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HOUSE BILL NO. 689

INTRODUCED BY J. DOOLING, S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE AND CAMPAIGN PRACTICE LAWS; ESTABLISHING REQUIREMENTS FOR REPORTING CONTRIBUTIONS AND EXPENDITURES FROM POLITICAL COMMITTEES THAT LEASE PROPERTY FROM THE STATE OF MONTANA AND THE MONTANA UNIVERSITY SYSTEM; REPEALING PROVISIONS RELATED TO THE VOLUNTARY FILING OF BROADCAST MATERIALS; PROVIDING AN APPROPRIATION; REVISING REPORTING REQUIREMENTS APPLICABLE TO RELIGIOUS ORGANIZATIONS IN CAMPAIGNS TO PROTECT THE FREE EXERCISE OF RELIGION AS GUARANTEED BY THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTION 5, OF THE MONTANA CONSTITUTION; REVISING DEFINITIONS; AMENDING SECTIONS 13-1-101, 13-37-111, 13-37-113, 13-37-124, 13-37-208, 13-37-233, AND 45-7-202, MCA; REPEALING SECTION 13-35-240, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Report by political committee operation from state owned property.**

(1) If a person other than an individual leases office space from the state or the Montana university system, files as a political committee pursuant to 13-37-201, and has more than \$5,000 in expenditures in a calendar year, the person shall submit a report by April 1 of the succeeding year to the legislative services division in accordance with 5-11-210. The report must contain the following information:

- (a) the name of the political committee, the type of political committee, the political committee's mailing address, and the name of the political committee's treasurer;
- (b) the purpose of the political committee or the name of the candidate or ballot issue supported or opposed by the committee;
- (c) the total amount of contributions received by the committee in the preceding calendar year;
- (d) the total amount of expenditures made by the committee in the preceding calendar year; and

1 (e) a listing of any reports submitted by the organization to the commissioner of political practices.

2 (2) The executive director of the legislative services division shall distribute a copy of the report to the

3 members of the state administration and veterans' affairs interim committee and the members of the

4 corresponding standing committees with jurisdiction over election laws. If the report is submitted by an entity

5 leasing property from the Montana university system, the report must also be distributed to the members of the

6 education interim committee and the members of the corresponding standing committees with jurisdiction over

7 education laws.

8

9 **NEW SECTION. Section 2. Religious organization exemptions to be broadly construed.**

10 Pursuant to the first amendment to the United States constitution and to ensure the consistent application of the

11 law, the commissioner shall broadly construe the exemptions concerning religious organizations provided in 13-

12 1-101(9)(b)(ii), (14)(b)(v), (16)(b)(v), and (18)(b)(v).

13

14 **Section 3. Section 13-1-101, MCA, is amended to read:**

15 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the

16 following definitions apply:

- 17 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to
- 18 failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.
- 19 (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.
- 20 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that
- 21 is ordinarily not given away free but is purchased.
- 22 (4) "Application for voter registration" means a voter registration form prescribed by the secretary of
- 23 state that is completed and signed by an elector, is submitted to the election administrator, and contains voter
- 24 registration information subject to verification as provided by law.
- 25 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as
- 26 an optical scan system or other technology that automatically tabulates votes cast by processing the paper
- 27 ballots.
- 28 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their

1 approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment,  
2 recall question, school levy question, bond issue question, or ballot question.

3 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by  
4 the proper official that the legal procedure necessary for its qualification and placement on the ballot has been  
5 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the  
6 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

7 (7) "Ballot issue committee" means a political committee specifically organized to support or oppose a  
8 ballot issue.

9 (8) "Candidate" means:

10 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or  
11 appointment as a candidate for public office as required by law;

12 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained  
13 contributions, made expenditures, or given consent to an individual, organization, political party, or committee  
14 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure  
15 nomination or election to any office at any time, whether or not the office for which the individual will seek  
16 nomination or election is known when the:

17 (i) solicitation is made;

18 (ii) contribution is received and retained; or

19 (iii) expenditure is made; or

20 (c) an officeholder who is the subject of a recall election.

21 (9) (a) "Contribution" means:

22 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit,  
23 payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

24 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or  
25 ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

26 (iii) the receipt by a political committee of funds transferred from another political committee; or

27 (iv) the payment by a person other than a candidate or political committee of compensation for the  
28 personal services of another person that are rendered to a candidate or political committee.

