

House Bill 657

In The House

February 6, 1981	Introduced and referred to Committee on State Administration.
February 10, 1981	Fiscal note requested.
February 12, 1981	Fiscal note returned.
February 14, 1981	Committee recommend bill do pass.
February 16, 1981	Bill printed and placed on members' desks.
February 17, 1981	Motion pass consideration until 39th Legislative day.
February 18, 1981	Second reading do pass.
February 19, 1981	Considered correctly engrossed.
February 20, 1981	Third reading passed.

In The Senate

February 21, 1981	Introduced and referred to Committee on State Administration.
March 18, 1981	Committee recommend bill concurred.
March 23, 1981	Motion pass consideration.
March 25, 1981	Motion pass consideration.
March 26, 1981	Second reading concurred.
March 28, 1981	Third reading not concurred.

In The House

March 28, 1981	Returned from Senate not concurred.
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Coe
Lucas
Switzer
Simons
Asay
McLain
Sargent
Hopp
Wilde

House 112
House

HOUSE BILL NO. 657

INTRODUCED BY *Underdal* *Winkler* *Stebin* *Grund*
BURNETT *Anderson* *Ayan* *Ellison* *Cozzens* *Port*
Hornor *Guth* *Finner* *Merlin* *SPILKER*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 SECRETARY OF STATE SHALL BE EX OFFICIO COMMISSIONER OF
 CAMPAIGN FINANCES AND PRACTICES; AMENDING SECTIONS 2-15-401,
 2-15-411, 13-35-302, 13-37-101, 13-37-111, AND 13-37-126,
 MCA; AND REPEALING SECTIONS 13-37-102 THROUGH 13-37-106,
 MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 2-15-401, MCA, is amended to read:

- Section 2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:
- (1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them;
 - (2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;
 - (3) affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

- (4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;
- (5) take and file in his office receipts for all books distributed by him and direct the county clerk of each county to do the same;
- (6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;
- (7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;
- (8) keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;
- (9) file in his office descriptions of seals in use by the different state officers;
- (10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required of him by law;
- (11) report to the governor as prescribed in 2-7-102;

1 (12) register marks as provided in this part;

2 (13) distribute the bound volumes of the decisions of
3 the supreme court in the manner provided by 3-2-604;

4 (14) report annually to the legislative council all
5 changes of names received pursuant to 27-31-205 for
6 publication in the Laws of Montana;

7 (15) report annually to the legislative council all
8 watercourse name changes received pursuant to 85-2-134 for
9 publication in the Laws of Montana;

10 (16) keep a register of all ~~application applications~~
11 for pardon or for commutation of any sentence, with a list
12 of the official signatures and recommendations in favor of
13 each application;

14 ~~(17) discharge the duties of commissioner of campaign~~
15 ~~finances and practices as prescribed in chapters 35, 36, and~~
16 ~~37 of Title 13.~~"

17 Section 2. Section 2-15-411, MCA, is amended to read:
18 "2-15-411. Commissioner of campaign finances and
19 practices. (1) There is ~~e an office of~~ commissioner of
20 campaign finances and practices ~~who is appointed as provided~~
21 ~~in 13-37-102, and the secretary of state of Montana is ex~~
22 ~~officio commissioner of campaign finances and practices.~~

23 ~~(2) The office of the commissioner is attached to the~~
24 ~~office of the secretary of state for administrative purposes~~
25 ~~only, as specified in 2-15-121, except that the provisions~~

1 ~~of subsections (1)(b), (1)(c), (2)(e), (2)(b), (2)(d),~~
2 ~~(2)(e), and (3)(e) of 2-15-121 do not apply.~~

3 (2) The administration of the provisions of chapters
4 35, 36, and 37 of Title 13 are under the general supervision
5 and control of the secretary of state as ex officio
6 commissioner of campaign finances and practices."

