

Senate BILL NO. *139*
Drake Brown

INTRODUCED BY _____

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL
5 CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF
6 COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING
7 THE COMMISSIONER TO INVESTIGATE VIOLATIONS OF ELECTION LAWS
8 AND TO REGULATE MONTANA'S CAMPAIGN FINANCE LAWS AS SPECIFIED
9 IN TITLE 23, R.C.M. 1947; AUTHORIZING COUNTY ATTORNEYS AND
10 THE ATTORNEY GENERAL TO PROSECUTE VIOLATIONS OF MONTANA'S
11 ELECTION LAWS; SPECIFYING THE POWERS AND DUTIES OF COUNTY
12 ATTORNEYS, OTHER LOCAL OFFICIALS, AND THE ATTORNEY GENERAL;
13 REQUIRING CANDIDATES AND POLITICAL COMMITTEES TO DESIGNATE A
14 CAMPAIGN TREASURER AND A CAMPAIGN DEPOSITORY; AUTHORIZING
15 THE CREATION OF A PETTY CASH FUND FOR ALL CANDIDATES AND
16 POLITICAL COMMITTEES; AUTHORIZING CITIZENS TO BRING ACTIONS
17 TO FORCE COMPLIANCE WITH THIS ACT; PROVIDING CIVIL AND
18 CRIMINAL PENALTIES; AMENDING SECTION 23-4701; REPEALING
19 SECTIONS 23-4722, 23-4725, 23-4726, 23-4728.1, 23-4729,
20 23-4730, 23-4731, 23-4733, 23-4734, 23-4735, 23-4736,
21 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, AND 23-4775;
22 AND PROVIDING FOR AN EFFECTIVE DATE."
23

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

25 Section 1. Purpose. It is the purpose of this act to

1 establish clear and consistent requirements for the full
2 disclosure and reporting of the sources and disposition of
3 funds used in Montana to support or oppose candidates,
4 political committees, or issues, and to consolidate and
5 clarify the authority to enforce the election and campaign
6 finance laws as specified in Title 23, R.C.M. 1947.

7 Section 2. Definitions. As used in Title 23, chapter
8 47, R.C.M. 1947:

9 (1) "Candidate" means an individual who has filed a
10 declaration of nomination, certificate of nomination, or
11 acceptance of nomination for public office as required by
12 law.

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

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

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

24 (5) "Public office" means a national, state, county,
25 municipal, school, or other district office that is filled

1 by the people at an election.

2 (6) "Contribution" means:

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

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

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

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

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

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

23 (b) payments by a candidate for his personal travel
24 expenses or for food, clothing, lodging, or personal
25 necessities for himself and his family.

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

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

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

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

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

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

4 (2) In lieu of all contribution and expenditure
5 reports required by this act, the commissioner shall accept
6 copies of the reports filed by candidates for congress and
7 president of the United States, and their political
8 committees, pursuant to the requirements of federal law,
9 except that the commissioner may require the submission of
10 additional information that will be consistent with the
11 requirements of this act.

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

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

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

(c) on the tenth day of March and September of each

1 year following an election so long as there is an unexpended
2 balance or an expenditure deficit in a campaign account; and
3 (d) whenever a candidate or political committee
4 finally closes its books.

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

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

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

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

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

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 that will
 6 permit political committees, including political parties, to
 7 file copies of a single comprehensive report when they
 8 support or oppose more than one (1) candidate or issue.

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

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

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

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

1 Section 4. What reports must disclose. Each report
 2 required by this act shall disclose:

3 (1) the amount of cash on hand at the beginning of the
 4 reporting period;

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

14 (3) the total sum of individual contributions made to
 15 or for the political committee or candidate and not reported
 16 under subsection (2) of this section;

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

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

1 (6) the amount and nature of debts and obligations
2 owed to a political committee or candidates in the form
3 prescribed by the commissioner;

4 (7) an itemized account of proceeds from:

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

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

8 (c) sales of items such as political campaign pins,
9 buttons, badges, flags, emblems, hats, banners, literature,
10 and similar materials;

11 (8) each contribution, rebate, refund, or other
12 receipt not otherwise listed under subsections (2) through
13 (6) of this section during the reporting period;

14 (9) the total sum of all receipts received by or for
15 the committee or candidate during the reporting period;

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

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

1 date, and purpose of that expenditure and the total amount
2 of expenditures made to each person;

3 (12) the total sum of expenditures made by a political
4 committee or candidate during the reporting period;

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

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

16 (15) the amount and nature of debts and obligations
17 owed by a political committee or candidate in the form
18 prescribed by the commissioner;

19 (16) other information that may be required by the
20 commissioner to fully disclose the sources and disposition
21 of funds used to support or oppose candidates, political
22 committees, or issues.

