enforce the provisions of Title 23, R.C.M. 1947, and he  
 21 shall have the power to hire and fire all personnel under  
 22 his supervision.

23 (3) The commissioner may hire or retain attorneys who  
 24 are properly licensed to practice before the supreme court  
 25 of the state of Montana to prosecute violations of Title 23,

1 R.C.M. 1947. Any properly licensed attorney so retained or  
 2 hired shall exercise the powers of a special attorney  
 3 general and he shall have the power to prosecute, subject to  
 4 the control and supervision of the commissioner and the  
 5 provisions of section 13, any criminal or civil action  
 6 arising out of a violation of any provision of Title 23,  
 7 R.C.M. 1947. All prosecutions shall be brought in the state  
 8 district court for the county in which a violation has  
 9 occurred or in the district court for Lewis and Clark  
 10 County. The authority to prosecute as prescribed by this  
 11 section includes the authority to:

12 (a) institute proceedings for the arrest of persons  
 13 charged with or reasonably suspected of criminal violations  
 14 of Title 23, R.C.M. 1947;

15 (b) attend and give advice to a grand jury when cases  
 16 involving criminal violations of Title 23, R.C.M. 1947, are  
 17 presented;

18 (c) draw and file indictments, informations, and  
 19 criminal complaints;

20 (d) prosecute all actions for the recovery of debts,  
 21 fines, penalties, and forfeitures accruing to the state or  
 22 county from persons convicted of violating Title 23, R.C.M.  
 23 1947; and

24 (e) do any other act necessary to successfully  
 25 prosecute a violation of any provision of Title 23, R.C.M.

1 1947.

2 (4) The commissioner shall prescribe forms for  
 3 statements and other information required to be filed  
 4 pursuant to Title 23, R.C.M. 1947, and furnish forms and  
 5 appropriate information to persons required to file  
 6 statements and information.

7 (5) The commissioner shall prepare and publish a  
 8 manual prescribing a uniform system for accounts for use by  
 9 persons required to file statements pursuant to Title 23,  
 10 R.C.M. 1947.

11 (6) The commissioner shall accept and file any  
 12 information voluntarily supplied that exceeds the  
 13 requirements of Title 23, R.C.M. 1947.

14 (7) The commissioner shall prescribe the manner in  
 15 which the county clerks and recorders shall receive, file,  
 16 collate, and maintain reports filed with them under Title  
 17 23, R.C.M. 1947.

18 (8) The commissioner shall make statements and other  
 19 information filed with his office available for public  
 20 inspection and copying during regular office hours, and make  
 21 copying facilities available free of charge or at a charge  
 22 not to exceed actual cost.

23 (9) The commissioner shall preserve statements and  
 24 other information filed with his office for a period of ten  
 25 (10) years from date of receipt.

1 (10) The commissioner shall prepare and publish  
2 summaries of the statements received.

3 (11) The commissioner shall prepare and publish such  
4 other reports as he may deem appropriate.

5 (12) The commissioner shall provide for wide public  
6 dissemination of summaries and reports.

7 (13) The commissioner shall have the authority to  
8 investigate all statements filed pursuant to the provisions  
9 of Title 23, R.C.M. 1947, and shall also investigate alleged  
10 failures to file any statement or the alleged falsification  
11 of any statement filed pursuant to the provisions of Title  
12 23, R.C.M. 1947. Upon the submission of a written complaint  
13 by any individual, the commissioner shall also investigate  
14 any other alleged violation of the provisions of Title 23,  
15 R.C.M. 1947, or any rule or regulation adopted pursuant  
16 thereto.

17 (14) The commissioner shall promulgate and publish  
18 rules and regulations to carry out the provisions of Title  
19 23, R.C.M. 1947, and shall promulgate such rules in  
20 conformance with the Montana Administrative Procedure Act.

21 (15) The commissioner shall at the close of each  
22 fiscal year report to the legislature and the governor  
23 concerning the action he has taken, including the names,  
24 salaries, and duties of all individuals in his employ and  
25 the money he has disbursed. The commissioner shall also

1 make further reports on the matters within his jurisdiction  
2 as the legislature may prescribe and shall also make  
3 recommendations for further legislation as may appear  
4 desirable.