1 (b) The term does not mean:

2 (i) services provided without compensation by individuals volunteering a portion or all of their time on  
3 behalf of a candidate or political committee or meals and lodging provided by individuals in their private  
4 residences for a candidate or other individual; or

5 (ii) the cost of a communication by a religious organization exempt from federal income tax when  
6 compliance with Title 13 would burden the organization's sincerely held religious beliefs or practices.

7 (c) This definition does not apply to Title 13, chapter 37, part 6.

8 (10) "Coordinated", including any variations of the term, means made in cooperation with, in  
9 consultation with, at the request of, or with the express prior consent of a candidate or political committee or an  
10 agent of a candidate or political committee.

11 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not  
12 trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant  
13 enforcement as a campaign practices violation under Title 13, chapter 37.

14 (12) "Election" means a general, special, or primary election held pursuant to the requirements of state  
15 law, regardless of the time or purpose.

16 (13) (a) "Election administrator" means, except as provided in subsection (13)(b), the county clerk and  
17 recorder or the individual designated by a county governing body to be responsible for all election  
18 administration duties, except that with regard to school elections not administered by the county, the term  
19 means the school district clerk.

20 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or  
21 the individual designated by a county governing body to be responsible for all election administration duties  
22 even if the school election is administered by the school district clerk.

23 (14) (a) "Election communication" means the following forms of communication to support or oppose a  
24 candidate or ballot issue:

25 (i) a paid advertisement broadcast over radio, television, cable, or satellite;

26 (ii) paid placement of content on the internet or other electronic communication network;

27 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;

28 (iv) a mailing; or

- 1 (v) printed materials.
- 2 (b) The term does not mean:
- 3 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to
- 4 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;
- 5 (ii) a communication that does not support or oppose a candidate or ballot issue;
- 6 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
- 7 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
- 8 circulation;
- 9 (iv) a communication by any membership organization or corporation to its members, stockholders, or
- 10 employees;
- 11 (v) a communication by a religious organization exempt from federal income tax when compliance
- 12 with Title 13 would burden the organization's sincerely held religious beliefs or practices; or
- 13 ~~(v)~~(vi) a communication that the commissioner determines by rule is not an election communication.
- 14 (15) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to
- 15 perform duties as specified by law.
- 16 (16) (a) "Electioneering communication" means a paid communication that is publicly distributed by
- 17 radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other
- 18 distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does
- 19 not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the
- 20 district voting on the candidate or ballot issue, and that:
- 21 (i) refers to one or more clearly identified candidates in that election;
- 22 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that
- 23 election; or
- 24 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.
- 25 (b) The term does not mean:
- 26 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
- 27 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
- 28 circulation unless the facilities are owned or controlled by a candidate or political committee;

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- 1 (ii) a communication by any membership organization or corporation to its members, stockholders, or
- 2 employees;
- 3 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the
- 4 candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;
- 5 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate
- 6 debate or forum and is made by or on behalf of the person sponsoring the debate or forum; ~~or~~
- 7 (v) a communication by a religious organization exempt from federal income tax when compliance
- 8 with Title 13 would burden the organization's sincerely held religious beliefs or practices; or
- 9 ~~(vi)~~ (vi) a communication that the commissioner determines by rule is not an electioneering
- 10 communication.
- 11 (17) "Elector" means an individual qualified to vote under state law.
- 12 (18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or
- 13 gift of money or anything of value:
- 14 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or
- 15 (ii) used or intended for use in making independent expenditures or in producing electioneering
- 16 communications.
- 17 (b) The term does not mean:
- 18 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
- 19 (9);
- 20 (ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal
- 21 necessities for the candidate and the candidate's family;
- 22 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities
- 23 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or
- 24 (iv) the cost of any communication by any membership organization or corporation to its members or
- 25 stockholders or employees; or
- 26 (v) the cost of a communication by a religious organization exempt from federal income tax when
- 27 compliance with Title 13 would burden the organization's sincerely held religious beliefs or practices.
- 28 (c) This definition does not apply to Title 13, chapter 37, part 6.

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1 (19) "Federal election" means an election in even-numbered years in which an elector may vote for  
2 individuals for the office of president of the United States or for the United States congress.

