

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 BY REQUEST OF THE COMMISSIONER OF POLITICAL PRACTICES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SPECIAL REVENUE ACCOUNT FOR THE
7 COMMISSIONER OF POLITICAL PRACTICES; REQUIRING LITIGATION COSTS RECOVERED BY THE
8 OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES TO BE TRANSFERRED TO THE SPECIAL
9 REVENUE ACCOUNT; REQUIRING ANY OTHER AMOUNTS RECOVERED TO BE PAID TO THE GENERAL
10 FUND; REQUIRING ANY MONEY IN THE ACCOUNT TO BE USED FOR DEFRAYING THE EXPENSES OF
11 ANY FUTURE ENFORCEMENT ACTIONS; AMENDING SECTIONS 13-37-124 AND 13-37-129, MCA; AND
12 PROVIDING AN EFFECTIVE DATE."

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

15
16 **Section 1.** Section 13-37-124, MCA, is amended to read:

17 **"13-37-124. Consultation and cooperation with county attorney.** (1) Except as provided in
18 13-35-240, whenever the commissioner determines that there appears to be sufficient evidence to justify a civil
19 or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the county
20 attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney
21 all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal
22 action within 30 days after receiving notification of the alleged violation, the commissioner may then initiate the
23 appropriate legal action.

24 (2) A county attorney may, at any time prior to the expiration of the 30-day time period specified in
25 subsection (1), waive the right to prosecute, and the waiver authorizes the commissioner to initiate the
26 appropriate civil or criminal action.

27 (3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been
28 committed by the county attorney of a county. In this instance, the commissioner is authorized to directly
29 prosecute any alleged violation of chapter 35 of this title or this chapter.

30 (4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution

1 must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the
2 commissioner, except those paid to or imposed by a justice's court, must be deposited in the state general fund
3 as provided in 13-37-129."

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5 **Section 2.** Section 13-37-129, MCA, is amended to read:

6 **"13-37-129. Liability and -- disposition of fines.** (1) In determining the amount of liability under
7 13-37-128, the court may take into account the seriousness of a violation and the degree of culpability of the
8 defendant.

9 (2) If a judgment is entered against the defendant or defendants in an action brought by a county
10 attorney in a court other than a justice's court, the county shall receive 50% of the amount recovered. The
11 remaining 50% shall be deposited in the general fund of the state.

12 (3) In an action brought by the commissioner in a court other than a justice's court; ~~the entire amount~~
13 ~~recovered shall~~

14 (a) any recovered costs of litigation must be paid to the commissioner of political practices litigation
15 account created in [section 3]; and

16 (b) any other amount must be paid to the general fund of the state."

17

18 **NEW SECTION. Section 3. Commissioner of political practices litigation account.** (1) There is a
19 commissioner of political practices litigation account within the state special revenue fund established in 17-2-102.

20 (2) Any funds recovered under 13-37-129 that are transferred to the commissioner of political practices
21 account must be used to defray the expenses of any future enforcement actions undertaken by the
22 commissioner's office.

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24 **NEW SECTION. Section 4. Codification instruction.** [Section 3] is intended to be codified as an
25 integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to [section 3].

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27 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 2015.

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