5 (16) The commissioner shall be responsible for  
6 preparing, administering and allocating the budget for his  
7 office.

8 (17) The commissioner shall have the power to inspect  
9 any records, accounts or books that must be kept pursuant to  
10 the provisions of Title 23, R.C.M. 1947, which are held by  
11 any political committee or candidate so long as such  
12 inspection is made during reasonable office hours.

13 (18) The commissioner shall have the power to issue  
14 orders of noncompliance as prescribed by section 12.

15 (19) The commissioner shall exercise all of the powers  
16 conferred upon him by this act or any other provision of  
17 state law in any jurisdiction or political subdivision of  
18 the state.

19 (20) After receiving the final campaign contribution  
20 and expenditure report filed as required by Title 23, R.C.M.  
21 1947, the commissioner shall inform the secretary of state,  
22 or the city or county clerk and recorder that each candidate  
23 who has been properly elected to any public office has filed  
24 his final contribution and expenditure report as specified  
25 in section 3 of this act.

1 (21) The commissioner shall have the authority to  
 2 administer oaths and affirmations, subpoena witnesses,  
 3 compel their attendance, take evidence, and require the  
 4 production of any books, papers, correspondence, memoranda,  
 5 bank account statements of a political committee or  
 6 candidate, or other records which are relevant or material  
 7 for the purpose of conducting any investigation pursuant to  
 8 the provisions of Title 23, R.C.M. 1947.

9 Section 12. Examination of statements and issuance of  
 10 orders of noncompliance. (1) Each statement filed with the  
 11 commissioner during an election or within sixty (60) days  
 12 thereafter shall be inspected within ten (10) days after the  
 13 date upon which the statement is filed. If a person has not  
 14 satisfied the provisions of Title 23, R.C.M. 1947, the  
 15 commissioner shall immediately notify a person of the  
 16 noncompliance. Such an order of noncompliance shall be  
 17 issued when:

18 (a) upon examination of the official ballot, it  
 19 appears that the person has failed to file a statement as  
 20 required by law or that a statement filed by a person does  
 21 not conform to law; or

22 (b) it is determined that a statement filed with the  
 23 commissioner does not conform to the requirements of Title  
 24 23, R.C.M. 1947, or that a person has failed to file a  
 25 statement required by law.

1 (2) If an order of noncompliance is issued during a  
 2 campaign period, or within sixty (60) days after an  
 3 election, a candidate or political committee shall submit  
 4 the necessary information five (5) days after receiving the  
 5 notice of noncompliance. Upon a failure to submit the  
 6 required information within the time specified, the  
 7 appropriate county attorney or the commissioner shall have  
 8 the authority to initiate a civil or criminal action  
 9 pursuant to the procedures outlined in section 13.

10 (3) If an order of noncompliance is issued during any  
 11 other period than that described in subsection (2), a  
 12 candidate or political committee shall submit the necessary  
 13 information within ten (10) days after receiving the notice  
 14 of noncompliance. Upon a failure to submit the required  
 15 information within the time specified, the appropriate  
 16 county attorney or the commissioner shall initiate a civil  
 17 or criminal action pursuant to the procedures outlined in  
 18 section 13.

19 (4) A candidate or political treasurer aggrieved by  
 20 the issuance of an order of noncompliance may seek judicial  
 21 review in the district court of the county in which the  
 22 candidate resides or the county in which the political  
 23 committee has its headquarters. All petitions for judicial  
 24 review filed pursuant to this act shall be expeditiously  
 25 reviewed by the appropriate district court.

1 (5) Within one hundred and twenty (120) days after the  
 2 date of each election, the commissioner shall examine and  
 3 compare each statement or report filed with the commissioner  
 4 pursuant to the provisions of Title 23, R.C.M. 1947, to  
 5 determine whether a statement or report conforms to the  
 6 provisions of the law. The examination shall include a  
 7 comparison of all reports and statements received by the  
 8 commissioner pursuant to the requirements of Title 23,  
 9 R.C.M. 1947. The commissioner may investigate the source  
 10 and authenticity of any contribution or expenditure listed  
 11 in any report or statement filed pursuant to Title 23,  
 12 R.C.M. 1947, or the alleged failure to report any  
 13 contribution or expenditure required to be reported pursuant  
 14 to Title 23, R.C.M. 1947.

