

1 *Senate* BILL NO. 396
 2 INTRODUCED BY Rosell Boylan Harold Postie
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
 5 23-4734, AND 23-4761, R.C.M. 1947, TO AMPLIFY AND CLARIFY
 6 THE CORRUPT PRACTICES ACT WITH REGARD TO ENFORCEMENT
 7 RESPONSIBILITIES AND AMPLIFYING THE RESPONSIBILITIES OF THE
 8 SECRETARY OF STATE AND COUNTY CLERKS; PROVIDING LIMITS ON
 9 CONTRIBUTIONS; PROVIDING FOR PRE-ELECTION STATEMENTS;
 10 PROVIDING FOR OFFICIAL POST-ELECTION REPORTS; AND REPEALING
 11 SECTIONS 23-4727, 23-4728, AND 23-4744, R.C.M. 1947."
 12

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

14 Section 1. Section 23-4734, R.C.M. 1947, is amended to
 15 read as follows:

16 "23-4734. Investigation -- enforcement -- Prosecutions
 17 prosecutions for failure to file statement. (1) For the
 18 purpose of investigating and reporting possible violations
 19 of the provisions of this chapter, the secretary of state is
 20 ex officio commissioner of elections. The county clerks and
 21 recorders of the several counties are ex officio deputy
 22 commissioners.

23 (2) The commissioner of elections is responsible for
 24 screening and auditing the statements required to be filed
 25 under this chapter by statewide candidates, public service

1 commissioner candidates, district judge candidates, county
 2 clerks and recorder candidates, and county attorney
 3 candidates.

4 (3) The deputy commissioners are responsible for
 5 screening and auditing the statements required to be filed
 6 under this chapter by all county offices not excepted in
 7 subsection (2) of this section.

8 (4) Deputy commissioners shall operate under the
 9 supervision of the commissioner.

10 (5) Statements filed by candidates for secretary of
 11 state and attorney general shall be screened and audited by
 12 the supreme court.

13 (6) Upon the failure of any person to file a statement
 14 within ten (10) days after receiving notice, under the
 15 preceding section, or if any statement filed as above
 16 discloses any violation of any provision of this act
 17 relating to corrupt practices in elections, or in any other
 18 provision of the election laws, the secretary of state,
 19 shall notify the attorney general and the county clerk, or
 20 the city clerk, auditor, or recorder, as the case may be,
 21 shall forthwith notify the county attorney of the county
 22 where said violation occurred, and shall furnish him--with
 23 copies of all papers relating thereto, and--said The
 24 attorney general or county attorney shall, within sixty (60)
 25 days thereafter, examine every such case, and if the

1 evidence seems to him to be sufficient under the provisions
 2 of this act, he shall, in the name of the state, forthwith
 3 institute such civil or criminal proceedings as may be
 4 appropriate to the facts. If any statement filed as
 5 described above with regard to candidates for secretary of
 6 state discloses possible violations, the supreme court shall
 7 refer the case to an attorney appointed by the court to
 8 investigate the case."

9 Section 2. Section 23-4761, R.C.M. 1947, is amended to
 10 read as follows:

11 "23-4761. Duty of county attorney, attorney general,
 12 or attorney appointed by supreme court on violation of act
 13 -- penalty for neglect or refusal to act. If any county
 14 attorney, or the attorney general, or an attorney appointed
 15 by the supreme court shall-be is notified by any officer or
 16 other person of any violation of any of the provisions of
 17 this act within his jurisdiction, it shall be his duty
 18 forthwith to diligently inquire into the facts of such
 19 violation, and if there is reasonable ground for instituting
 20 a prosecution, it ~~shall-be~~ is the duty of ~~such-county~~
 21 attorney the respective officer to file a complaint or
 22 information in writing, before a court of competent
 23 jurisdiction, charging the accused person with such offense;
 24 if any ~~county-attorney~~ such officer shall fail or refuse to
 25 faithfully perform any duty imposed upon him by this act, he

1 shall be deemed guilty of a misdemeanor, and upon conviction
 2 thereof shall forfeit his office. It shall be the duty of
 3 the ~~county-attorney~~ respective officer, under penalty of
 4 forfeiture of his office, to prosecute any and all persons
 5 guilty of any violation of the provisions of this act, the
 6 penalty of which is fine or imprisonment, or both, or
 7 removal from office. The attorney general and the attorney
 8 appointed by the supreme court may bring charges in the
 9 district court for the place where the violation occurred or
 10 in the district court for Lewis and Clark County."

11 Section 3. There is a new R.C.M. section that reads as
 12 follows:

13 Forms to be approved by the legislature. Forms to be
 14 used by the commissioner shall be approved by the
 15 legislature prior to their use. The commissioner shall
 16 forward proposed forms with a written report to the
 17 legislative council for its consideration and transmittal to
 18 the legislature.

