

1 HB BILL NO. 137
 2 INTRODUCED BY Kvaalen Menaker ~~_____~~ Fellege

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE OFFICE
 5 OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES, TO
 6 TRANSFER THE FUNCTIONS OF THE COMMISSIONER TO THE SECRETARY
 7 OF STATE, TO PROVIDE FOR ENFORCEMENT OF THE ELECTION LAWS BY
 8 THE COUNTY ATTORNEYS AND THE ATTORNEY GENERAL, AND TO CREATE
 9 CERTAIN EXEMPTIONS AND EXCEPTIONS FROM THE CAMPAIGN FILING
 10 AND FINANCE LAWS FOR LOCAL GOVERNMENT CANDIDATES, CERTAIN
 11 POLITICAL COMMITTEES, AND CERTAIN OTHER CANDIDATES AND
 12 COMMITTEES; AMENDING SECTIONS 23-4777, 23-4778, 23-4779,
 13 23-4780, 23-4781, 23-4783, 23-4784, 23-4786, 23-4787,
 14 23-4788, 23-4790, 23-4791, AND 23-4793, R.C.M. 1947; AND
 15 REPEALING SECTION 23-4785, R.C.M. 1947."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Office of commissioner of campaign finances
 19 and practices abolished. (1) The office of commissioner of
 20 campaign finances and practices, created by section 10,
 21 Chapter 480, Laws 1975, is abolished.

22 (2) The records and reports on file with the
 23 commissioner are to be transferred to the office of the
 24 secretary of state.

25 Section 2. Section 23-4777, R.C.M. 1947, is amended to

1 read as follows:
 2 "23-4777. Definitions. As used in Title 23, chapter
 3 47, R.C.M. 1947:

4 (1) "Candidate" means an individual who has filed a
 5 declaration of nomination, certificate of nomination, or
 6 acceptance of nomination for public office as required by
 7 law, but does not include a candidate for national office
 8 who is subject to the provisions of federal election
 9 campaign laws.

10 ~~(2) "Commissioner" means the commissioner of campaign~~
 11 ~~finances and practices as described in section 23-4785.~~

12 ~~(3) (2)~~ "Election" means a general, special, or primary
 13 election held to choose a public officer or submit an issue
 14 for the approval or rejection of the people.

15 ~~(4) (3)~~ "Issue" or "ballot issue" means a proposal
 16 submitted to the people at an election for their approval or
 17 rejection including, but not limited to, initiatives,
 18 referenda, proposed constitutional amendments, recall
 19 questions, school levy questions, bond issue questions, or a
 20 ballot question.

21 ~~(5) (4)~~ "Public office" means a state, county,
 22 municipal, school, or other district office that is filled
 23 by the people at an election.

24 ~~(6) (5)~~ "Contribution" means:
 25 (a) an advance, gift, loan, conveyance, deposit,

1 payment, or distribution of money or anything of value to
2 influence an election;

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

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

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

13 ~~(7)~~(6) "Expenditure" means a purchase, payment,
14 distribution, loan, advance, promise, pledge, or gift of
15 money or anything of value made for the purpose of
16 influencing the results of an election, but "expenditure"
17 does not mean:

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

20 (b) payments by a candidate for his personal travel
21 expenses or for food, clothing, lodging, or personal
22 necessities for himself and his family.

23 ~~(8)~~(7) "Anything of value" means any goods that have a
24 certain utility to the recipient that is real and that
25 ordinarily is not given away free, but is purchased.

1 ~~(9)~~(8) "Political committee" means a combination of
2 two or more individuals, or a person other than an
3 individual, the primary or incidental purpose of which is to
4 support or oppose a candidate or issue or to influence the
5 result of an election by any expenditure.

6 ~~(10)~~(9) "Individual" means a human being.

7 ~~(11)~~(10) "Person" means an individual, corporation,
8 association, firm, partnership, cooperative, committee,
9 club, union, or other organization or group of individuals,
10 or a candidate as defined in subsection (1) of this
11 section."

12 Section 3. Section 23-4778, R.C.M. 1947, is amended to
13 read as follows:

14 "23-4778. Reports of contributions and expenditures
15 required -- exceptions. (1) Each Except as provided in
16 subsection (9), 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 secretary of state and with the county clerk
21 and recorder of the county in which a candidate is a
22 resident or the political committee has its headquarters.
23 However, where residency within a district, county, city,
24 or town is not a prerequisite for being a candidate, copies
25 of all reports shall be filed with the county clerk and

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

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

11 (3) ~~Candidates Except as provided in subsection (9),~~
 12 ~~candidates~~ for a state office filled by a statewide vote of
 13 all the voters of Montana, the political committees for such
 14 candidates, and political committees organized to support or
 15 oppose a statewide issue, shall file 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

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

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

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

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

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

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

19 (5) ~~Candidates Except as provided in subsection (9),~~
 20 ~~candidates~~ for any other public office, their political
 21 committees, and political committees organized to support or
 22 oppose local issues, shall be required to file the reports
 23 specified in subsection (4) only if the total amount of
 24 contributions received or the total amount of funds expended
 25 for an election, excluding the filing fee paid by the

1 candidate, exceed five hundred dollars (\$500).

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

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

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

14 (a) the initial report shall cover all contributions
15 received or expenditures made by a candidate or political
16 committee prior to the time that a person became a candidate
17 as defined in subsection (1) of section 23-4777 until the
18 date prescribed by the commissioner secretary of state for
19 the filing of the appropriate initial report pursuant to
20 subsections (2) through (5) of this section;

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

1 (c) final reports shall cover the period of time from
2 the last periodic report to the final closing of the books
3 of the candidate or political committee.

4 ~~(9) (a) Candidates for those offices declared filled~~
5 ~~by the city clerk or the county clerk and recorder need not~~
6 ~~comply with the filing provisions of subsections (1) through~~
7 ~~(8).~~

8 ~~(b) Candidates who are running unopposed need not~~
9 ~~comply with the filing provisions of subsections (1) through~~
10 ~~(8).~~

11 ~~(c) Political committees which have been organized by~~
12 ~~or are a part of a political party and which have not been~~
13 ~~organized primarily in behalf of a particular candidate or~~
14 ~~primarily for the support of or opposition to a particular~~
15 ~~ballot issue need not comply with the filing provisions of~~
16 ~~this section. Committees which are exempted by this~~
17 ~~subsection include, but are not limited to state and county~~
18 ~~central committees and women's clubs of political parties.~~

19 ~~(d) Candidates who are not exempted by subsections~~
20 ~~(9)(a) or (9)(b), who have received contributions not~~
21 ~~exceeding \$2,000 and who have expended funds not exceeding~~
22 ~~\$2,000 may satisfy the filing requirements of this section~~
23 ~~by submitting one report within 15 days after the election.~~

24 ~~(e) Political committees not exempted by subsection~~
25 ~~(9)(c) may satisfy the filing requirements of this section~~

1 by submitting one report within 15 days after the election
 2 whenever:

3 (i) the committee has been formed for a candidate for
 4 an office for which a commission is issued pursuant to
 5 23-4018 or has been formed to support or oppose a ballot
 6 issue voted on in more than one county and has received
 7 contributions not exceeding \$20,000 and has expended funds
 8 not exceeding \$20,000; or

9 (ii) the committee has been formed for a candidate for
 10 an office declared filled by the city clerk or county clerk
 11 and recorder or formed to support or oppose a ballot issue
 12 voted on in only one county and has received contributions
 13 not exceeding \$5,000 and has expended funds not exceeding
 14 \$5,000.

15 (f) The report permitted by subsections (9)(d) or
 16 (9)(e) shall cover all contributions received and
 17 expenditures made during the period commencing as described
 18 in subsection (8)(a) and ending as prescribed by the
 19 secretary of state. The report shall contain the information
 20 required by 23-4779.