15 Section 13. Prosecutions and powers of the county  
 16 attorney. (1) When the commissioner determines that there  
 17 appears to be sufficient evidence to justify a civil or  
 18 criminal prosecution as specified in section 18, he shall  
 19 notify the county attorney of the county in which the  
 20 alleged violation occurred and shall arrange to transmit to  
 21 the county attorney all information relevant to the alleged  
 22 violation. If the county attorney fails to initiate the  
 23 appropriate civil or criminal action within thirty (30) days  
 24 after he receives notification of the alleged violation, the  
 25 commissioner may then initiate the appropriate legal action.

1 (2) A county attorney may at any time prior to the  
 2 expiration of the thirty (30) day time period specified in  
 3 subsection (1) waive his right to prosecute and thereby  
 4 authorize the commissioner to initiate the appropriate civil  
 5 or criminal action as specified in section 18.

6 (3) The provisions of subsection (1) do not apply to a  
 7 situation in which the alleged violation has been committed  
 8 by the county attorney of a county. In this instance, the  
 9 commissioner is authorized to directly prosecute any alleged  
 10 violation of Title 23, R.C.M. 1947.

11 (4) If a prosecution is undertaken by the  
 12 commissioner, all court costs associated with the  
 13 prosecution shall be paid by the state of Montana.

14 (5) Nothing in this act shall prevent a county  
 15 attorney from inspecting any records, accounts, or books  
 16 which must be kept pursuant to the provisions of Title 23,  
 17 R.C.M. 1947, that are held by any political committee or  
 18 candidate involved in an election to be held within the  
 19 county. However, such inspections must be conducted during  
 20 reasonable office hours.

21 (6) A county attorney shall have the authority to  
 22 administer oaths and affirmations, subpoena witnesses,  
 23 compel their attendance, take evidence, and require the  
 24 production of any books, correspondence, memoranda, bank  
 25 account statements of a political committee or candidate, or

1 other records which are relevant or material for the purpose  
2 of conducting any investigation pursuant to the provisions  
3 of Title 23, R.C.M. 1947.

4 Section 14. Right to inspect current accounts and  
5 reports. Every individual shall have the right to inspect  
6 any report or current account that must be kept or filed  
7 pursuant to the provisions of Title 23, R.C.M. 1947, but  
8 only if such inspection will occur during reasonable office  
9 hours and in such a manner that normal office functions will  
10 not be unnecessarily interrupted.

11 Section 15. Duties of county clerk and recorder.

12 (1) A county clerk and recorder shall maintain all records  
13 and statements filed pursuant to the provisions of Title 23,  
14 R.C.M. 1947, for a period of ten (10) years from the date of  
15 receipt.

16 (2) A county clerk and recorder shall accept and file  
17 any information voluntarily supplied that exceeds the  
18 requirements of Title 23, R.C.M. 1947.

19 (3) A county clerk and recorder shall file, code, and  
20 cross-index all reports and statements filed as prescribed  
21 by the commissioner.

22 (4) A county clerk and recorder shall make statements  
23 and other information filed with his office available for  
24 public inspection and copying during regular office hours,  
25 and make copying facilities available free of charge or at a

1 charge not to exceed actual cost.

2 Section 16. Names not to be printed on ballot.

3 (1) The name of a candidate shall not be printed on the  
4 official ballot for a general or special election if the  
5 candidate or a political treasurer for a candidate fails to  
6 file any statement as required by Title 23, R.C.M. 1947.

7 (2) A vacancy on an official ballot under this section  
8 may be filled in the manner provided by law, but not by the  
9 name of the same candidate.

10 (3) In carrying out the mandate of this section, the  
11 commissioner must by a written statement notify the  
12 secretary of state or the city or county clerk or the clerk  
13 of a school district, that a candidate, or a candidate's  
14 political treasurer, has not complied with the provisions of  
15 Title 23, R.C.M. 1947, as described in subsection (1) and  
16 that a candidate's name should not be printed on the  
17 official ballot.

