

HOUSE BILL NO. 143
INTRODUCED BY D. MCALPIN
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A REGISTRATION SYSTEM FOR CHARITIES; PROVIDING A PENALTY FOR FAILURE TO REGISTER; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Charity Registration Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) (a) "Charity" means any domestic or foreign corporation seeking donations in Montana for the benefit of others.

(b) The term does not include governmental entities or political entities that are registered with the commissioner of political practices.

(2) "Department" means the department of justice provided for in 2-15-2001.

(3) "Registration statement" means:

(a) the unified registration statement developed by the national association of attorneys general and the national association of state charity officials; or

(b) an alternative form developed by the department as provided in [section 3].

(4) "Seeking donations" means requests for a gift of cash, services, or goods.

NEW SECTION. **Section 3. Registration requirement -- rules.** (1) Each charity shall fill out and file a registration statement with the department as part of the annual report required by 35-2-904. Each charity may request and receive a 90-day extension of time to file the registration statement.

(2) The department may adopt rules as necessary to:

(a) develop a registration statement form that contains information substantially similar to that required

by the unified registration statement;

(b) require each charity to include in its registration statement its most recent tax return filed with the internal revenue service or an alternative financial statement that contains information substantially similar to that required by the internal revenue service;

(c) provide for electronic filing of the registration statement and coordinate the filing process with the secretary of state; and

(d) set a filing fee not to exceed the following amounts:

(i) \$10 for charities with gross annual revenue of less than \$250,000;

(ii) \$25 for charities with gross annual revenue of \$250,000 to \$499,000;

(iii) \$50 for charities with gross annual revenue of \$500,000 to \$999,999;

(iv) \$100 for charities with gross annual revenue of \$1 million or more.

(3) Charities with gross annual revenue of less than \$25,000 are exempt from the registration requirement of subsection (1).

(4) The department shall keep tax returns and alternative financial statements confidential.

NEW SECTION. Section 4. Failure to register. A charity that fails to register or comply with the requirements of [sections 1 through 5] is liable for a civil penalty of \$5 for each day in which the charity is not registered, not to exceed a total of \$1,000 for each year that the charity seeks donations in this state without registering. The attorney general may collect all penalties due under this section but may not commence a proceeding against a charity for failure to register until 30 days after providing written notice to the charity.

NEW SECTION. Section 5. Disposition of civil fines, costs, and fees. All civil fines, costs, and fees received or recovered by the department pursuant to [sections 1 through 5] must be deposited in a state special revenue account. The money is statutorily appropriated, as provided in 17-7-502, to the department and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to [sections 1 through 5].

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; [section 5]; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

NEW SECTION. Section 7. Codification instruction. [Sections 1 through 5] are intended to be codified

as an integral part of Title 35, chapter 2, part 9, and the provisions of Title 35, chapter 2, part 9, apply to [sections 1 through 5].

NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2009.

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