3 (20) "General election" means an election that is held for offices that first appear on a primary election  
4 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

5 (21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose  
6 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

7 (22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

8 (23) (a) "Incidental committee" means a political committee that is not specifically organized or  
9 operating for the primary purpose of supporting or opposing candidates or ballot issues but that may  
10 incidentally become a political committee by receiving a contribution or making an expenditure.

11 (b) For the purpose of this subsection (23), the primary purpose is determined by the commissioner  
12 by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of  
13 purpose or goal of the person or individuals that form the committee.

14 (24) "Independent committee" means a political committee organized for the primary purpose of  
15 receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate  
16 and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant  
17 to the limits set forth in 13-37-216(1).

18 (25) "Independent expenditure" means an expenditure for an election communication to support or  
19 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue  
20 committee.

21 (26) "Individual" means a human being.

22 (27) "Legally registered elector" means an individual whose application for voter registration was  
23 accepted, processed, and verified as provided by law.

24 (28) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing  
25 ballots to all active electors.

26 (29) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,  
27 including a political committee, club, union, or other organization or group of individuals or a candidate as  
28 defined in subsection (8).

1 (30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-  
2 307 for a mail ballot election conducted under Title 13, chapter 19.

3 (31) (a) "Political committee" means a combination of two or more individuals or a person other than  
4 an individual who receives a contribution or makes an expenditure:

5 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a  
6 petition for nomination;

7 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

8 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
9 independent expenditure.

10 (b) Political committees include ballot issue committees, incidental committees, independent  
11 committees, and political party committees.

12 (c) A candidate and the candidate's treasurer do not constitute a political committee.

13 (d) A political committee is not formed when a combination of two or more individuals or a person  
14 other than an individual makes an election communication, an electioneering communication, or an  
15 independent expenditure of \$250 or less.

16 (32) "Political party committee" means a political committee formed by a political party organization  
17 and includes all county and city central committees.

18 (33) "Political party organization" means a political organization that:

19 (a) was represented on the official ballot in either of the two most recent statewide general elections;

20 or

21 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

22 (34) "Political subdivision" means a county, consolidated municipal-county government, municipality,  
23 special purpose district, or any other unit of government, except school districts, having authority to hold an  
24 election.

25 (35) "Polling place election" means an election primarily conducted at polling places rather than by  
26 mail under the provisions of Title 13, chapter 19.

27 (36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate  
28 candidates for offices filled at a general election.



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1 (37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not  
2 been verified as provided by law.

3 (38) "Provisionally registered elector" means an individual whose application for voter registration was  
4 accepted but whose identity or eligibility has not yet been verified as provided by law.

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

7 (40) "Random-sample audit" means an audit involving a manual count of ballots from designated races  
8 and ballot issues in precincts selected through a random process as provided in 13-17-503.

9 (41) "Registrar" means the county election administrator and any regularly appointed deputy or  
10 assistant election administrator.

11 (42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

12 (43) "School election" has the meaning provided in 20-1-101.

13 (44) "School election filing officer" means the filing officer with whom the declarations for nomination  
14 for school district office were filed or with whom the school ballot issue was filed.

15 (45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount  
16 duties in school elections.

17 (46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is  
18 designed to:

19 (a) allow election officials, upon examination of the outside of the envelope, to determine that the  
20 ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

21 (b) allow it to be used in the United States mail.

22 (47) "Special election" means an election held on a day other than the day specified for a primary  
23 election, general election, or regular school election.

24 (48) "Special purpose district" means an area with special boundaries created as authorized by law for  
25 a specialized and limited purpose.

26 (49) "Statewide voter registration list" means the voter registration list established and maintained  
27 pursuant to 13-2-107 and 13-2-108.

28 (50) "Support or oppose", including any variations of the term, means:

1 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or  
2 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election  
3 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to  
4 voters in an election; or

5 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or  
6 ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the  
7 nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the  
8 passage or defeat of the ballot issue or other question submitted to the voters in an election.

9 (51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in  
10 13-15-206.

11 (52) "Voted ballot" means a ballot that is:

12 (a) deposited in the ballot box at a polling place;

13 (b) received at the election administrator's office; or

14 (c) returned to a place of deposit.