21 (g) The secretary of state shall promulgate rules to
 22 enable a candidate or political committee to comply with the
 23 requirements of this section whenever the candidate or
 24 committee believed in good faith that compliance with
 25 subsections (9)(d) or (9)(e) would be possible, but the

1 dollar limit on contributions or expenditures was in fact
 2 exceeded.

3 (h) A candidate or committee exempted from the filing
 4 requirements of subsections (1) through (8) by subsections
 5 (9)(a), (9)(b), or (9)(c) shall file a notarized statement
 6 with the secretary of state explaining the basis of the
 7 claimed exemption. This statement should be filed as soon as
 8 possible and must be filed no later than 15 days after the
 9 election."

10 Section 4. Section 23-4779, R.C.M. 1947, is amended to
 11 read as follows:

12 "23-4779. What reports must disclose. Each report
 13 required by this act shall disclose the following
 14 information, except that a candidate shall only be required
 15 to report the information specified in this section if the
 16 transactions involved were undertaken for the purpose of
 17 influencing an election:

18 (1) the amount of cash on hand at the beginning of the
 19 reporting period;

20 (2) the full name and mailing address (occupation and
 21 the principal place of business, if any) of each person who
 22 has made aggregate contributions, other than loans, of
 23 twenty-five dollars (\$25) or more to the candidate or
 24 political committee (including the purchase of tickets for
 25 events such as dinners, luncheons, rallies, and similar

1 fund-raising events) within the reporting period together
2 with the aggregate amount of those contributions, and the
3 total amount of contributions made by that person;

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

7 (4) the name and address of each political committee
8 or candidate from which the reporting committee or candidate
9 received any transfer of funds together with the amount and
10 dates of all those transfers;

11 (5) each loan from any person during the reporting
12 period together with the full names and mailing addresses
13 (occupation and principal place of business, if any) of the
14 lender and endorsers, if any, and the date and amount of
15 each loan;

16 (6) the amount and nature of debts and obligations
17 owed to a political committee or candidates in the form
18 prescribed by the ~~commissioner~~ secretary of state;

19 (7) an itemized account of proceeds from:

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

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

23 (c) sales of items such as political campaign pins,
24 buttons, badges, flags, emblems, hats, banners, literature,
25 and similar materials;

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

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

6 (10) the full name and mailing address (occupation and
7 the principal place of business, if any) of each person to
8 whom expenditures have been made by the committee or
9 candidate during the reporting period, including the amount,
10 date, and purpose of each expenditure and the total amount
11 of expenditures made to each person;

12 (11) the full name and mailing addresses (occupation
13 and the principal place of business, if any) of each person
14 to whom an expenditure for personal services, salaries, and
15 reimbursed expenses have been made, including the amount,
16 date, and purpose of that expenditure and the total amount
17 of expenditures made to each person;

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

20 (13) the name and address of each political committee
21 or candidate to which the reporting committee or candidate
22 made any transfer of funds together with the amount and
23 dates of all those transfers;

24 (14) the name of any person to whom a loan was made
25 during the reporting period, including the full name and

1 mailing address (occupation and principal place of business,
2 if any) of that person, and the full name and mailing
3 address (occupation and principal place of business, if any)
4 of the endorsers, if any, and the date and amount of each
5 loan;

6 (15) the amount and nature of debts and obligations
7 owed by a political committee or candidate in the form
8 prescribed by the commissioner secretary of state;

9 (16) other information that may be required by the
10 commissioner secretary of state to fully disclose the
11 sources and disposition of funds used to support or oppose
12 candidates or issues."

13 Section 5. Section 23-4780, R.C.M. 1947, is amended to
14 read as follows:

15 *23-4780. Reports must be certified as true and
16 correct. (1) A report required by this act to be filed by a
17 candidate or political committee shall be verified as true
18 and correct by the oath or affirmation of the individual
19 filing the report. The individual filing the report shall
20 be the candidate or an officer of a political committee who
21 is on file as an officer of the committee with the
22 commissioner secretary of state. The oath or affirmation
23 shall be made before an officer authorized to administer
24 oaths.

25 (2) A copy of a report or statement shall be preserved

1 by the individual filing it for a period of time to be
2 designated by the commissioner secretary of state.

3 (3) The commissioner secretary of state may promulgate
4 rules and regulations regarding the extent to which
5 organizations that are not primarily political committees,
6 but are incidentally political committees shall report their
7 politically related activities in accordance with this act."

8 Section 6. Section 23-4781, R.C.M. 1947, is amended to
9 read as follows:

10 *23-4781. Campaign treasurer and campaign depository
11 ~~--- exceptions.~~ (1) ~~Each~~ Except as provided in subsection
12 (7), each candidate for nomination or election to office and
13 each political committee shall appoint one (1) campaign
14 treasurer. No contribution shall be received or expenditure
15 made by or on behalf of a candidate or political committee
16 until the candidate or political committee appoints a
17 campaign treasurer and certifies the name and address of the
18 campaign treasurer pursuant to this section. The
19 certification, which shall include an organizational
20 statement, properly acknowledged by a notary public, and
21 setting forth of the name and address of the campaign
22 treasurer and all other officers, if any, of the political
23 committee, shall be filed with the commissioner secretary of
24 state and the appropriate county clerk and recorder as
25 specified for the filing of reports in section 23-4778.

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

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

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

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

12 ~~(6) Each~~ Except as provided in subsection (7), each
13 candidate and each political committee shall designate one
14 (1) primary campaign depository for the purpose of
15 depositing all contributions received and disbursing all
16 expenditures made by the candidate or political committee.
17 The candidate or political committee may also designate one
18 (1) secondary depository in each county in which an election
19 is held and in which the candidate or committee
20 participates. Deputy campaign treasurers may make deposits
21 in and make expenditures from secondary depositories when
22 authorized to do so as provided in subsection (4) of this
23 section. Only a bank authorized to transact business in
24 Montana may be designated as a campaign depository. The
25 candidate or political committee shall file the name and

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

8 ~~(1) Candidates for those offices declared filled~~
9 ~~by the city clerk or county clerk and recorder need not~~
10 ~~comply with the requirements of this section.~~

11 ~~(b) Political committees which have been organized by~~
12 ~~or are a part of a political party and which have not been~~
13 ~~organized primarily in behalf of a particular candidate or~~
14 ~~primarily for the support of or opposition to a particular~~
15 ~~ballot issue need not comply with the requirements of this~~
16 ~~section. Committees which are exempted by this subsection~~
17 ~~include but are not limited to state and county central~~
18 ~~committees and women's clubs of political parties."~~

19 Section 7. Section 23-4783, R.C.M. 1947, is amended to
20 read as follows:

21 "23-4783. Treasurer to keep records -- inspections.