7 Section 3. Section 13-35-302, MCA, is amended to read:
8 "13-35-302. Candidates to be given opportunity to
9 subscribe to campaign practices code -- publicity. (1) The
10 commissioner of campaign practices shall prepare a form
11 which contains the code of fair campaign practices provided
12 for in 13-35-301 and a place for a candidate to sign the
13 form and to indicate that the candidate endorses, subscribes
14 to, and pledges to abide by the code.

15 (2) Each candidate required to file statements or
16 reports with the commissioner shall be sent a copy of this
17 form. Signing the form is voluntary, and a failure or
18 refusal to sign is not a violation of the election laws. A
19 form shall be sent for each election as soon as feasible.
20 The signed form shall be returned to the commissioner.

21 (3) The commissioner shall supply the ~~secretary of~~
22 ~~state,~~ the county registrars, and the city and town clerks
23 with forms. Any candidate not required to file with the
24 commissioner but wishing to subscribe to the code may obtain
25 the form from the commissioner, the ~~secretary of state~~ a

1 county registrar, or a city or town clerk and may sign the
2 form and deliver it to the commissioner."

3 Section 4. Section 13-37-101, MCA, is amended to read:
4 "13-37-101. Commissioner of campaign finances and
5 practices. In this chapter, "commissioner" means the
6 commissioner of campaign finances and practices created by
7 ~~13-37-102~~ 2-15-411, unless the context clearly indicates
8 otherwise."

9 Section 5. Section 13-37-111, MCA, is amended to read:
10 "13-37-111. Investigative powers and duties. (1) The
11 commissioner of campaign finances and practices shall be
12 responsible for investigating all of the alleged violations
13 of the election laws contained in chapters 35, 36, or 37 of
14 this title and shall in conjunction with the county
15 attorneys be responsible for enforcing these election laws,
16 except as provided in subsection (5).

17 (2) The commissioner may investigate all statements
18 filed pursuant to the provisions of chapters 35, 36, or 37
19 of this title and shall also investigate alleged failures to
20 file any statement or the alleged falsification of any
21 statement filed pursuant to the provisions of chapters 35,
22 36, or 37 of this title, except as provided in subsection
23 (5). Upon the submission of a written complaint by any
24 individual, the commissioner shall also investigate any
25 other alleged violation of the provisions of chapters 35,

1 36, or 37 of this title or any rule adopted pursuant
2 thereto.

3 (3) The commissioner may inspect any records,
4 accounts, or books that must be kept pursuant to the
5 provisions of chapters 35, 36, or 37 of this title which are
6 held by any political committee or candidate, so long as
7 such inspection is made during reasonable office hours.

8 (4) The commissioner may administer oaths and
9 affirmations, subpoena witnesses, compel their attendance,
10 take evidence, and require the production of any books,
11 papers, correspondence, memoranda, bank account statements
12 of a political committee or candidate, or other records
13 which are relevant or material for the purpose of conducting
14 any investigation pursuant to the provisions of chapters 35,
15 36, or 37 of this title, except as provided in subsection
16 (5).

17 (5) If a violation is alleged to have been committed
18 by the secretary of state or his committee, whether as a
19 candidate for the office of secretary of state or any other
20 state office, or by any candidate, or his committee, for any
21 office for which the secretary of state is also a candidate,
22 the commissioner shall immediately transmit such allegations
23 to the chief justice of the supreme court of Montana. The
24 chief justice may, in his discretion, designate a county
25 attorney of his choice as special commissioner of campaign

LC 2169/01

1 finances and practices for the purpose of investigating the
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4 "13-37-126. Names not to be printed on ballot. (1) The
5 name of a candidate may not be printed on the official
6 ballot for an election if the candidate or a political
7 treasurer for a candidate fails to file any statement or
8 report as required by this chapter.

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

12 (3) In carrying out the mandate of this section, the
13 commissioner must, by a written statement, notify the
14 ~~secretary of state~~ or the election administrator that a
15 candidate or a candidate's treasurer has not complied with
16 the provisions of this chapter, as described in subsection
17 (1), and that a candidate's name should not be printed on
18 the official ballot."

