

1 HOUSE BILL NO. 349

2 INTRODUCED BY L. EVANS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COMMISSIONER OF POLITICAL PRACTICES
5 TO INVESTIGATE COMPLAINTS OF VIOLATIONS OF THE RESIDENCY REQUIREMENTS FOR LEGISLATIVE
6 CANDIDATES; AND AMENDING SECTION 13-37-111, MCA."

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

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10 **Section 1.** Section 13-37-111, MCA, is amended to read:

11 **"13-37-111. Investigative powers and duties -- recusal.** (1) Except as provided in 13-35-240, the
12 commissioner is responsible for investigating all of the alleged violations of the residency requirement contained
13 in Article V, section 4, of the Montana constitution and of the election laws contained in chapter 35 of this title or
14 this chapter and in conjunction with the county attorneys is responsible for enforcing these election laws.

15 (2) The commissioner may:

16 (a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter and
17 shall investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant
18 to the provisions of chapter 35 of this title or this chapter. Upon the submission of a written complaint by any
19 individual, the commissioner shall investigate any other alleged violation of the provisions of chapter 35 of this
20 title, this chapter, ~~or~~ any rule adopted pursuant to chapter 35 of this title or this chapter, or any alleged violation
21 by a candidate for the legislature of the residency requirements contained in Article V, section 4, of the Montana
22 constitution.

23 (b) inspect any records, accounts, or books that must be kept pursuant to the provisions of chapter 35
24 of this title or this chapter that are held by any political committee or candidate, as long as the inspection is made
25 during reasonable office hours; and

26 (c) administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and
27 require the production of any books, papers, correspondence, memoranda, bank account statements of a political
28 committee or candidate, or other records that are relevant or material for the purpose of conducting any
29 investigation pursuant to the provisions of chapter 35 of this title or this chapter.

30 (3) If the commissioner determines that considering a matter would give rise to the appearance of

1 impropriety or a conflict of interest, the commissioner is recused from participating in the matter.

2 (4) (a) If the commissioner is recused pursuant to this section, the commissioner shall appoint a deputy,
3 subject to subsection (4)(b).

4 (b) The deputy:

5 (i) may not be an employee of the office of the commissioner;

6 (ii) must have the same qualifications as specified for the commissioner in 13-37-107;

7 (iii) with respect to only the specific matter from which the commissioner is recused, has the same
8 authority, duties, and responsibilities as the commissioner would have absent the recusal; and

9 (iv) may not exercise any powers of the office that are not specifically related to the matter for which the
10 deputy is appointed.

11 (5) The appointment of the deputy is effectuated by a contract between the commissioner and the
12 deputy. The contract must specify the deputy's term of appointment, which must be temporary, the matter
13 assigned to the deputy, the date on which the matter assigned must be concluded by the deputy, and any other
14 items relevant to the deputy's appointment, powers, or duties."

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