22 (1) ~~The campaign treasurer of each candidate and each~~
23 ~~political committee whenever a campaign treasurer is~~
24 ~~required, he~~ shall keep detailed accounts, current within
25 not more than ten (10) days after the date of receiving a

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

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

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

20 Section 8. Section 23-4784, R.C.M. 1947, is amended to
21 read as follows:

22 "23-4784. Petty cash funds allowed. (1) The campaign
23 treasurer for each a candidate or political committee is
24 authorized to withdraw the following amount each week from
25 the primary depository for the purpose of providing a petty

1 cash fund for the candidate or political committee:

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

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

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

12 ~~(3) Subject to the provisions of subsections (1)(a),~~
13 ~~(1)(b), and (2), a candidate or committee exempted from the~~
14 ~~provisions of 23-4781 may maintain a petty cash fund."~~

15 Section 9. Section 23-4786, R.C.M. 1947, is amended to
16 read as follows:

17 "23-4786. Powers and duties of the commissioner
18 ~~secretary of state. The commissioner shall exercise the~~
19 ~~following powers and perform the following duties: (1) The~~
20 ~~commissioner of campaign finances and practices secretary of~~
21 ~~state 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 in conjunction with the county~~
24 ~~attorneys, be responsible for enforcing all of the state's~~
25 ~~election laws.~~

1 (2) The commissioner ~~secretary of state~~ shall select
2 an appropriate staff to enforce the provisions of Title 23,
3 R.C.M. 1947, ~~and he shall have the power to hire and fire~~
4 ~~all personnel under his supervision.~~

5 ~~(3) The commissioner may hire or retain attorneys who~~
6 ~~are properly licensed to practice before the supreme court~~
7 ~~of the state of Montana to prosecute violations of Title 23,~~
8 ~~R.C.M. 1947. Any properly licensed attorney so retained or~~
9 ~~hired shall exercise the powers of a special attorney~~
10 ~~general and he shall have the power to prosecute, subject to~~
11 ~~the control and supervision of the commissioner and the~~
12 ~~provisions of section 23-4788, any criminal or civil action~~
13 ~~arising out of a violation of any provision of Title 23,~~
14 ~~R.C.M. 1947. All prosecutions shall be brought in the state~~
15 ~~district court for the county in which a violation has~~
16 ~~occurred or in the district court for Lewis and Clark~~
17 ~~County. The authority to prosecute as prescribed by this~~
18 ~~section includes the authority to:~~

19 (a) ~~institute proceedings for the arrest of persons~~
20 ~~charged with or reasonably suspected of criminal violations~~
21 ~~of Title 23, R.C.M. 1947;~~

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

25 (c) ~~draw and file indictments, informations, and~~

1 ~~criminal complaints;~~

2 ~~(d) prosecute all actions for the recovery of debts,~~
 3 ~~finer, penalties, and forfeitures accruing to the state or~~
 4 ~~county from persons convicted of violating Title 23, R.C.M.~~
 5 ~~1947, and~~

6 ~~(e) do any other act necessary to successfully~~
 7 ~~prosecute a violation of any provision of Title 23, R.C.M.~~
 8 ~~1947.~~

9 (4)(3) The commissioner secretary of state shall
 10 prescribe forms for statements and other information
 11 required to be filed pursuant to Title 23, R.C.M. 1947, and
 12 furnish forms and appropriate information to persons
 13 required to file statements and information.

14 (5)(4) The commissioner secretary of state shall
 15 prepare and publish a manual prescribing a uniform system
 16 for accounts for use by persons required to file statements
 17 pursuant to Title 23, R.C.M. 1947.

18 (6)(5) The commissioner secretary of state shall
 19 accept and file any information voluntarily supplied that
 20 exceeds the requirements of Title 23, R.C.M. 1947.

21 (7)(6) The commissioner secretary of state shall
 22 prescribe the manner in which the county clerks and
 23 recorders shall receive, file, collate, and maintain reports
 24 filed with them under Title 23, R.C.M. 1947.

25 (8)(7) The commissioner secretary of state shall make

1 statements and other information filed with his office
 2 available for public inspection and copying during regular
 3 office hours, and make copying facilities available free of
 4 charge or at a charge not to exceed actual cost.

5 (9)(8) The commissioner secretary of state shall
 6 preserve statements and other information filed with his
 7 office for a period of ten (10) years from date of receipt.

8 (10)(9) The commissioner secretary of state shall
 9 prepare and publish summaries of the statements received.

10 (11)(10) The commissioner secretary of state shall
 11 prepare and publish such other reports as he may deem
 12 appropriate.

13 (12)(11) The commissioner secretary of state shall
 14 provide for wide public dissemination of summaries and
 15 reports.

16 (13)(12) The commissioner secretary of state shall have
 17 the authority to investigate all statements filed pursuant
 18 to the provisions of Title 23, R.C.M. 1947, and shall also
 19 investigate alleged failures to file any statement or the
 20 alleged falsification of any statement filed pursuant to the
 21 provisions of Title 23, R.C.M. 1947. Upon the submission of
 22 a written complaint by any individual, the commissioner
 23 secretary of state shall also investigate any other alleged
 24 violation of the provisions of Title 23, R.C.M. 1947, or any
 25 rule or regulation adopted pursuant thereto.

1 ~~(14)~~(13) The commissioner secretary of state shall
2 promulgate and publish rules and regulations to carry out
3 the provisions of Title 23, R.C.M. 1947, and shall
4 promulgate such rules in conformance with the Montana
5 Administrative Procedure Act.

6 ~~(15)~~(14) The commissioner secretary of state shall at
7 the close of each fiscal year report to the legislature and
8 the governor concerning the action he has taken, including
9 the names, salaries, and duties of all individuals ~~in his~~
10 ~~employ hired to implement the duties of this section~~ and the
11 money he has disbursed. The commissioner secretary of state
12 shall also make further reports on the matters within his
13 jurisdiction as the legislature may prescribe and shall also
14 make recommendations for further legislation as may appear
15 desirable.

16 ~~(16) The commissioner shall be responsible for~~
17 ~~preparing, administering and allocating the budget for his~~
18 ~~office.~~

19 ~~(17)~~(15) The commissioner secretary of state shall have
20 the power to inspect any records, accounts or books that
21 must be kept pursuant to the provisions of Title 23, R.C.M.
22 1947, which are held by any political committee or candidate
23 so long as such inspection is made during reasonable office
24 hours.

25 ~~(18)~~(16) The commissioner secretary of state shall have

1 the power to issue orders of noncompliance as prescribed by
2 section 23-4787.

3 ~~(19)~~(17) The commissioner secretary of state shall
4 exercise all of the powers conferred upon him by this act or
5 any other provision of state law in any jurisdiction or
6 political subdivision of the state.

7 ~~(20)~~(18) After receiving the final campaign
8 contribution and expenditure report filed as required by
9 Title 23, R.C.M. 1947 or a statement of exemption from the
10 filing requirements, the commissioner secretary of state
11 shall inform the ~~secretary of state or the city or county~~
12 ~~clerk and recorder office~~ issuing the certificate of
13 election or the governor, as appropriate, that each
14 candidate who has been properly elected to any public office
15 has filed his final contribution and expenditure report ~~or~~
16 statement of exemption from filing as specified in section
17 23-4778.

18 ~~(21)~~(19) The commissioner secretary of state shall have
19 the authority to administer oaths and affirmations, subpoena
20 witnesses, compel their attendance, take evidence, and
21 require the production of any books, papers, correspondence,
22 memoranda, bank account statements of a political committee
23 or candidate, or other records which are relevant or
24 material for the purpose of conducting any investigation
25 pursuant to the provisions of Title 23, R.C.M. 1947."

1 Section 10. Section 23-4787, R.C.M. 1947, is amended
2 to read as follows:

3 *23-4787. Examination of statements and issuance of
4 orders of noncompliance. (1) Each statement filed with the
5 ~~commissioner~~ secretary of state during an election or within
6 sixty (60) days thereafter shall be inspected within ten
7 (10) days after the date upon which the statement is filed.
8 If a person has not satisfied the provisions of Title 23,
9 R.C.M. 1947, the ~~commissioner~~ secretary of state shall
10 immediately notify a person of the noncompliance. Such an
11 order of noncompliance shall be 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~~ attorney
2 ~~general whenever a county attorney is in noncompliance~~ shall
3 have the authority to initiate a civil or criminal action
4 pursuant to the procedures outlined in section 23-4788.

5 (3) If an order of noncompliance is issued during any
6 other period than that described in subsection (2), a
7 candidate or political committee shall submit the necessary
8 information within ten (10) days after receiving the notice
9 of noncompliance. Upon a failure to submit the required
10 information within the time specified, the appropriate
11 county attorney or the ~~commissioner~~ attorney general
12 ~~whenever a county attorney is in noncompliance~~ shall
13 initiate a civil or criminal action pursuant to the
14 procedures outlined in section 23-4788.