23 Section 5. Reports must be verified. (1) A report
24 required by this act to be filed by a candidate or political
25 committee shall be verified as true and correct by the oath

1 or affirmation of the individual filing the report. The
 2 individual filing the report shall be the candidate or an
 3 officer of a political committee who is on file as an
 4 officer of the committee with the commissioner. The oath or
 5 affirmation shall be made before an officer authorized to
 6 administer oaths.

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

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

15 Section 6. Campaign treasurer and campaign depository.

16 (1) Each candidate for nomination or election to office and
 17 each political committee shall appoint one (1) campaign
 18 treasurer. No contribution may be received or expenditure
 19 made by or on behalf of a candidate or political committee
 20 until the candidate or political committee appoints a
 21 campaign treasurer and certifies the name and address of the
 22 campaign treasurer pursuant to this section. The
 23 certification, which shall include an organizational
 24 statement, properly acknowledged by a notary public, and
 25 setting forth of the name and address of the campaign

1 treasurer and all other officers, if any, of the political
 2 committee, shall be filed with the commissioner and the
 3 appropriate county clerk and recorder as specified for the
 4 filing of reports in section 3.

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

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

24 (4) Deputy campaign treasurers may exercise any of the
 25 powers and duties of a campaign treasurer as set forth in

1 this act when specifically authorized in writing to do so by
 2 the campaign treasurer and the candidate in the case of a
 3 candidate, or the campaign treasurer and chairman of the
 4 political committee in the case of a political committee.

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

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

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

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

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

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

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

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

24 Section 9. Petty cash funds allowed. (1) The
 25 campaign treasurer for each candidate or political committee

1 is authorized to withdraw the following amount each week
 2 from the primary depository for the purpose of providing a
 3 petty cash fund for the candidate or political committee:

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

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

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

14 Section 10. Commissioner -- how appointed,
 15 qualifications, and offices. (1) There is hereby created
 16 the position of commissioner of campaign finances and
 17 practices, who shall be appointed by the secretary of state
 18 and confirmed by the senate. The secretary of state shall
 19 appoint a person to discharge the duties of the commissioner
 20 within thirty (30) days after the passage and approval of
 21 this act. Thereafter, whenever a vacancy occurs, the
 22 secretary of state shall appoint a successor within thirty
 23 (30) days after the vacancy occurs. If the senate does not
 24 confirm the appointee, the secretary of state shall make
 25 another appointment within thirty (30) days.

1 (2) The person selected to serve as the commissioner
2 of campaign finances and practices shall be appointed to
3 hold office until the end of the secretary of state's term
4 unless sooner removed by the secretary of state. The
5 commissioner may only be removed from office for cause.

6 (3) The commissioner may also be removed from office
7 by impeachment as provided in sections 95-2801 and 95-2802,
8 R.C.M. 1947. He may also be prosecuted by the appropriate
9 county attorney for official misconduct as specified in
10 section 94-7-401, R.C.M. 1947.

11 (4) The commissioner of campaign finances and
12 practices shall receive a salary of eighteen thousand
13 dollars (\$18,000). Salary increases for the commissioner
14 shall be recommended by the state salary commission.

15 (5) Except as provided in subsection (1) of this
16 section, the office of the commissioner shall be attached to
17 the office of the secretary of state for administrative
18 purposes only as provided in section 82A-108, R.C.M. 1947.

19 Section 11. Powers and duties of the commissioner.
20 The commissioner:

21 (1) shall be responsible for investigating all of the
22 alleged violations of the election laws contained in Title
23 23, R.C.M. 1947, and shall be responsible for administering
24 the state's election laws.

(2) shall select an appropriate staff to enforce the

1 provisions of Title 23, R.C.M. 1947, and may hire and fire
2 all personnel under his supervision.

3 (3) may hire or retain attorneys who are properly
4 licensed to practice before the supreme court of the state
5 of Montana to investigate any alleged violations of Title
6 23, R.C.M. 1947. Any properly licensed attorney so retained
7 or hired shall exercise the powers of a special attorney
8 general.