15 (53) "Voter interface device" means a voting system that:

16 (a) is accessible to electors with disabilities;

17 (b) communicates voting instructions and ballot information to a voter;

18 (c) allows the voter to select and vote for candidates and issues and to verify and change selections;

19 and

20 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's  
21 accuracy and that may be manually counted.

22 (54) "Voting system" or "system" means any machine, device, technology, or equipment used to  
23 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."  
24

25 **Section 4.** Section 13-37-111, MCA, is amended to read:

26 **"13-37-111. Investigative powers and duties -- recusal.** (1) Except as provided in ~~13-35-240~~ and  
27 this section, the commissioner is responsible for investigating all of the alleged violations of the election laws  
28 contained in chapter 35 of this title or this chapter and in conjunction with the county attorneys is responsible for

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1 enforcing these election laws.

2 (2) The commissioner may:

3 (a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter  
4 and shall investigate alleged failures to file any statement or the alleged falsification of any statement filed  
5 pursuant to the provisions of chapter 35 of this title or this chapter. Upon the submission of a written complaint  
6 by any individual, the commissioner shall investigate any other alleged violation of the provisions of chapter 35  
7 of this title, this chapter, or any rule adopted pursuant to chapter 35 of this title or this chapter.

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

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

15 (3) If the commissioner determines that considering a matter would give rise to the appearance of  
16 impropriety or a conflict of interest, the commissioner is recused from participating in the matter.

17 (4) The commissioner is recused from participating in any decision in which the commissioner is  
18 accused of violating 13-37-108 or any other ethical standard.

19 (5) (a) If a campaign finance or ethics complaint is filed in the office of the commissioner against the  
20 commissioner, a supervisor within the commissioner's office shall within 10 business days forward the  
21 complaint to the attorney general, who shall within 45 days appoint a deputy in the case of a finance complaint  
22 or a deputy and a hearings officer in the case of an ethics complaint to make a determination in the matter of  
23 the complaint. The attorney general shall, to the extent practicable, ensure that there is no conflict of interest in  
24 the appointment of the deputy or hearings officer or in the provision of any legal advice to the office of the  
25 commissioner.

26 (b) A deputy appointed pursuant to this subsection must, in addition to complying with the  
27 requirements of subsection (6)(b), be an attorney licensed to practice law in Montana who is engaged in the  
28 private practice of law and who has liability insurance applicable to the purposes for which the deputy is

1 appointed.

2 (c) If a complaint is filed against the commissioner, another employee in the office of the  
3 commissioner may not provide the commissioner with any information or documents concerning a complaint  
4 against the commissioner beyond that information or those documents normally provided to persons in matters  
5 before the commissioner.

6 (6) (a) If the commissioner is recused pursuant to this section, the commissioner shall, except as  
7 provided in subsection (5), appoint a deputy, subject to subsection (6)(b).

8 (b) The deputy:

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

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

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

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

15 (7) (a) Except as provided in subsection (7)(b), the appointment of the deputy is effectuated by a  
16 contract between the commissioner and the deputy. A contract executed pursuant to this subsection (7) must  
17 specify the deputy's term of appointment, which must be temporary, the matter assigned to the deputy, the date  
18 on which the matter assigned must be concluded by the deputy, and any other items relevant to the deputy's  
19 appointment, powers, or duties.

20 (b) If a deputy is appointed pursuant to subsection (5), the appointment of the deputy is effectuated by  
21 a contract between the supervisor who forwarded the complaint to the attorney general and the deputy or the  
22 deputy and the hearings officer, but the contract is construed to be with the office of the commissioner."  
23

24 **Section 5.** Section 13-37-113, MCA, is amended to read:

25 **"13-37-113. Hiring of attorneys -- prosecutions.** The commissioner may hire or retain attorneys  
26 who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations  
27 of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the powers of a special  
28 attorney general, and the attorney may prosecute, subject to the control and supervision of the commissioner

1 and the provisions of ~~13-35-240~~, 13-37-124, and 13-37-125, any criminal or civil action arising out of a violation  
2 of any provision of chapter 35 of this title or this chapter. All prosecutions must be brought in the state district  
3 court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The  
4 authority to prosecute as prescribed by this section includes the authority to:

5 (1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal  
6 violations of chapter 35 of this title or this chapter;

7 (2) attend and give advice to a grand jury when cases involving criminal violations of chapter 35 of  
8 this title or this chapter are presented;