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

22 (5) Within one hundred twenty (120) days after the
23 date of each election, the ~~commissioner~~ secretary of state
24 shall examine and compare each statement or report filed
25 with the ~~commissioner~~ secretary of state pursuant to the

1 provisions of Title 23, R.C.M. 1947, to determine whether a
 2 statement or report conforms to the provisions of the law.
 3 The examination shall include a comparison of all reports
 4 and statements received by the commissioner secretary of
 5 state pursuant to the requirements of Title 23, R.C.M. 1947.
 6 The commissioner secretary of state may investigate the
 7 source and authenticity of any contribution or expenditure
 8 listed in any report or statement filed pursuant to Title
 9 23, R.C.M. 1947, or the alleged failure to report any
 10 contribution or expenditure required to be reported pursuant
 11 to Title 23, R.C.M. 1947."

12 Section 11. Section 23-4788, R.C.M. 1947, is amended
 13 to read as follows:

14 "23-4788. Prosecutions and powers of the county
 15 attorney. (1) When the commissioner secretary of state
 16 determines that there appears to be sufficient evidence to
 17 justify a civil or criminal prosecution as specified in
 18 section 23-4793, he shall notify the county attorney of the
 19 county in which the alleged violation occurred and shall
 20 arrange to transmit to the county attorney all information
 21 relevant to the alleged violation. ~~if the county attorney~~
 22 ~~fails to initiate the appropriate civil or criminal action~~
 23 ~~within thirty (30) days after he receives notification of~~
 24 ~~the alleged violation, the commissioner may then initiate~~
 25 ~~the appropriate legal actions.~~

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 23-4793.~~

6 (3)(2) The provisions of subsection (1) do not apply
 7 to a situation in which the alleged violation has been
 8 committed by the county attorney of a county. In this
 9 instance, the secretary of state shall notify the attorney
 10 general, and the commissioner attorney general is authorized
 11 to directly prosecute any alleged violation of Title 23,
 12 R.C.M. 1947.

13 (4)(3) If a prosecution is undertaken by the
 14 commissioner attorney general, all court costs associated
 15 with the prosecution shall be paid by the state of Montana.

16 (5)(4) Nothing in this act shall prevent a county
 17 attorney from inspecting any records, accounts, or books
 18 which must be kept pursuant to the provisions of Title 23,
 19 R.C.M. 1947, that are held by any political committee or
 20 candidate involved in an election to be held within the
 21 county. However, such inspections must be conducted during
 22 reasonable office hours.

23 (6)(5) A county attorney shall have the authority to
 24 administer oaths and affirmations, subpoena witnesses,
 25 compel their attendance, take evidence, and require the

1 production of any books, correspondence, memoranda, bank
2 account statements of a political committee or candidate, or
3 other records which are relevant or material for the purpose
4 of conducting any investigation pursuant to the provisions
5 of Title 23, R.C.M. 1947."

6 Section 12. Section 23-4790, R.C.M. 1947, is amended
7 to read as follows:

8 "23-4790. Duties of county clerk and recorder. (1) A
9 county clerk and recorder shall maintain all records and
10 statements filed pursuant to the provisions of Title 23,
11 R.C.M. 1947, for a period of ten (10) years from the date of
12 receipt.

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

16 (3) A county clerk and recorder shall file, code, and
17 cross-index all reports and statements filed as prescribed
18 by the ~~commissioner~~ secretary of state.

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

24 Section 13. Section 23-4791, R.C.M. 1947, is amended
25 to read as follows:

1 "23-4791. Names not to be printed on ballot. (1) The
2 name of a candidate shall not be printed on the official
3 ballot for a general or special election if the candidate or
4 a political treasurer for a candidate fails to file any
5 statement as required by Title 23, R.C.M. 1947.

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

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

17 Section 14. Section 23-4792, R.C.M. 1947, is amended
18 to read as follows:

19 "23-4792. Certificates of election may be withheld. No
20 certificate of election shall may be granted to any
21 candidate until his ~~political~~ ~~treasurer~~ ~~has~~ ~~filed~~ the
22 reports and statements that must be filed pursuant to the
23 provisions of Title 23 ~~R.C.M. 1947~~ are filed. No candidate
24 for an elective office may assume the powers and duties of
25 that office until he has received a certificate of election

1 as provided by law. A certificate of election shall only be
 2 issued by the public official responsible for issuing a
 3 certificate or commission after receiving written assurance
 4 from the commissioner secretary of state that a candidate
 5 has filed all of the statements or reports that must be
 6 filed pursuant to the provisions of Title 23, ~~R.C.M. 1947.~~"

7 Section 15. Section 23-4793, R.C.M. 1947, is amended
 8 to read as follows:

9 "23-4793. Penalties. (1) A person who knowingly
 10 submits a false report or deliberately fails to include any
 11 information required by Title 23, R.C.M. 1947, or who
 12 knowingly submits a false report or deliberately fails to
 13 report any contribution or expenditure as required by Title
 14 23, R.C.M. 1947, may be guilty of false swearing, or unsworn
 15 falsification to authorities as applicable and upon
 16 conviction shall be punished as provided in sections
 17 94-7-203 or 94-7-204 for each separate violation.

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

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

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

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

21 (6) In addition to all other penalties prescribed by
 22 this act:

23 (a) any candidate who is convicted of violating any
 24 provision of Title 23, R.C.M. 1947, shall be ineligible to
 25 be a candidate for any public office in the state of Montana

1 for a period of five (5) years from the date of conviction;

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

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

13 (8) Nothing in this section shall prevent a county
14 attorney or the ~~commissioner~~ attorney general from seeking a
15 penalty otherwise specifically provided for in Title 23,
16 ~~R.C.M.-1947.~~

17 (9) All fines and forfeitures imposed pursuant to this
18 section resulting from a prosecution by the attorney general
19 under 23-4788(2) shall be deposited in the state general
20 fund."

21 Section 16. Repealer. Section 23-4785, R.C.M. 1947, is
22 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 62-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 12, 19 77, there is hereby submitted a Fiscal Note for House Bill 137 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:

An act to abolish the Office of Commissioner of Campaign Finances and Practices, to transfer the functions of the Commissioner to the Secretary of State, to provide for enforcement of the election laws by the County Attorneys and the Attorney General, and to create certain exemptions and exceptions from the campaign filing and finance laws for local government candidates, certain political committees, and certain other candidates and committees.

ASSUMPTION:

Costs for the Secretary of State to administer campaign finance and practice laws would approximate those for the present Commissioner of Campaign Finances and Practices.

FISCAL IMPACT:

None. Costs would merely be transferred from the Commissioner of Campaign Finances and Practices to the Secretary of State.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-77

STATE OF MONTANA

REQUEST NO. 62-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note for House Bill 137, as amended 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:

House Bill 137, as amended, would abolish the office of Commissioner of Campaign Practices, create exemptions and exceptions from the law for local government candidates and certain political committees.

ALTERNATIVE NUMBER 1:

ASSUMPTIONS:

1. House Bill 137, as amended, requires school district, county, and municipal candidates, and candidates for state office who spend \$2,000 or less during the campaigns, to file only one (1) report fifteen (15) days after election.
2. No audits of the above will be made unless a complaint is made against a candidate.
3. Only 34 candidates for state office spent over \$2,000 in FY 76; no more than this will exceed \$2,000 in the future.
4. One auditor, Grade 13, and one clerk can provide the services required by the act.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Auditor	\$13,380	\$13,695	\$27,075
Clerk	8,415	8,615	17,030
Employee benefits	3,269	3,347	6,616
Operating expenses	5,000	3,500	8,500
Equipment	<u>1,000</u>	<u>0</u>	<u>1,000</u>
Total	<u>\$31,064</u>	<u>\$29,157</u>	<u>\$60,221</u>

ALTERNATIVE NUMBER 2:

All assumptions remain the same except audits are performed on all candidates to assure that they have complied with the act.