9 (4) shall prescribe forms for statements and other
10 information required to be filed pursuant to Title 23,
11 R.C.M. 1947, and furnish forms to persons required to file
12 statements and information.

13 (5) shall prepare and publish a manual prescribing a
14 uniform system for accounts for use by persons required to
15 file statements pursuant to Title 23, R.C.M. 1947.

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

19 (7) shall prescribe the manner in which the county
20 clerks and recorders shall receive, file, collate, and
21 maintain reports filed with them under Title 23, R.C.M.
22 1947.

23 (8) shall make statements and other information filed
24 with his office available for public inspection and copying
25 during regular office hours, and make copying facilities

1 available free of charge or at a charge not to exceed actual
2 cost.

3 (9) shall preserve statements and other information
4 filed with his office for a period of ten (10) years from
5 date of receipt.

6 (10) shall prepare and publish summaries of the
7 statements received.

8 (11) shall prepare and publish such other reports as he
9 may consider appropriate.

10 (12) shall provide for wide public dissemination of
11 summaries and reports.

12 (13) may investigate all statements filed pursuant to
13 the provisions of Title 23, R.C.M. 1947, and shall
14 investigate alleged failures to file any statement or the
15 alleged falsification of any statement filed pursuant to the
16 provisions of Title 23, R.C.M. 1947. Upon the submission of
17 a written complaint by any individual, the commissioner
18 shall also investigate any other alleged violation of the
19 provisions of Title 23, R.C.M. 1947, or any rule adopted
20 pursuant thereto.

21 (14) shall promulgate and publish rules to carry out
22 the provisions of Title 23, R.C.M. 1947, and shall
23 promulgate such rules in conformance with the Montana
24 Administrative Procedure Act.

25 (15) shall at the close of each fiscal year report to

1 the legislature, secretary of state, and the governor
2 concerning the action he has taken, including the names,
3 salaries, and duties of all individuals in his employ and
4 the money he has disbursed. The commissioner shall also
5 make further reports on the matters within his jurisdiction
6 as the legislature may prescribe and shall also make
7 recommendations for further legislation as may appear
8 desirable.

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

14 (17) may issue orders of noncompliance as prescribed by
15 section [12 of this act].

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

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

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

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

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

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

25 (2) If an order of noncompliance is issued during a

1 campaign period, or within sixty (60) days after an
 2 election, a candidate or political committee shall submit
 3 the necessary information five (5) days after receiving the
 4 notice of noncompliance. Upon a failure to submit the
 5 required information within the time specified, the
 6 appropriate county attorney or the attorney general may
 7 initiate a civil or criminal action pursuant to the
 8 procedures outlined in section [13 of this act].

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

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

25 (5) Within one hundred twenty (120) days after the

1 date of each election, the commissioner shall examine and
 2 compare each statement or report filed with the commissioner
 3 pursuant to the provisions of Title 23, R.C.M. 1947, to
 4 determine whether a statement or report conforms to the
 5 provisions of the law. The examination shall include a
 6 comparison of all reports and statements received by the
 7 commissioner pursuant to the requirements of Title 23,
 8 R.C.M. 1947. The commissioner may investigate the source
 9 and authenticity of any contribution or expenditure listed
 10 in any report or statement filed pursuant to Title 23,
 11 R.C.M. 1947.

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

25 (2) A county attorney may at any time prior to the

1 expiration of the thirty (30) day time period specified in
 2 subsection (1) waive his right to prosecute and thereby
 3 authorize the attorney general to initiate the appropriate
 4 civil or criminal action as specified in section [18 of this
 5 act].

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 attorney general is authorized to directly prosecute any
 10 alleged violation of Title 23, R.C.M. 1947.

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

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

21 (6) Nothing in this act prevents the attorney general
 22 from inspecting any records, account, or books which must be
 23 kept pursuant to the provisions of Title 23, R.C.M. 1947.
 24 However, such inspections shall be conducted during
 25 reasonable office hours.

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

9 Section 14. Right to inspect current accounts and
 10 reports. Any individual may inspect any report or current
 11 account that must be kept or filed pursuant to the
 12 provisions of Title 23, R.C.M. 1947, but only if such
 13 inspection will occur during reasonable office hours and in
 14 such a manner that normal office functions will not be
 15 unnecessarily interrupted.

16 Section 15. Duties of county clerk and recorder. (1)
 17 A county clerk and recorder shall maintain all records and
 18 statements filed pursuant to the provisions of Title 23,
 19 R.C.M. 1947, for a period of ten (10) years from the date of
 20 receipt.