19 Section 7. Repealer. Sections 13-37-102 through
20 13-37-106, MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 343-81

FISCAL NOTE

Form BD-15

In compliance with a written request received Feb. 10, 19 81, there is hereby submitted a Fiscal Note for H.B. 657 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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:

Proposed legislation consolidates offices of Secretary of State and Commissioner of Campaign Finance and Practices and designates the Secretary as ex-officio Commissioner.

ASSUMPTIONS:

- (1) Duties of Commissioner of Campaign Finances & Practices (CCF&P) remain essentially unchanged from existing statute, i.e., projected budget does not include enforcement of lobbyist disclosure provisions of Initiative 85.
- (2) Existing equipment and supplies inventory of CCF&P transferred to Secretary of State.
- (3) Administrative functions of CCF&P (e.g. payroll, accounting, etc.) absorbed by existing administrative staff in Secretary of State's office.
- (4) Legal functions of CCF&P performed under general direction of Secretary of State's chief counsel.

FISCAL IMPACT:

	<u>FY'82</u>	<u>FY'83</u>
Estimated cost under current law*	\$118,685	\$118,449
Estimated cost under proposed legislation	<u>90,908</u>	<u>89,875</u>
NET SAVINGS of proposed legislation	\$ 27,777	\$ 28,574

*Based on OBPP budget recommendations for Commissioner of Campaign Finance & Practices for 1983 Biennium.

LONG-RANGE EFFECT:

Current expectations would require funding at roughly \$175,000 to \$200,000 per biennium so long as statutory responsibilities remain essentially the same. Consolidation of some administrative and legal functions should allow long-run cost savings.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-12-81

Approved by Committee on State Administration

HOUSE BILL NO. 657

INTRODUCED BY *Burnett* *Underdal* *Wheeler* *Stebin* *Grund* *Ellison* *Bossett* *Porter* *Harmer* *Quinn* *Fleming* *Merlin* *Spilker*
BURNETT

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Smith *Phillips* *Leimert* *Ernst* *Wooten* *Conroy* *Drift* *Callard* *Hughes* *Yett* *AKLESTAD* *Kendrick* *Hanson* *Muller* *Johnson*

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(2) keep a register of and attest the official acts of the governor, including all appointments made by him, with date of commission and names of appointees and predecessors;

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(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

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Lee
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Sargent
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Hall

Aug 12
Thayer
C. How

HOUSE BILL NO. 657

INTRODUCED BY *Underdel Winslow* *Stebbi Lund*

BURNETT *Anderson* *Ryan* *Ellison* *Bozquez* *Rota*
Harrod *Gale* *Merlin* *SPILKER*

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MCA. *Wittwerdt* *Callard* *Hoy* *Galt* *AKLESTAD* *Kendrick*
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9 (2) A vacancy on an official ballot under this section
10 may be filled in the manner provided by law, but not by the
11 name of the same candidate.

12 (3) In carrying out the mandate of this section, the
13 commissioner must, by a written statement, notify the
14 ~~secretary--of--state--or~~ the election administrator that a
15 candidate or a candidate's treasurer has not complied with
16 the provisions of this chapter, as described in subsection
17 (1), and that a candidate's name should not be printed on
18 the official ballot."

19 Section 7. Repealer. Sections 13-37-102 through
20 13-37-106, MCA, are repealed.

-End-

HOUSE BILL NO. 657

INTRODUCED BY UNDERDAL, WINSLOW, STOBIE, LUND, BRIGGS,
 HURWITZ, MOORE, D. D'HARA, LEE, CURTISS, SWITZER,
 HARP, ASAY, MCLANE, SEIFERT, KROPP, HAZELBAKER,
 BURNETT, ANDREASON, P. RYAN, ELLISON, COZZENS, ROTH,
 HANNAH, FEDA, JENSEN, DEVLIN, SCHULTZ, SPILKER,
 C. SMITH, PHILLIPS, HEMSTAD, MATSKO, KEYSER, ERNST,
 WALLIN, CONROY, THOFT, KANDUCH, HANSON, MUELLER,
 GODDOVER, NORDTVEDT, IVERSON, ELLERD,
 HAGER, GALT, AKLESTAD, SHONTZ, ROUSH,
 KOLSTAD, OLSON, ZABROCKI, SIVERTSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 SECRETARY OF STATE SHALL BE EX OFFICIO COMMISSIONER OF
 CAMPAIGN FINANCES AND PRACTICES; AMENDING SECTIONS 2-15-401,
 2-15-411, 13-35-302, 13-37-101, 13-37-111, AND 13-37-126,
 MCA; AND REPEALING SECTIONS 13-37-102 THROUGH 13-37-106,
 MCA."