The Secretary of State estimates the costs to be as follows:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
5 staff	\$ 72,975	\$ 74,439	\$147,414
Operating expenses	37,428	33,756	71,184
Capital	<u>3,606</u>	<u>0</u>	<u>3,606</u>
Total	<u>\$114,009</u>	<u>\$108,195</u>	<u>\$222,204</u>

NOTE: If Alternative 1 is the case, the Executive Budget recommendation for the function of the Commissioner of Campaign Finances and Practices can be reduced by \$51,000 in FY 78 and \$61,000 in FY 79.

If Alternative 2 is the case, the Executive Budget recommendation for the function of the Commissioner of Campaign Finances and Practices must be increased \$32,000 in FY 78 and \$18,000 in FY 79.

Richard L. Tracy for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-77

Approved by Committee
on State Administration

HOUSE BILL NO. 137

INTRODUCED BY KVAALEN, HENAHAN, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE OFFICE OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES, TO TRANSFER THE FUNCTIONS OF THE COMMISSIONER TO THE SECRETARY OF STATE, TO PROVIDE FOR ENFORCEMENT OF THE ELECTION LAWS BY THE COUNTY ATTORNEYS AND THE ATTORNEY GENERAL, AND TO CREATE CERTAIN EXEMPTIONS AND EXCEPTIONS FROM THE CAMPAIGN FILING AND FINANCE LAWS FOR LOCAL GOVERNMENT CANDIDATES, CERTAIN POLITICAL COMMITTEES, AND CERTAIN OTHER CANDIDATES AND COMMITTEES; AMENDING SECTIONS 23-4777, 23-4778, 23-4779, 23-4780, 23-4781, 23-4783, 23-4784, 23-4786, 23-4787, 23-4788, 23-4790, 23-4791, ~~23-4792~~, AND 23-4793, R.C.M. 1947; AND REPEALING SECTION 23-4785, R.C.M. 1947."

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

Section 1. Office of commissioner of campaign finances and practices abolished. (1) The office of commissioner of campaign finances and practices, created by section 10, Chapter 480, Laws 1975, is abolished.

(2) The records and reports on file with the commissioner are to be transferred to the office of the secretary of state.

Section 2. Section 23-4777, R.C.M. 1947, is amended to

read as follows:

"23-4777. 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 23-4785.~~

~~(3)~~ (2) "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)~~ (3) "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.

~~(5)~~ (4) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(6)~~ (5) "Contribution" means:

(a) an advance, gift, loan, conveyance, deposit,

1 payment, or distribution of money or anything of value to
2 influence an election;

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

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

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

13 ~~(7)~~ (6) "Expenditure" means a purchase, payment,
14 distribution, loan, advance, promise, pledge, or gift of
15 money or anything of value made for the purpose of
16 influencing the results of an election, but "expenditure"
17 does not mean:

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

20 (b) payments by a candidate for his personal travel
21 expenses or for food, clothing, lodging, or personal
22 necessities for himself and his family.

23 ~~(8)~~ (7) "Anything of value" means any goods that have a
24 certain utility to the recipient that is real and that
25 ordinarily is not given away free, but is purchased.

1 ~~(9)~~ (8) "Political committee" means a combination of
2 two or more individuals, or a person other than an
3 individual, the primary or incidental purpose of which is to
4 support or oppose a candidate or issue or to influence the
5 result of an election by any expenditure.

6 ~~(10)~~ (9) "Individual" means a human being.

7 ~~(11)~~ (10) "Person" means an individual, corporation,
8 association, firm, partnership, cooperative, committee,
9 club, union, or other organization or group of individuals,
10 or a candidate as defined in subsection (1) of this
11 section."

12 Section 3. Section 23-4778, B.C.H. 1947, is amended to
13 read as follows:

14 "23-4778. Reports of contributions and expenditures
15 required — exceptions. (1) ~~Each~~ Except as provided in
16 subsection (9), 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~~ secretary of state and with the county clerk
21 and recorder of the county in which a candidate is a
22 resident or the political committee has its headquarters.
23 However, where residency within a district, county, city,
24 or town is not a prerequisite for being a candidate, copies
25 of all reports shall be filed with the county clerk and

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

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

11 (3) ~~Candidates~~ Except as provided in subsection (9),
 12 candidates for a state office filled by a statewide vote of
 13 all the voters of Montana, the political committees for such
 14 candidates, and political committees organized to support or
 15 oppose a statewide issue, shall file 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

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

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

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

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

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

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

19 (5) ~~Candidates~~ Except as provided in subsection (9),
 20 candidates for any other public office, their political
 21 committees, and political committees organized to support or
 22 oppose local issues, shall be required to file the reports
 23 specified in subsection (4) only if the total amount of
 24 contributions received or the total amount of funds expended
 25 for an election, excluding the filing fee paid by the

1 candidate, exceed five hundred dollars (\$500).

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

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

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

14 (a) the initial report shall cover all contributions
 15 received or expenditures made by a candidate or political
 16 committee prior to the time that a person became a candidate
 17 as defined in subsection (1) of section 23-4777 until the
 18 date prescribed by the ~~commissioner~~ secretary of state for
 19 the filing of the appropriate initial report pursuant to
 20 subsections (2) through (5) of this section;

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

1 (c) final reports shall cover the period of time from
 2 the last periodic report to the final closing of the books
 3 of the candidate or political committee.

4 ~~(9) (a) Candidates for these MUNICIPAL, COUNTY, AND~~
 5 ~~SCHOOL DISTRICT offices declared filed by the city clerk of~~
 6 ~~the county clerk and recorder need not comply with the~~
 7 ~~filing provisions of subsections (1) through (8).~~

8 ~~(b) Candidates who are running unopposed need not~~
 9 ~~comply with the filing provisions of subsections (1) through~~
 10 ~~(8).~~

11 ~~(c) (B) Political committees which have been organized~~
 12 ~~by or are a part of a political party and which have not~~
 13 ~~been organized primarily in behalf of a particular candidate~~
 14 ~~or primarily for the support of or opposition to a~~
 15 ~~particular ballot issue need not comply with the filing~~
 16 ~~provisions of this section SUBSECTIONS (1) THROUGH (8).~~
 17 ~~Committees which are exempted by this subsection include,~~
 18 ~~but are not limited to state and county central committees~~
 19 ~~and women's clubs of political parties.~~

20 ~~(d) (C) Candidates who are not exempted by subsections~~
 21 ~~SUBSECTION (9)(a) or (9)(b), who have received contributions~~
 22 ~~not exceeding \$2,000 and who have expended funds not~~
 23 ~~exceeding \$2,000 may satisfy the filing requirements of this~~
 24 ~~section by submitting one report within 15 days after the~~
 25 ~~election.~~

1 ~~(e)(D)~~ Political committees not exempted by subsection
 2 (9)(e)(B) may satisfy the filing requirements of this
 3 section by submitting one report within 15 days after the
 4 election whenever THE COMMITTEE HAS BEEN FORMED FOR A
 5 CANDIDATE AND HAS RECEIVED CONTRIBUTIONS NOT EXCEEDING
 6 \$2,000 AND HAS EXPENDED FUNDS NOT EXCEEDING \$2,000.

7 ~~(i)~~ the committee has been formed for a candidate for
 8 an office for which a commission is issued pursuant to
 9 23-4018 or has been formed to support or oppose a ballot
 10 issue voted on in more than one county and has received
 11 contributions not exceeding \$20,000 and has expended funds
 12 not exceeding \$20,000; or

13 ~~(ii)~~ the committee has been formed for a candidate for
 14 an office declared filled by the city clerk or county clerk
 15 and recorder or formed to support or oppose a ballot issue
 16 voted on in only one county and has received contributions
 17 not exceeding \$5,000 and has expended funds not exceeding
 18 \$5,000.