9 (3) draw and file indictments, informations, and criminal complaints;

10 (4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state  
11 or county from persons convicted of violating chapter 35 of this title or this chapter; and

12 (5) do any other act necessary to successfully prosecute a violation of any provision of chapter 35 of  
13 this title or this chapter."  
14

15 **Section 6.** Section 13-37-124, MCA, is amended to read:

16 **"13-37-124. Consultation and cooperation with county attorney.** (1) ~~Except as provided in 13-35-~~  
17 ~~240, whenever~~ Whenever the commissioner determines that there appears to be sufficient evidence to justify a  
18 civil or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the  
19 county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county  
20 attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil  
21 or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then  
22 initiate the appropriate legal action.

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

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

1 (4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution  
2 must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the  
3 commissioner, except those paid to or imposed by a justice's court, must be deposited in the state general  
4 fund."

5

6 **Section 7.** Section 13-37-208, MCA, is amended to read:

7 **"13-37-208. Treasurer to keep records.** (1) (a) Except as provided in subsection (1)(b), the  
8 campaign treasurer of each candidate and each political committee shall keep detailed accounts of all  
9 contributions received and all expenditures made by or on behalf of the candidate or political committee that are  
10 required to be set forth in a report filed under this chapter. The accounts must be current within not more than  
11 10 days after the date of receiving a contribution or making an expenditure.

12 (b) The accounts described in subsection (1)(a) must be current as of the 5th day before the date of  
13 filing of a report as specified in 13-37-228.

14 (2) Accounts of a deputy campaign treasurer must be transferred to the treasurer of a candidate or  
15 political committee before the candidate or political committee finally closes its books or when the position of a  
16 deputy campaign treasurer becomes vacant and no successor is appointed.

17 (3) Accounts kept by a campaign treasurer of a candidate or political committee must be preserved by  
18 the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or  
19 for a period of 4 years, whichever is longer."

20

21 **Section 8.** Section 13-37-233, MCA, is amended to read:

22 **"13-37-233. Reports to be filed regardless of tax status.** (1) A person that makes an election  
23 communication, an electioneering communication, or an independent expenditure shall file reports required by  
24 this chapter regardless of the person's tax status under state or federal law.

25 (2) This section does not apply to the exemptions granted to a religious organization under the  
26 definitions of a contribution, election communication, electioneering communication, and expenditure as  
27 provided in 13-1-101."

28

1           **Section 9.** Section 45-7-202, MCA, is amended to read:

2           "**45-7-202. False swearing.** (1) A person commits the offense of false swearing if the person  
3 knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a  
4 statement previously made when the person does not believe the statement to be true and:

- 5           (a) the falsification occurs in an official proceeding;
- 6           (b) the falsification is purposely made to mislead a public servant in performing an official function; or
- 7           (c) the statement is one that is required by law to be sworn or affirmed before a notary or other person  
8 authorized to administer oaths.

9           (2) Subsections (4) through (7) of 45-7-201 apply to this section.

10          (3) ~~Except as provided in 13-35-240, a~~ A person convicted of false swearing shall be fined an amount  
11 not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

12  
13          **NEW SECTION. Section 10. Repealer.** The following section of the Montana Code Annotated is  
14 repealed:

15          13-35-240.     Voluntary filing of broadcast campaign materials -- affidavit -- penalty.

16  
17          **NEW SECTION. Section 11. Appropriation.** There is appropriated \$1,000 from the general fund to  
18 the legislative services division for the purposes of distributing copies of reports pursuant to [section 1].

19  
20          **NEW SECTION. Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are  
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
22 the part remains in effect in all valid applications that are severable from the invalid applications.

23  
24          **NEW SECTION. Section 13. Codification instruction.** (1) [Section 1] is intended to be codified as  
25 an integral part of Title 13, chapter 37, part 4, and the provisions of Title 13, chapter 37, part 4, apply to [section  
26 1].

27                   (2) [Section 2] is intended to be codified as an integral part of Title 13, chapter 37, part 2, and the  
28 provisions of Title 13, chapter 37, part 2, apply to [section 2].

**Amendment - 3rd Reading- Requested by: David Howard**

67th Legislature

Drafter: Joe Carroll, 406-444-3804

HB 689.1.1

1

2            NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

3

- END -

DRAFT