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

Section 1. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition
 to the duties prescribed by the constitution, it is the duty
 of the secretary of state to:

{1} attend at every session of the legislature for the

purpose of receiving bills and resolutions and to perform
 such other duties as may be devolved upon him by resolution
 of the two houses or either of them;

{2} keep a register of and attest the official acts of
 the governor, including all appointments made by him, with
 date of commission and names of appointees and predecessors;

{3} affix the great seal, with his attestation, to
 commissions, pardons, and other public instruments to which
 the official signature of the governor is required;

{4} record in proper books all conveyances made to the
 state and all articles of incorporation filed in his office;

{5} take and file in his office receipts for all books
 distributed by him and direct the county clerk of each
 county to do the same;

{6} certify to the governor the names of those persons
 who have received at any election the highest number of
 votes for any office, the incumbent of which is commissioned
 by the governor;

{7} furnish, on demand, to any person paying the fees
 therefor, a certified copy of all or any part of any law,
 record, or other instrument filed, deposited, or recorded in
 his office;

{8} keep a fee book in which must be entered all fees,
 commissions, and compensation of whatever nature or kind by
 him earned, collected, or charged, with the date, name of

1 payer, paid or unpaid, and the nature of the service in each
2 case, which book must be verified annually by his affidavit
3 entered therein;

4 (9) file in his office descriptions of seals in use by
5 the different state officers;

6 (10) discharge the duties of member of the board of
7 examiners and of the board of land commissioners and all
8 other duties required of him by law;

9 (11) report to the governor as prescribed in 2-7-102;

10 (12) register marks as provided in this part;

11 (13) distribute the bound volumes of the decisions of
12 the supreme court in the manner provided by 3-2-604;

13 (14) report annually to the legislative council all
14 changes of names received pursuant to 27-31-205 for
15 publication in the Laws of Montana;

16 (15) report annually to the legislative council all
17 watercourse name changes received pursuant to 85-2-134 for
18 publication in the Laws of Montana;

19 (16) keep a register of all application applications
20 for pardon or for commutation of any sentence, with a list
21 of the official signatures and recommendations in favor of
22 each application;

23 (17) discharge the duties of commissioner of campaign
24 finances and practices as prescribed in chapters 35, 36, and
25 37 of Title 13."

1 Section 2. Section 2-15-411, MCA, is amended to read:

2 "2-15-411. Commissioner of campaign finances and
3 practices. (1) There is a an office of commissioner of
4 campaign finances and practices ~~who is appointed as provided~~
5 ~~in 13-37-102, and the secretary of state of Montana is ex~~
6 officio commissioner of campaign finances and practices.

7 ~~(2) The office of the commissioner is attached to the~~
8 ~~office of the secretary of state for administrative purposes~~
9 ~~only as specified in 2-15-121 except that the provisions~~
10 ~~of subsections (1)(b), (1)(c), (2)(a), (2)(b), (2)(d),~~
11 ~~(2)(e) and (3)(a) of 2-15-121 do not apply.~~

12 (2) The administration of the provisions of chapters
13 35, 36, and 37 of Title 13 are under the general supervision
14 and control of the secretary of state as ex officio
15 commissioner of campaign finances and practices."

16 Section 3. Section 13-35-302, MCA, is amended to read:

17 "13-35-302. Candidates to be given opportunity to
18 subscribe to campaign practices code -- publicity. (1) The
19 commissioner of campaign practices shall prepare a form
20 which contains the code of fair campaign practices provided
21 for in 13-35-301 and a place for a candidate to sign the
22 form and to indicate that the candidate endorses, subscribes
23 to, and pledges to abide by the code.