19 ~~(f)(E)~~ The report permitted by subsections (9)(d)(C)
 20 or (9)(e)(D) shall cover all contributions received and
 21 expenditures made during the period commencing as described
 22 in subsection (E)(a) and ending as prescribed by the
 23 secretary of state. The report shall contain the information
 24 required by 23-4779.

25 ~~(g)(F)~~ The secretary of state shall promulgate rules

1 ~~to enable a candidate or political committee to comply with~~
 2 ~~the requirements of this section whenever the candidate or~~
 3 ~~committee believed in good faith that compliance with~~
 4 ~~subsections (9)(d)(C) or (9)(e)(D) would be possible, but~~
 5 ~~the dollar limit on contributions or expenditures was in~~
 6 ~~fact exceeded.~~

7 ~~(h)(G)~~ A candidate or committee exempted from the
 8 filing requirements of subsections (1) through (8) by
 9 subsections (9)(a) OR (9)(b) or (9)(e) shall file a
 10 notarized statement with the secretary of state explaining
 11 the basis of the claimed exemption. This statement should be
 12 filed as soon as possible and must be filed no later than 15
 13 days after the election."

14 Section 4. Section 23-4779, R.C.M. 1947, is amended to
 15 read as follows:

16 "23-4779. What reports must disclose. Each report
 17 required by this act shall disclose the following
 18 information, except that a candidate shall only be required
 19 to report the information specified in this section if the
 20 transactions involved were undertaken for the purpose of
 21 influencing an election:

22 (1) the amount of cash on hand at the beginning of the
 23 reporting period;

24 (2) the full name and mailing address (occupation and
 25 the principal place of business, if any) of each person who

1 has made aggregate contributions, other than loans, of
 2 twenty-five dollars (\$25) or more to the candidate or
 3 political committee (including the purchase of tickets for
 4 events such as dinners, luncheons, rallies, and similar
 5 fund-raising events) within the reporting period together
 6 with the aggregate amount of those contributions, and the
 7 total amount of contributions made by that person;

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

11 (4) the name and address of each political committee
 12 or candidate from which the reporting committee or candidate
 13 received any transfer of funds together with the amount and
 14 dates of all those transfers;

15 (5) each loan from any person during the reporting
 16 period together with the full names and mailing addresses
 17 (occupation and principal place of business, if any) of the
 18 lender and endorsers, if any, and the date and amount of
 19 each loan;

20 (6) the amount and nature of debts and obligations
 21 owed to a political committee or candidates in the form
 22 prescribed by the ~~commissioner~~ secretary of state;

23 (7) an itemized account of proceeds from:

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

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

2 (c) sales of items such as political campaign pins,
 3 buttons, badges, flags, emblems, hats, banners, literature,
 4 and similar materials;

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

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

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

16 (11) the full name and mailing addresses (occupation
 17 and the principal place of business, if any) of each person
 18 to whom an expenditure for personal services, salaries, and
 19 reimbursed expenses have been made, including the amount,
 20 date, and purpose of that expenditure and the total amount
 21 of expenditures made to each person;

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

24 (13) the name and address of each political committee
 25 or candidate to which the reporting committee or candidate

1 made any transfer of funds together with the amount and
 2 dates of all those transfers;

3 (14) the name of any person to whom a loan was made
 4 during the reporting period, including the full name and
 5 mailing address (occupation and principal place of business,
 6 if any) of that person, and the full name and mailing
 7 address (occupation and principal place of business, if any)
 8 of the endorsers, if any, and the date and amount of each
 9 loan;

10 (15) the amount and nature of debts and obligations
 11 owed by a political committee or candidate in the form
 12 prescribed by the ~~commissioner~~ secretary of state;

13 (16) other information that may be required by the
 14 ~~commissioner~~ secretary of state to fully disclose the
 15 sources and disposition of funds used to support or oppose
 16 candidates or issues."

17 Section 5. Section 23-4780, R.C.M. 1947, is amended to
 18 read as follows:

19 "23-4780. Reports must be certified as true and
 20 correct. (1) A report required by this act to be filed by a
 21 candidate or political committee shall be verified as true
 22 and correct by the oath or affirmation of the individual
 23 filing the report. The individual filing the report shall
 24 be the candidate or an officer of a political committee who
 25 is on file as an officer of the committee with the

1 ~~commissioner~~ secretary of state. The oath or affirmation
 2 shall be made before an officer authorized to administer
 3 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~~ secretary of state.

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

12 Section 6. Section 23-4781, R.C.M. 1947, is amended to
 13 read as follows:

14 "23-4781. Campaign treasurer and campaign depository
 15 -- exceptions. (1) ~~Each~~ Except as provided in subsection
 16 (7), each candidate for nomination or election to office and
 17 each political committee shall appoint one (1) campaign
 18 treasurer. No contribution shall 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~~ secretary of
3 state and the appropriate county clerk and recorder as
4 specified for the filing of reports in section 23-4778.

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) Any campaign or deputy campaign treasurer
13 appointed pursuant to this section shall be a registered
14 voter in this state. An individual may be appointed and
15 serve as a campaign treasurer of a candidate and a political
16 committee or two (2) or more candidates and political
17 committees. A candidate may appoint himself as his own
18 campaign or deputy campaign treasurer. No individual may
19 serve as a campaign or deputy campaign treasurer or perform
20 any duty required of a campaign or deputy campaign treasurer
21 of a candidate or political committee until he has been
22 designated and his name certified by the candidate or
23 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 the 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 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~~ Except as provided in subsection (7), each
17 candidate and each political committee shall designate one
18 (1) primary campaign depository for the purpose of
19 depositing all contributions received and disbursing all
20 expenditures made by the candidate or political committee.
21 The candidate or political committee may also designate one
22 (1) secondary depository in each county in which an election
23 is held and in which the candidate or committee
24 participates. Deputy campaign treasurers may make deposits
25 in and make expenditures from secondary depositories when

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

12 ~~(7) (a) Candidates for those offices declared filled~~
 13 ~~by the city clerk or county clerk and recorder need not~~
 14 ~~comply with the requirements of this section.~~

15 ~~(b) Political committees which have been organized by~~
 16 ~~or are a part of a political party and which have not been~~
 17 ~~organized primarily in behalf of a particular candidate or~~
 18 ~~primarily for the support of or opposition to a particular~~
 19 ~~ballot issue need not comply with the requirements of this~~
 20 ~~section. Committees which are exempted by this subsection~~

21 ~~include but are not limited to state and county central~~
 22 ~~committees and women's clubs of political parties.~~
 23 CANDIDATES AND COMMITTEES EXEMPTED FROM THE FILING
 24 REQUIREMENTS OF 23-4778(1) THROUGH (8) BY 23-4778(9)(A) AND
 25 (B) AND CANDIDATES AND COMMITTEES REQUIRED TO FILE ONLY ONE

1 REPORT BY 23-4778(9)(C) AND (D) NEED NOT COMPLY WITH THE
 2 REQUIREMENTS OF SUBSECTIONS (1) THROUGH (6) OF THIS SECTION.

3 (8) THE SECRETARY OF STATE SHALL PROMULGATE RULES TO
 4 ENABLE A CANDIDATE OR COMMITTEE TO COMPLY WITH THE
 5 REQUIREMENTS OF THIS SECTION WHENEVER THE CANDIDATE OR
 6 COMMITTEE BELIEVED IN GOOD FAITH THAT COMPLIANCE WITH THE
 7 REQUIREMENTS OF 23-4778(9)(C) OR (D) WOULD BE POSSIBLE, BUT
 8 THE DOLLAR LIMIT ON CONTRIBUTIONS OR EXPENDITURES WAS IN
 9 FACT EXCEEDED.

10 Section 7. Section 23-4783, R.C.M. 1947, is amended to
 11 read as follows:

12 "23-4783. Treasurer to keep records -- inspections.