18 Section 17. Certificates of election may be withheld.  
19 No certificate of election shall be granted to any candidate  
20 until his political treasurer has filed the reports and  
21 statements that must be filed pursuant to the provisions of  
22 Title 23, R.C.M. 1947. No candidate for an elective office  
23 may assume the powers and duties of that office until he has  
24 received a certificate of election as provided by law. A  
25 certificate of election shall only be issued by the public



1 (5) Within one hundred and twenty (120) days after the  
 2 date of each election, the commissioner shall examine and  
 3 compare each statement or report filed with the commissioner  
 4 pursuant to the provisions of Title 23, R.C.M. 1947, to  
 5 determine whether a statement or report conforms to the  
 6 provisions of the law. The examination shall include a  
 7 comparison of all reports and statements received by the  
 8 commissioner pursuant to the requirements of Title 23,  
 9 R.C.M. 1947. The commissioner may investigate the source  
 10 and authenticity of any contribution or expenditure listed  
 11 in any report or statement filed pursuant to Title 23,  
 12 R.C.M. 1947, or the alleged failure to report any  
 13 contribution or expenditure required to be reported pursuant  
 14 to Title 23, R.C.M. 1947.

15 Section 13. Prosecutions and powers of the county  
 16 attorney. (1) When the commissioner determines that there  
 17 appears to be sufficient evidence to justify a civil or  
 18 criminal prosecution as specified in section 18, he shall  
 19 notify the county attorney of the county in which the  
 20 alleged violation occurred and shall arrange to transmit to  
 21 the county attorney all information relevant to the alleged  
 22 violation. If the county attorney fails to initiate the  
 23 appropriate civil or criminal action within thirty (30) days  
 24 after he receives notification of the alleged violation, the  
 25 commissioner may then initiate the appropriate legal action.

1 (2) A county attorney may at any time prior to the  
 2 expiration of the thirty (30) day time period specified in  
 3 subsection (1) waive his right to prosecute and thereby  
 4 authorize the commissioner to initiate the appropriate civil  
 5 or criminal action as specified in section 18.

6 (3) The provisions of subsection (1) do not apply to a  
 7 situation in which the alleged violation has been committed  
 8 by the county attorney of a county. In this instance, the  
 9 commissioner is authorized to directly prosecute any alleged  
 10 violation of Title 23, R.C.M. 1947.

11 (4) If a prosecution is undertaken by the  
 12 commissioner, all court costs associated with the  
 13 prosecution shall be paid by the state of Montana.

14 (5) Nothing in this act shall prevent a county  
 15 attorney from inspecting any records, accounts, or books  
 16 which must be kept pursuant to the provisions of Title 23,  
 17 R.C.M. 1947, that are held by any political committee or  
 18 candidate involved in an election to be held within the  
 19 county. However, such inspections must be conducted during  
 20 reasonable office hours.

21 (6) A county attorney shall have the authority to  
 22 administer oaths and affirmations, subpoena witnesses,  
 23 compel their attendance, take evidence, and require the  
 24 production of any books, correspondence, memoranda, bank  
 25 account statements of a political committee or candidate, or

1 other records which are relevant or material for the purpose  
2 of conducting any investigation pursuant to the provisions  
3 of Title 23, R.C.M. 1947.

4 Section 14. Right to inspect current accounts and  
5 reports. Every individual shall have the right to inspect  
6 any report or current account that must be kept or filed  
7 pursuant to the provisions of Title 23, R.C.M. 1947, but  
8 only if such inspection will occur during reasonable office  
9 hours and in such a manner that normal office functions will  
10 not be unnecessarily interrupted.

11 Section 15. Duties of county clerk and recorder.

12 (1) A county clerk and recorder shall maintain all records  
13 and statements filed pursuant to the provisions of Title 23,  
14 R.C.M. 1947, for a period of ten (10) years from the date of  
15 receipt.

16 (2) A county clerk and recorder shall accept and file  
17 any information voluntarily supplied that exceeds the  
18 requirements of Title 23, R.C.M. 1947.

19 (3) A county clerk and recorder shall file, code, and  
20 cross-index all reports and statements filed as prescribed  
21 by the commissioner.