19 Section 4. There is a new R.C.M. section that reads as
 20 follows:

21 Limitation on contributions. (1) Aggregate
 22 contributions by a person to a candidate and political
 23 committees organized on his behalf, including the candidate
 24 and his immediate family are limited as follows:

25 (a) For a candidate to be elected for office in a

1 statewide election, other than the candidates for governor
2 and lieutenant governor, not to exceed four thousand dollars
3 (\$4,000) in all elections in a campaign;

4 (b) For the candidates for governor and lieutenant
5 governor, not to exceed six thousand dollars (\$6,000) in all
6 elections in a campaign;

7 (c) For a candidate for representative to congress of
8 the United States, not to exceed three thousand dollars
9 (\$3,000) in all elections in a campaign;

10 (d) For a candidate for state district office,
11 including but not limited to candidates for the legislature,
12 public service commission and district court judge, not to
13 exceed four hundred dollars (\$400) in all elections in a
14 campaign;

15 (e) For a candidate for city or county office, not to
16 exceed two hundred dollars (\$200) in all elections in a
17 campaign.

18 (2) Aggregate contributions by a candidate and his
19 immediate family to his own candidacy and committees
20 organized on his behalf are limited as follows:

21 (a) For a candidate to be elected for office in a
22 statewide election, other than the candidates for governor
23 and lieutenant governor, not to exceed six thousand dollars
24 (\$6,000) in all elections in a campaign;

25 (b) For the candidates for governor and lieutenant

1 governor, not to exceed nine thousand dollars (\$9,000) in
2 all elections in a campaign;

3 (c) For a candidate for representative to congress of
4 the United States, not to exceed four thousand dollars
5 (\$4,000) in all elections in a campaign;

6 (d) For a candidate for state district office,
7 including but not limited to candidates for the legislature,
8 public service commission and district court judge, not to
9 exceed five hundred dollars (\$500) in all elections in a
10 campaign;

11 (e) For a candidate for city or county office, not to
12 exceed three hundred dollars (\$300) in all elections in a
13 campaign.

14 (3) As used in this section, a candidate's immediate
15 family means the candidates's spouse, any minor child,
16 mother, father, mother-in-law and father-in-law.

17 Section 5. There is a new R.C.M. section that reads as
18 follows:

19 Pre-election statements. Complete pre-election
20 statements of accounts of contributions and expenditures
21 shall be filed by candidates, committees organized in
22 support of one candidate only, committees organized for the
23 duration of one campaign period only, and corporations
24 making political contributions or expenditures according to
25 the following schedule:

1 (1) On the fifteenth (15) day before any election, a
2 statement current as of midnight the eighteenth (18) day
3 prior to the election shall be filed.

4 (2) On the fifth (5) day before any election, a
5 statement current as of midnight the eighth (8) day prior to
6 the election shall be filed.

7 (3) All contributions in excess of one hundred dollars
8 (\$100) received after the eighth (8) day prior to an
9 election shall be reported immediately to the officer with
10 whom the candidate is required to file statements.

11 Section 6. There is a new R.C.M. section that reads as
12 follows:

13 Official post-election reports. (1) Deputy
14 commissioners of elections shall report to the commissioners
15 following each election. The report shall include a listing
16 of all alleged violations reported to the county attorney
17 and may include recommendations for improvement of the
18 election laws.

19 (2) The commissioner of elections shall report to the
20 legislature after each election. The report shall include
21 all alleged violations and may include legislative
22 recommendations.

23 Section 7. Repealer. Sections 23-4727, 23-4728, and
24 23-4744, R.C.M. 1947, are repealed.

-End-

Approved by Committee
on State Administration

SENATE BILL NO. 396

INTRODUCED BY ROSELL, BOYLAN, HAZELBAKER, ROSKIE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS 23-4734, AND 23-4761, R.C.M. 1947, TO AMPLIFY AND CLARIFY THE CORRUPT PRACTICES ACT WITH REGARD TO ENFORCEMENT RESPONSIBILITIES AND AMPLIFYING THE RESPONSIBILITIES OF THE SECRETARY OF STATE AND COUNTY CLERKS; ~~PROVIDING--LIMITS--ON CONTRIBUTIONS;~~ PROVIDING FOR PRE-ELECTION STATEMENTS; PROVIDING FOR OFFICIAL POST-ELECTION REPORTS; ~~AND--REPEALING SECTIONS--23-4727,--23-4728,--AND--23-4744,--R.C.M.,--1947."~~

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

Section 1. Section 23-4734, R.C.M. 1947, is amended to read as follows:

"23-4734. Investigation -- enforcement -- Prosecutions prosecutions for failure to file statement. (1) For the purpose of investigating and reporting possible violations of the provisions of this chapter, the secretary of state is ex officio commissioner of elections. The county clerks and recorders of the several counties are ex officio deputy commissioners.