13 (1) ~~The campaign treasurer of each candidate and each~~
 14 ~~political committee whenever a campaign treasurer is~~
 15 ~~required, he shall keep detailed accounts, current within~~
 16 ~~not more than ten (10) days after the date of receiving a~~
 17 ~~contribution or making an expenditure, of all contributions~~
 18 ~~received and all expenditures made by or on behalf of the~~
 19 ~~candidate or political committee that are required to be set~~
 20 ~~forth in a statement filed under this act.~~

21 (2) Accounts kept by the campaign treasurer of a
 22 candidate or political committee may be inspected under
 23 reasonable circumstances before, during, or after the
 24 election to which the accounts refer by the campaign
 25 treasurer of any opposing candidate or political committee

1 in the same electoral district. The right of inspection may
 2 be enforced by appropriate writ issued by any court of
 3 competent jurisdiction. The campaign treasurers of
 4 political committees supporting a candidate may be joined
 5 with the campaign treasurer of the candidate as respondents
 6 in such a proceeding.

7 (3) Accounts kept by a campaign treasurer of a
 8 candidate shall be preserved by the campaign treasurer for a
 9 period coinciding with the term of office for which the
 10 person was a candidate."

11 Section 8. Section 23-4784, R.C.M. 1947, is amended to
 12 read as follows:

13 "23-4784. Petty cash funds allowed. (1) The campaign
 14 treasurer for each a candidate or political committee is
 15 authorized to withdraw the following amount each week from
 16 the primary depository for the purpose of providing a petty
 17 cash fund for the candidate or political committee:

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

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

23 (2) The petty cash fund may be spent for office
 24 supplies, transportation expenses, and other necessities in
 25 an amount of less than ten dollars (\$10). Petty cash shall

1 not be used for the purchase of time, space, or services
 2 from any communications medium.

3 (3) Subject to the provisions of subsections (1)(a),
 4 (1)(b), and (2), a candidate or committee exempted from the
 5 provisions of 23-4781 may maintain a petty cash fund."

6 Section 9. Section 23-4786, R.C.M. 1947, is amended to
 7 read as follows:

8 "23-4786. Powers and duties of the ~~commissioner~~
 9 ~~secretary of state. The commissioner shall exercise the~~
 10 ~~following powers and perform the following duties:~~ (1) The
 11 ~~commissioner of campaign finances and practices~~ secretary of
 12 state shall be responsible for investigating all of the
 13 alleged violations of the election laws contained in Title
 14 23, R.C.M. 1947, and shall in conjunction with the county
 15 attorneys, be responsible for enforcing all of the state's
 16 election laws.

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

21 ~~(3) The commissioner may hire or retain attorneys who~~
 22 ~~are properly licensed to practice before the supreme court~~
 23 ~~of the state of Montana to prosecute violations of title 23,~~
 24 ~~R.C.M. 1947. Any properly licensed attorney so retained or~~
 25 ~~hired shall exercise the powers of a special attorney~~

~~general and he shall have the power to prosecute, subject to the control and supervision of the commissioner and the provisions of section 23-4780, any original or civil action arising out of a violation of any provision of Title 23, R.C.M., 1947. All prosecutions shall be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The authority to prosecute as prescribed by this section includes the authority to:~~

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

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

~~(c) draw and file indictments, informations, and original complaints;~~

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

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

~~(4) (3) The commissioner secretary of state shall~~

prescribe forms for statements and other information required to be filed pursuant to Title 23, R.C.M. 1947, and furnish forms and appropriate information to persons required to file statements and information.

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

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

~~(7) (6) The commissioner secretary of state shall~~ prescribe the manner in which the county clerks and recorders shall receive, file, collate, and maintain reports filed with them under Title 23, R.C.M. 1947.

~~(8) (7) The commissioner secretary of state shall~~ make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

~~(9) (8) The commissioner secretary of state shall~~ preserve statements and other information filed with his office for a period of ten (10) years from date of receipt.

~~(10) (9) The commissioner secretary of state shall~~ prepare and publish summaries of the statements received.

1 ~~(11)~~ (10) The ~~commissioner~~ secretary of state shall
2 prepare and publish such other reports as he may deem
3 appropriate.

4 ~~(12)~~ (11) The ~~commissioner~~ secretary of state shall
5 provide for wide public dissemination of summaries and
6 reports.

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

17 ~~(14)~~ (13) The ~~commissioner~~ secretary of state shall
18 promulgate and publish rules and regulations to carry out
19 the provisions of Title 23, R.C.M. 1947, and shall
20 promulgate such rules in conformance with the Montana
21 Administrative Procedure Act.

22 ~~(15)~~ (14) The ~~commissioner~~ secretary of state shall at
23 the close of each fiscal year report to the legislature and
24 the governor concerning the action he has taken, including
25 the names, salaries, and duties of all individuals ~~in his~~

1 ~~employ hired to implement the duties of this section~~ and the
2 money he has disbursed. The ~~commissioner~~ secretary of state
3 shall also make further reports on the matters within his
4 jurisdiction as the legislature may prescribe and shall also
5 make recommendations for further legislation as may appear
6 desirable.

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

10 ~~(17)~~ (15) The ~~commissioner~~ secretary of state shall have
11 the power to inspect any records, accounts or books that
12 must be kept pursuant to the provisions of Title 23, R.C.M.
13 1947, which are held by any political committee or candidate
14 so long as such inspection is made during reasonable office
15 hours.

16 ~~(18)~~ (16) The ~~commissioner~~ secretary of state shall have
17 the power to issue orders of noncompliance as prescribed by
18 section 23-4787.

19 ~~(19)~~ (17) The ~~commissioner~~ secretary of state shall
20 exercise all of the powers conferred upon him by this act or
21 any other provision of state law in any jurisdiction or
22 political subdivision of the state.

23 ~~(20)~~ (18) After receiving the final campaign
24 contribution and expenditure report filed as required by
25 Title 23, R.C.M. 1947 or a statement of exemption from the

1 filing requirements, the ~~commissioner~~ secretary of state
 2 shall inform the ~~secretary of state, or the city or county~~
 3 ~~clerk and recorder~~ office issuing the certificate of
 4 election or the governor, as appropriate, that each
 5 candidate who has been properly elected to any public office
 6 has filed his final contribution and expenditure report or
 7 statement of exemption from filing as specified in section
 8 23-4778.

9 ~~(24) (19)~~ The ~~commissioner~~ secretary of state shall have
 10 the authority to administer oaths and affirmations, subpoena
 11 witnesses, compel their attendance, take evidence, and
 12 require the production of any books, papers, correspondence,
 13 memoranda, bank account statements of a political committee
 14 or candidate, or other records which are relevant or
 15 material for the purpose of conducting any investigation
 16 pursuant to the provisions of Title 23, R.C.M. 1947."

17 Section 10. Section 23-4787, R.C.M. 1947, is amended
 18 to read as follows:

19 "23-4787. Examination of statements and issuance of
 20 orders of noncompliance. (1) Each statement filed with the
 21 ~~commissioner~~ secretary of state during an election or within
 22 sixty (60) days thereafter shall be inspected within ten
 23 (10) days after the date upon which the statement is filed.
 24 If a person has not satisfied the provisions of Title 23,
 25 R.C.M. 1947, the ~~commissioner~~ secretary of state shall

1 immediately notify a person of the noncompliance. Such an
 2 order of noncompliance shall be issued when:

3 (a) upon examination of the official ballot, it
 4 appears that the person has failed to file a statement as
 5 required by law or that a statement filed by a person does
 6 not conform to law; or

7 (b) it is determined that a statement filed with the
 8 commissioner does not conform to the requirements of Title
 9 23, R.C.M. 1947, or that a person has failed to file a
 10 statement required by law.