22 (4) A county clerk and recorder shall make statements  
23 and other information filed with his office available for  
24 public inspection and copying during regular office hours,  
25 and make copying facilities available free of charge or at a

1 charge not to exceed actual cost.

2 Section 16. Names not to be printed on ballot.

3 (1) The name of a candidate shall not be printed on the  
4 official ballot for a general or special election if the  
5 candidate or a political treasurer for a candidate fails to  
6 file any statement as required by Title 23, R.C.M. 1947.

7 (2) A vacancy on an official ballot under this section  
8 may be filled in the manner provided by law, but not by the  
9 name of the same candidate.

10 (3) In carrying out the mandate of this section, the  
11 commissioner must by a written statement notify the  
12 secretary of state or the city or county clerk or the clerk  
13 of a school district, that a candidate, or a candidate's  
14 political treasurer, has not complied with the provisions of  
15 Title 23, R.C.M. 1947, as described in subsection (1) and  
16 that a candidate's name should not be printed on the  
17 official ballot.

18 Section 17. Certificates of election may be withheld.  
19 No certificate of election shall be granted to any candidate  
20 until his political treasurer has filed the reports and  
21 statements that must be filed pursuant to the provisions of  
22 Title 23, R.C.M. 1947. No candidate for an elective office  
23 may assume the powers and duties of that office until he has  
24 received a certificate of election as provided by law. A  
25 certificate of election shall only be issued by the public

1 official responsible for issuing a certificate or commission  
 2 after receiving written assurance from the commissioner that  
 3 a candidate has filed all of the reports that must be filed  
 4 pursuant to the provisions of Title 23, R.C.M. 1947.

5 Section 18. Penalties. (1) A person who ~~falsely~~  
 6 ~~reports~~ KNOWINGLY SUBMITS A FALSE REPORT or deliberately  
 7 fails to include any information required by Title 23,  
 8 R.C.M. 1947, or who ~~falsely--reports~~ KNOWINGLY SUBMITS A  
 9 FALSE REPORT or deliberately fails to report any  
 10 contribution or expenditure as required by Title 23, R.C.M.  
 11 1947, may be guilty of false swearing, or unsworn  
 12 falsification to authorities as applicable and upon  
 13 conviction shall be punished as provided in sections  
 14 94-7-203 or 94-7-204 for each separate violation.

15 (2) Any person who accepts a contribution prohibited  
 16 by Title 23, R.C.M. 1947, or makes a contribution in excess  
 17 of the amounts specified in Title 23, R.C.M. 1947, or in any  
 18 manner other than that provided in Title 23, R.C.M. 1947, is  
 19 guilty of a violation and upon conviction shall be fined not  
 20 to exceed one thousand dollars (\$1,000) or be imprisoned in  
 21 the county jail for a term not to exceed six (6) months, or  
 22 both, for each separate violation.

23 (3) Any person who violates any other provision of  
 24 Title 23, R.C.M. 1947, upon conviction, shall be fined not  
 25 to exceed one thousand dollars (\$1,000) or be imprisoned in

1 the county jail for a term not to exceed six (6) months, or  
 2 both, for each separate violation.

3 (4) If a court of competent jurisdiction finds that  
 4 the violation of any provision of Title 23, R.C.M. 1947, by  
 5 any candidate or political committee probably affected the  
 6 outcome of any election, the result of that election may be  
 7 held void and a special election held within sixty (60) days  
 8 of that finding, or where the violation occurred during a  
 9 primary election, the court may direct the appropriate  
 10 political party to select a new candidate according to the  
 11 provisions of state law and the custom of the party. Any  
 12 action to void an election shall be commenced within one (1)  
 13 year of the date of the election in question.

14 (5) Except as provided in subsection (4), any action  
 15 brought pursuant to the provisions of Title 23, R.C.M. 1947,  
 16 must be commenced within four (4) years after the date when  
 17 the violation occurred.