(2) The commissioner of elections is responsible for screening and auditing the statements required to be filed under this chapter by statewide candidates, public service

commissioner candidates, LEGISLATIVE CANDIDATES, district judge candidates, county clerks and recorder candidates, and county attorney candidates.

(3) The deputy commissioners are responsible for screening and auditing the statements required to be filed under this chapter by all county offices not excepted in subsection (2) of this section.

(4) Deputy commissioners shall operate under the supervision of the commissioner.

~~(5)--Statements--filed--by--candidates--for--secretary--of--state--and--attorney--general--shall--be--screened--and--audited--by--the--supreme--court.~~

~~(6)~~ (5) Upon the failure of any person to file a statement within ten (10) days after receiving notice, under the preceding section, or if any statement filed as above discloses any violation of any provision of this act relating to corrupt practices in elections, or in any other provision of the election laws, the secretary of state shall notify the attorney general and the county clerk, or the city clerk, auditor, or recorder, as the case may be, shall forthwith notify the county attorney of the county where said violation occurred, and shall furnish him with copies of all papers relating thereto, ~~and--said~~ The attorney general or county attorney shall, within sixty (60) days thereafter, examine every such case, and if the

1 evidence seems to him to be sufficient under the provisions
 2 of this act, he shall, in the name of the state, forthwith
 3 institute such civil or criminal proceedings as may be
 4 appropriate to the facts. ~~If--any--statement--filed--as~~
 5 ~~described--above--with--regard--to--candidates--for--secretary--of~~
 6 ~~state--discloses--possible--violations,--the--supreme--court--shall~~
 7 ~~refer--the--case--to--an--attorney--appointed--by--the--court--to~~
 8 ~~investigate--the--case."~~

9 Section 2. Section 23-4761, R.C.M. 1947, is amended to
 10 read as follows:

11 "23-4761. Duty of county attorney, OR attorney
 12 general, or attorney appointed by supreme court on violation
 13 of act -- penalty for neglect or refusal to act. If any
 14 county attorney, or the attorney general, or an attorney
 15 appointed by the supreme court shall be is notified by any
 16 officer or other person of any violation of any of the
 17 provisions of this act within his jurisdiction, it shall be
 18 his duty forthwith to diligently inquire into the facts of
 19 such violation, and if there is reasonable ground for
 20 instituting a prosecution, it ~~shall be~~ is the duty of such
 21 county attorney the respective officer to file a complaint
 22 or information in writing, before a court of competent
 23 jurisdiction, charging the accused person with such offense;
 24 if any county attorney such officer shall fail or refuse to
 25 faithfully perform any duty imposed upon him by this act, he

1 shall be deemed guilty of a misdemeanor, and upon conviction
 2 thereof shall forfeit his office. It shall be the duty of
 3 the ~~county attorney~~ respective officer, under penalty of
 4 forfeiture of his office, to prosecute any and all persons
 5 guilty of any violation of the provisions of this act, the
 6 penalty of which is fine or imprisonment, or both, or
 7 removal from office. The attorney general and the attorney
 8 appointed by the supreme court may bring charges in the
 9 district court for the place where the violation occurred or
 10 in the district court for Lewis and Clark County."

11 ~~Section 3:--There is a new R.C.M. section that reads as~~
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13 ~~Forms to be approved by the legislature--Forms to be~~
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 15 ~~legislature prior to their use--The commissioner shall~~
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21 ~~Limitation--on--contributions:--(1)--Aggregate~~
 22 ~~contributions--by--a--person--to--a--candidate--and--political~~
 23 ~~committees organized on his behalf, including the candidate~~
 24 ~~and his immediate family are limited as follows:~~

25 ~~(a)--For--a--candidate--to--be--elected--for--office--in--a~~

1 statewide election, other than the candidates for governor
2 and lieutenant governor, not to exceed four thousand dollars
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5 governor, not to exceed six thousand dollars (\$6,000) in all
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6 the election shall be filed.

7 (3) All contributions in excess of one hundred dollars
8 (\$100) received after the eighth (8) day prior to an
9 election shall be reported immediately to the officer with
10 whom the candidate is required to file statements.

11 (4) FOR THE PURPOSES OF THIS ACT, THE FORM OF THIS
12 REPORT SHALL BE THE SAME USED FOR CANDIDATES AND
13 ORGANIZATIONS AFTER ELECTIONS.

14 Section 4. There is a new R.C.M. section that reads as
15 follows:

16 Official postelection reports. (1) Deputy
17 commissioners of elections shall report to the ~~commissioners~~
18 COMMISSIONER following each election. The report shall
19 include a listing of all alleged violations reported to the
20 county attorney and may include recommendations for
21 improvement of the election laws.

22 (2) The commissioner of elections shall report to the
23 legislature after each election. The report shall include
24 all alleged violations and may include legislative
25 recommendations.

1 ~~Section 7---Repealer---Sections 23-4727,--23-4728,--and~~
2 ~~23-4744,--R.C.M.--1947,--are-repealed.~~

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