11 (2) If an order of noncompliance is issued during a
 12 campaign period, or within sixty (60) days after an
 13 election, a candidate or political committee shall submit
 14 the necessary information five (5) days after receiving the
 15 notice of noncompliance. Upon a failure to submit the
 16 required information within the time specified, the
 17 appropriate county attorney or the ~~commissioner~~ attorney
 18 general whenever a county attorney is in noncompliance shall
 19 have the authority to initiate a civil or criminal action
 20 pursuant to the procedures outlined in section 23-4788.

21 (3) If an order of noncompliance is issued during any
 22 other period than that described in subsection (2), a
 23 candidate or political committee shall submit the necessary
 24 information within ten (10) days after receiving the notice
 25 of noncompliance. Upon a failure to submit the required

1 information within the time specified, the appropriate
2 county attorney or the ~~commissioner~~ attorney general
3 whenever a county attorney is in noncompliance shall
4 initiate a civil or criminal action pursuant to the
5 procedures outlined in section 23-4788.

6 (4) A candidate or political treasurer aggrieved by
7 the issuance of an order of noncompliance may seek judicial
8 review in the district court of the county in which the
9 candidate resides or the county in which the political
10 committee has its headquarters. All petitions for judicial
11 review filed pursuant to this act shall be expeditiously
12 reviewed by the appropriate district court.

13 (5) Within one hundred twenty (120) days after the
14 date of each election, the ~~commissioner~~ secretary of state
15 shall examine and compare each statement or report filed
16 with the ~~commissioner~~ secretary of state pursuant to the
17 provisions of Title 23, R.C.M. 1947, to determine whether a
18 statement or report conforms to the provisions of the law.
19 The examination shall include a comparison of all reports
20 and statements received by the ~~commissioner~~ secretary of
21 state pursuant to the requirements of Title 23, R.C.M. 1947.
22 The ~~commissioner~~ secretary of state may investigate the
23 source and authenticity of any contribution or expenditure
24 listed in any report or statement filed pursuant to Title
25 23, R.C.M. 1947, or the alleged failure to report any

1 contribution or expenditure required to be reported pursuant
2 to Title 23, R.C.M. 1947."

3 Section 11. Section 23-4788, R.C.M. 1947, is amended
4 to read as follows:

5 "23-4788. Prosecutions and powers of the county
6 attorney. (1) When the ~~commissioner~~ secretary of state
7 determines that there appears to be sufficient evidence to
8 justify a civil or criminal prosecution as specified in
9 section 23-4793, he shall notify the county attorney of the
10 county in which the alleged violation occurred and shall
11 arrange to transmit to the county attorney all information
12 relevant to the alleged violation. ~~If the county attorney~~
13 ~~fails to initiate the appropriate civil or criminal action~~
14 ~~within thirty (30) days after he receives notification of~~
15 ~~the alleged violation, the commissioner may then initiate~~
16 ~~the appropriate legal action.~~

17 ~~(2) A county attorney may at any time prior to the~~
18 ~~expiration of the thirty (30) day time period specified in~~
19 ~~subsection (1) waive his right to prosecute and thereby~~
20 ~~authorize the commissioner to initiate the appropriate civil~~
21 ~~or criminal action as specified in section 23-4793.~~

22 ~~(3) (2)~~ The provisions of subsection (1) do not apply
23 to a situation in which the alleged violation has been
24 committed by the county attorney of a county. In this
25 instance, the secretary of state shall notify the attorney

1 general, and the ~~commissioner~~ attorney general is authorized
2 to directly prosecute any alleged violation of Title 23,
3 R.C.M. 1947.

4 ~~(4)(3)~~ If a prosecution is undertaken by the
5 ~~commissioner~~ attorney general, all court costs associated
6 with the prosecution shall be paid by the state of Montana.

7 ~~(5)(9)~~ Nothing in this act shall prevent a county
8 attorney from inspecting any records, accounts, or books
9 which must be kept pursuant to the provisions of Title 23,
10 R.C.M. 1947, that are held by any political committee or
11 candidate involved in an election to be held within the
12 county. However, such inspections must be conducted during
13 reasonable office hours.

14 ~~(6)(5)~~ A county attorney shall have the authority to
15 administer oaths and affirmations, subpoena witnesses,
16 compel their attendance, take evidence, and require the
17 production of any books, correspondence, memoranda, bank
18 account statements of a political committee or candidate, or
19 other records which are relevant or material for the purpose
20 of conducting any investigation pursuant to the provisions
21 of Title 23, R.C.M. 1947."

22 Section 12. Section 23-4790, R.C.M. 1947, is amended
23 to read as follows:

24 "23-4790. Duties of county clerk and recorder. (1) A
25 county clerk and recorder shall maintain all records and

1 statements filed pursuant to the provisions of Title 23,
2 R.C.M. 1947, for a period of ten (10) years from the date of
3 receipt.

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

7 (3) A county clerk and recorder shall file, code, and
8 cross-index all reports and statements filed as prescribed
9 by the ~~commissioner~~ secretary of state.

10 (4) A county clerk and recorder shall make statements
11 and other information filed with his office available for
12 public inspection and copying during regular office hours,
13 and make copying facilities available free of charge or at a
14 charge not to exceed actual cost."

15 Section 13. Section 23-4791, R.C.M. 1947, is amended
16 to read as follows:

17 "23-4791. Names not to be printed on ballot. (1) The
18 name of a candidate shall not be printed on the official
19 ballot for a general or special election if the candidate or
20 a political treasurer for a candidate fails to file any
21 statement as required by Title 23, R.C.M. 1947.

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

25 (3) In carrying out the mandate of this section, the

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

8 Section 14. Section 23-4792, R.C.M. 1947, is amended
 9 to read as follows:

10 "23-4792. Certificates of election may be withheld. No
 11 certificate of election ~~shall~~ may be granted to any
 12 candidate until ~~his political treasurer has filed~~ the
 13 reports and statements that must be filed pursuant to the
 14 provisions of Title 23, ~~R.C.M. 1947~~ are filed. No candidate
 15 for an elective office may assume the powers and duties of
 16 that office until he has received a certificate of election
 17 as provided by law. A certificate of election shall only be
 18 issued by the public official responsible for issuing a
 19 certificate or commission after receiving written assurance
 20 from the ~~commissioner~~ secretary of state that a candidate
 21 has filed all of the statements or reports that must be
 22 filed pursuant to the provisions of Title 23, ~~R.C.M. 1947~~."

23 Section 15. Section 23-4793, R.C.M. 1947, is amended
 24 to read as follows:

25 "23-4793. Penalties. (1) A person who knowingly

1 submits a false report or deliberately fails to include any
 2 information required by Title 23, R.C.M. 1947, or who
 3 knowingly submits a false report or deliberately fails to
 4 report any contribution or expenditure as required by Title
 5 23, R.C.M. 1947, may be guilty of false swearing, or unsworn
 6 falsification to authorities as applicable and upon
 7 conviction shall be punished as provided in sections
 8 94-7-203 or 94-7-204 for each separate violation.

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

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

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

1 held void and a special election held within sixty (60) days
 2 of that finding, or where the violation occurred during a
 3 primary election, the court may direct the appropriate
 4 political party to select a new candidate according to the
 5 provisions of state law and the custom of the party. Any
 6 action to void an election shall be commenced within one (1)
 7 year of the date of the election in question.

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

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

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

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

24 (7) In any action brought pursuant to the provisions
 25 of Title 23, R.C.M. 1947, the appropriate state district

1 court shall have the power to enjoin any person to prevent
 2 the doing of any act herein prohibited, or to compel the
 3 performance of any act herein required.

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

8 (9) All fines and forfeitures imposed pursuant to this
 9 section resulting from a prosecution by the attorney general
 10 under 23-4788(2) shall be deposited in the state general
 11 fund."

12 Section 16. Repealer. Section 23-4785, R.C.M. 1947, is
 13 repealed.

-End-