18 (6) In addition to all other penalties prescribed by  
 19 this act:

20 (a) Any candidate who is convicted of violating any  
 21 provision of Title 23, R.C.M. 1947, shall be ineligible to  
 22 be a candidate for any public office in the state of Montana  
 23 for a period of five (5) years from the date of conviction;

24 (b) Any campaign treasurer who is convicted of  
 25 violating any provision of Title 23, R.C.M. 1947, shall be

1 ineligible to be a candidate for any public office or to  
2 hold the position of campaign treasurer in any campaign in  
3 the state of Montana for a period of five (5) years from the  
4 date of conviction.

5 (7) In any action brought pursuant to the provisions  
6 of Title 23, R.C.M. 1947, the appropriate state district  
7 court shall have the power to enjoin any person to prevent  
8 the doing of any act herein prohibited, or to compel the  
9 performance of any act herein required.

10 (8) Nothing in this section shall prevent a county  
11 attorney or the commissioner from seeking a penalty  
12 otherwise specifically provided for in Title 23, R.C.M.  
13 1947.

14 (9) All fines and forfeitures imposed pursuant to this  
15 section shall be deposited in the state general fund.

16 ~~Section 19. --Citizen's--right--to--sue--Any--person  
17 residing--within--a--jurisdiction--in--which--an--election--occurs  
18 may--sue--for--injunctive--relief--to--enjoin--violations--or--to  
19 compel--compliance--with--the--provisions--of--Title--23,--R.C.M.  
20 1947.--However,--a--court--may--not--entertain--a--suit--filed  
21 pursuant--to--this--section--unless--the--plaintiff--has--filed--a  
22 complaint--with--the--commissioner--prior--to--seeking--injunctive  
23 relief.--The--court--may--award--to--a--plaintiff--or--a--defendant  
24 who--prevails--his--costs--of--litigation,--including--reasonable  
25 attorney's--fees.~~

1 Section 19. Secretary of state must furnish copies of  
2 this act to appropriate officials. The secretary of state  
3 shall, at the expense of the state, furnish the county  
4 clerk, and the city and town clerks, copies of Title 23,  
5 chapter 47, R.C.M. 1947. The public official with whom a  
6 candidate files a declaration or certificate of nomination  
7 shall transmit a copy of Title 23, chapter 47, R.C.M. 1947,  
8 to the candidate. Such copies shall also be furnished to  
9 any other person required to file a statement. Upon his own  
10 information, or at the written request of any voter, the  
11 secretary of state shall provide a copy of Title 23, chapter  
12 47, R.C.M. 1947, to any other individual who may be a  
13 candidate, or who may otherwise be required to make a  
14 statement required by this act.

15 Section 20. Section 23-4701, R.C.M. 1947, is amended  
16 to read as follows:

17 "23-4701. Violation of election laws by certain  
18 officers a felony misdemeanor. Every person charged with  
19 the performance of any duty, under the provisions of any law  
20 of this state relating to elections, or the registration of  
21 the names of electors, or the canvassing of the returns of  
22 election, who willfully neglects or refuses to perform such  
23 duty, or who, in his official capacity, knowingly and  
24 fraudulently acts in contravention or violation of any of  
25 the provisions of such laws, is, ~~unless--a--different~~

1 ~~punishment--for-such-acts-or-omissions-is-prescribed-by-this~~  
2 ~~code,~~ punishable by fine not exceeding one thousand dollars  
3 ~~(\$1,000),~~ or by imprisonment in ~~the-state-prison~~ a county  
4 jail not exceeding five-years six (6) months, or both."

5 Section 21. Severability. It is the intent of the  
6 legislative assembly that if part of this act is invalid,  
7 all valid parts that are severable from the invalid part  
8 remain in effect. If a part of this act is invalid in one  
9 or more of its applications, the part remains in effect in  
10 all valid applications that are severable from the invalid  
11 applications.

12 Section 22. Effective date. This act shall become  
13 effective ~~on-January-1, 1976, and~~ UPON PASSAGE AND APPROVAL,  
14 EXCEPT THAT the first reporting period for any ~~existing~~  
15 candidate or political committee shall begin on ~~the~~  
16 ~~effective-date-of-this-act~~ JANUARY 1, 1976.

17 Section 23. Sections 23-4722, 23-4725, 23-4726,  
18 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733 through  
19 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, and  
20 23-4775, R.C.M. 1947, are repealed.

-End-