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

24 (3) A county clerk and recorder shall file, code, and
 25 cross-index all reports and statements filed as prescribed

1 by the commissioner.

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

7 Section 16. Names not to be printed on ballot. (1)
 8 The name of a candidate may not be printed on the official
 9 ballot for a general or special election if the candidate or
 10 a political treasurer for a candidate fails to file any
 11 statement as required by Title 23, R.C.M. 1947.

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

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

23 Section 17. Certificates of election may be withheld.
 24 No certificate of election may be granted to any candidate
 25 until his political treasurer has filed the reports and

1 statements that must be filed pursuant to the provisions of
 2 Title 23, R.C.M. 1947. No candidate for an elective office
 3 may assume the powers and duties of that office until he has
 4 received a certificate of election as provided by law. A
 5 certificate of election may only be issued by the public
 6 official responsible for issuing a certificate or commission
 7 after receiving written assurance from the commissioner that
 8 a candidate has filed all of the reports that must be filed
 9 pursuant to the provisions of Title 23, R.C.M. 1947.

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

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

1 both, for each separate violation.

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

7 (4) If a court of competent jurisdiction finds that
 8 the violation of any provision of Title 23, R.C.M. 1947, by
 9 any candidate or political committee probably affected the
 10 outcome of any election, the result of that election may be
 11 held void and a special election held within sixty (60) days
 12 of that finding. Any action to void an election shall be
 13 commenced within one (1) year of the date of the election in
 14 question.

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

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

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

25 (b) any campaign treasurer who is convicted of

1 violating any provision of Title 23, R.C.M. 1947, shall be
 2 ineligible to be a candidate for any public office or to
 3 hold the position of campaign treasurer in any campaign in
 4 the state of Montana for a period of five (5) years from the
 5 date of conviction.

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

11 (8) Nothing in this section prevents a county attorney
 12 or the attorney general from seeking a penalty otherwise
 13 specifically provided for in Title 23, R.C.M. 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 20. 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 21. 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 the
 19 performance of any duty, under the provisions of any law of
 20 this state relating to elections, or the registration of the
 21 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 (\$1000), or by imprisonment in ~~the--state--prison~~ a county
4 jail not exceeding ~~five-years~~ six (6) months, or both."

5 Section 22. Severability. It is the intent of the
6 legislature that if part of this act is invalid, all valid
7 parts that are severable from the invalid part remain in
8 effect. If a part of this act is invalid in one or more of
9 its applications, the part remains in effect in all of its
10 applications that are severable from the invalid
11 applications.

12 Section 23. Effective date. This act is effective on
13 January 1, 1976, and the first reporting period for any
14 existing candidate or political committee shall begin on the
15 effective date of this act.

16 Section 24. Sections 23-4722, 23-4725, 23-4726,
17 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734,
18 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769,
19 23-4772, and 23-4775 are hereby repealed.

-End-

STATE OF MONTANA

REQUEST NO. 73-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 139 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 139 revises political campaign reporting requirements; creates the position of commissioner of campaign finances and practices; authorizes the commissioner to investigate violations of election laws and to regulate campaign financial laws; require candidates to designate a campaign treasurer and a campaign depository; authorizes citizens to bring actions to force compliance. The act is effective January 1, 1976.

ASSUMPTIONS:

1. A June 1976 primary is assumed.
2. 400 candidates and fund raising clubs in the primary election and 300 candidates and clubs in the general election are assumed.
3. The commissioner's staff would include an assistant, one secretary, one clerk and temporary help during election periods. Additional office space and furniture would be required.
4. Approximately \$10,000 for prosecutorial services under Section 11(3) would be necessary in FY77.

FISCAL IMPACT:

	FY76 (Jan 1-June 30)	FY77
Additional Expenditures under Proposed Law		
Personal Services	\$29,904	\$62,380
Operating Expenses	9,438	32,775
Equipment	5,000	0
Total Expenditures under Proposed Law	<u>\$44,342</u>	<u>\$95,155</u>

LOCAL IMPACT:

County clerks and recorders would be subject to additional work in handling the reports generated by this act.

TECHNICAL NOTE:

Page 17, line 13 states the commissioner "shall be responsible for administering the state's election laws". By statute it is the Secretary of State's responsibility to administer the state's election laws. Perhaps the word administering should be replaced by enforcing.

Michael G. Billings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/27/75