

## 1 HOUSE BILL NO. 689

2 INTRODUCED BY J. DOOLING, S. FITZPATRICK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE AND CAMPAIGN  
5 PRACTICE LAWS; ESTABLISHING REQUIREMENTS FOR REPORTING CONTRIBUTIONS AND  
6 EXPENDITURES FROM POLITICAL COMMITTEES THAT LEASE PROPERTY FROM THE STATE OF  
7 MONTANA AND THE MONTANA UNIVERSITY SYSTEM; REPEALING PROVISIONS RELATED TO THE  
8 VOLUNTARY FILING OF BROADCAST MATERIALS; PROVIDING AN APPROPRIATION; AMENDING  
9 SECTIONS 13-37-111, 13-37-113, 13-37-124, 13-37-208, AND 45-7-202, MCA; REPEALING SECTION 13-35-  
10 240, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

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

13

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

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

19 (a) the name of the political committee, the type of political committee, the political committee's  
20 mailing address, and the name of the political committee's treasurer;

21 (b) the purpose of the political committee or the name of the candidate or ballot issue supported or  
22 opposed by the committee;

23 (c) the total amount of contributions received by the committee in the preceding calendar year;

24 (d) the total amount of expenditures made by the committee in the preceding calendar year; and

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

26 (2) The executive director of the legislative services division shall distribute a copy of the report to the  
27 members of the state administration and veterans' affairs interim committee and the members of the  
28 corresponding standing committees with jurisdiction over election laws. If the report is submitted by an entity

1 leasing property from the Montana university system, the report must also be distributed to the members of the  
2 education interim committee and the members of the corresponding standing committees with jurisdiction over  
3 education laws.

4

5 **Section 2.** Section 13-37-111, MCA, is amended to read:

6 **"13-37-111. Investigative powers and duties -- recusal.** (1) Except as provided in ~~13-35-240 and~~  
7 this section, the commissioner is responsible for investigating all of the alleged violations of the election laws  
8 contained in chapter 35 of this title or this chapter and in conjunction with the county attorneys is responsible for  
9 enforcing these election laws.

10 (2) The commissioner may:

11 (a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter  
12 and shall investigate alleged failures to file any statement or the alleged falsification of any statement filed  
13 pursuant to the provisions of chapter 35 of this title or this chapter. Upon the submission of a written complaint  
14 by any individual, the commissioner shall investigate any other alleged violation of the provisions of chapter 35  
15 of this title, this chapter, or any rule adopted pursuant to chapter 35 of this title or this chapter.

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

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

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

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

27 (5) (a) If a campaign finance or ethics complaint is filed in the office of the commissioner against the  
28 commissioner, a supervisor within the commissioner's office shall within 10 business days forward the

1 complaint to the attorney general, who shall within 45 days appoint a deputy in the case of a finance complaint  
2 or a deputy and a hearings officer in the case of an ethics complaint to make a determination in the matter of  
3 the complaint. The attorney general shall, to the extent practicable, ensure that there is no conflict of interest in  
4 the appointment of the deputy or hearings officer or in the provision of any legal advice to the office of the  
5 commissioner.

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

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

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

16 (b) The deputy:

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

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

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

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

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

28 (b) If a deputy is appointed pursuant to subsection (5), the appointment of the deputy is effectuated by

1 a contract between the supervisor who forwarded the complaint to the attorney general and the deputy or the  
 2 deputy and the hearings officer, but the contract is construed to be with the office of the commissioner."

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4 **Section 3.** Section 13-37-113, MCA, is amended to read:

5 **"13-37-113. Hiring of attorneys -- prosecutions.** The commissioner may hire or retain attorneys  
 6 who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations  
 7 of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the powers of a special  
 8 attorney general, and the attorney may prosecute, subject to the control and supervision of the commissioner  
 9 and the provisions of ~~13-35-240~~, 13-37-124, and 13-37-125, any criminal or civil action arising out of a violation  
 10 of any provision of chapter 35 of this title or this chapter. All prosecutions must be brought in the state district  
 11 court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The  
 12 authority to prosecute as prescribed by this section includes the authority to:

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

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

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

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

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

22

23 **Section 4.** Section 13-37-124, MCA, is amended to read:

24 **"13-37-124. Consultation and cooperation with county attorney.** (1) ~~Except as provided in 13-35-~~  
 25 ~~240, whenever~~ Whenever the commissioner determines that there appears to be sufficient evidence to justify a  
 26 civil or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the  
 27 county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county  
 28 attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil

1 or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then  
2 initiate the appropriate legal action.

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

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

9 (4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution  
10 must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the  
11 commissioner, except those paid to or imposed by a justice's court, must be deposited in the state general  
12 fund."  
13

14 **Section 5.** Section 13-37-208, MCA, is amended to read:

15 **"13-37-208. Treasurer to keep records.** (1) (a) Except as provided in subsection (1)(b), the  
16 campaign treasurer of each candidate and each political committee shall keep detailed accounts of all  
17 contributions received and all expenditures made by or on behalf of the candidate or political committee that are  
18 required to be set forth in a report filed under this chapter. The accounts must be current within not more than  
19 10 days after the date of receiving a contribution or making an expenditure.

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

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

25 (3) Accounts kept by a campaign treasurer of a candidate or political committee must be preserved by  
26 the campaign treasurer for a period ~~coinciding with the term of office for which the person was a candidate or~~  
27 ~~for a period of 4 years, whichever is longer."~~  
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1           **Section 6.** 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 7. Repealer.** The following section of the Montana Code Annotated is  
14 repealed:

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

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17           **NEW SECTION. Section 8. 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].

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20           **NEW SECTION. Section 9. 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.

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24           **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an  
25 integral part of Title 13, chapter 37, part 4, and the provisions of Title 13, chapter 37, part 4, apply to [section 1].

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27           **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

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