24 (2) Each candidate required to file statements or
25 reports with the commissioner shall be sent a copy of this

1 form. Signing the form is voluntary, and a failure or
2 refusal to sign is not a violation of the election laws. A
3 form shall be sent for each election as soon as feasible.
4 The signed form shall be returned to the commissioner.

5 (3) The commissioner shall supply ~~the secretary of~~
6 ~~state~~, the county registrars, and the city and town clerks
7 with forms. Any candidate not required to file with the
8 commissioner but wishing to subscribe to the code may obtain
9 the form from the commissioner, ~~the secretary--of--state~~, a
10 county registrar, or a city or town clerk and may sign the
11 form and deliver it to the commissioner."

12 Section 4. Section 13-37-101, MCA, is amended to read:

13 "13-37-101. Commissioner of campaign finances and
14 practices. In this chapter, "commissioner" means the
15 commissioner of campaign finances and practices created by
16 ~~13-37-102~~ 2-15-411, unless the context clearly indicates
17 otherwise."

18 Section 5. Section 13-37-111, MCA, is amended to read:

19 "13-37-111. Investigative powers and duties. (1) The
20 commissioner of campaign finances and practices shall be
21 responsible for investigating all of the alleged violations
22 of the election laws contained in chapters 35, 36, or 37 of
23 this title and shall in conjunction with the county
24 attorneys be responsible for enforcing these election laws,
25 except as provided in subsection (5).

1 (2) The commissioner may investigate all statements
2 filed pursuant to the provisions of chapters 35, 36, or 37
3 of this title and shall also investigate alleged failures to
4 file any statement or the alleged falsification of any
5 statement filed pursuant to the provisions of chapters 35,
6 36, or 37 of this title, except as provided in subsection
7 (5). Upon the submission of a written complaint by any
8 individual, the commissioner shall also investigate any
9 other alleged violation of the provisions of chapters 35,
10 36, or 37 of this title or any rule adopted pursuant
11 thereto.

12 (3) The commissioner may inspect any records,
13 accounts, or books that must be kept pursuant to the
14 provisions of chapters 35, 36, or 37 of this title which are
15 held by any political committee or candidate, so long as
16 such inspection is made during reasonable office hours.

17 (4) The commissioner may administer oaths and
18 affirmations, subpoena witnesses, compel their attendance,
19 take evidence, and require the production of any books,
20 papers, correspondence, memoranda, bank account statements
21 of a political committee or candidate, or other records
22 which are relevant or material for the purpose of conducting
23 any investigation pursuant to the provisions of chapters 35,
24 36, or 37 of this title, except as provided in subsection
25 (5).

1 (5) If a violation is alleged to have been committed
 2 by the secretary of state or his committee, whether as a
 3 candidate for the office of secretary of state or any other
 4 state office, or by any candidate, or his committee, for any
 5 office for which the secretary of state is also a candidate,
 6 the commissioner shall immediately transmit such allegations
 7 to the chief justice of the supreme court of Montana. The
 8 chief justice may, in his discretion, designate a county
 9 attorney of his choice as special commissioner of campaign
 10 finances and practices for the purpose of investigating the
 11 alleged violations and enforcing the election laws."

12 Section 6. Section 13-37-126, MCA, is amended to read:

13 "13-37-126. Names not to be printed on ballot. (1) The
 14 name of a candidate may not be printed on the official
 15 ballot for an election if the candidate or a political
 16 treasurer for a candidate fails to file any statement or
 17 report as required by this chapter.

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

21 (3) In carrying out the mandate of this section, the
 22 commissioner must, by a written statement, notify the
 23 ~~secretary--of--state--or~~ the election administrator that a
 24 candidate or a candidate's treasurer has not complied with
 25 the provisions of this chapter, as described in subsection

1 (1), and that a candidate's name should not be printed on
 2 the official ballot."

3 Section 7. Repealer. Sections 13-37-102 through
 4 13-37-106, MCA, are repealed.

-End-