

1 SENATE BILL NO. 355

2 INTRODUCED BY B. MOLNAR

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DISQUALIFICATION OF CERTAIN JUDGES
5 RECEIVING POLITICAL CONTRIBUTIONS IF A RECUSAL REQUEST IS MADE; PROVIDING DEFINITIONS;
6 ALLOWING A PERSON TO FILE A COMPLAINT WITH THE JUDICIAL STANDARDS COMMISSION, THE
7 COMMISSIONER OF POLITICAL PRACTICES, OR A DISTRICT COURT; AMENDING SECTIONS 2-2-136
8 AND 3-1-1105, MCA; AND REPEALING SECTION 3-1-609, MCA."

9

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

11

12 NEW SECTION. Section 1. Disqualification Request for recusal of judge receiving political
13 contribution -- definition -- penalties. (1) A judge may ~~not sit or act~~ be asked to recuse in a proceeding if:

14 (a) (i) the judge has received a contribution in excess of the amount established in 13-37-216 from
15 a party to the proceeding, a party's attorney, or the attorney's law firm; and

16 (ii) the contribution from the entity described in subsection (1)(a)(i) was received in support of the
17 judge's ~~most recent~~ election or in anticipation of an upcoming election;

18 (b) a party to the proceeding, a party's attorney, or the attorney's law firm contributed to an
19 independent committee, incidental committee, or a third-party organization that made an independent
20 expenditure to support or oppose the judge's election; or

21 (c) a party, a party's attorney, or the attorney's law firm contributed to an organization that gave
22 financial support, in-kind contributions, or made endorsements related to the judge's election.

23 (2) A party, a party's attorney, or the attorney's law firm who knows or should have known of the
24 activities listed in subsection (1) shall disclose this information to the judge.

25 (3) A judge who ~~is required to be disqualified~~ may be asked to recuse as provided in subsection
26 (1) shall disclose any contribution ~~that was the basis for the judge's disqualification~~ described in subsection (1).

27 The disclosure must be made in a legal notice and on the record. Upon disclosure of the information, the judge
28 shall notify both parties and may be asked to recuse or the complainant may ask for a judge without similar

1 issues.

2 (4) A person alleging a violation of this section may file a complaint with:

3 (a) the commissioner of political practices under the ethics provisions of Title 2, chapter 2, part 1,
4 for an allegation against a judge;

5 (b) the judicial standards commission as provided in Title 3, chapter 1, part 11, for an allegation
6 against a judge; or

7 (c) a district court for an allegation against a judge or a party to a proceeding.

8 (5) Unless otherwise required to protect an individual's privacy, all documents related to
9 complaints and investigations made to enforce this section are public as is allowed under Article II, section 9, of
10 the Montana constitution.

11 (6) An attempt by a person to circumvent the provisions of this section is a felony misdemeanor
12 punishable as provided in 46-18-213 46-18-212.

13 (7) As used in this section, the following definitions apply:

14 (a) "Contribution" has the meaning provided in 13-1-101.

15 (b) "Incidental committee" has the meaning provided in 13-1-101.

16 (c) "Independent committee" has the meaning provided in 13-1-101.

17 (d) "Independent expenditure" has the meaning provided in 13-1-101.

18 (e) "Judge" means a justice of the supreme court or a district court judge.

19

20 **Section 2.** Section 2-2-136, MCA, is amended to read:

21 **"2-2-136. Enforcement for state officers, legislators, and state employees -- referral of**

22 **complaint involving county attorney.** (1) (a) A person alleging a violation of this part by a state officer,
23 legislator, or state employee may file a complaint with the commissioner of political practices.

24 (b) A person alleging a violation of [section 1] by a justice of the supreme court or a district court
25 judge may file a complaint with the commissioner of political practices. The commissioner shall prioritize
26 resolution of the complaint if it is filed prior to an election.

27 (c) _____ The commissioner does not have jurisdiction for a complaint concerning a legislator if a

28 legislative act is involved in the complaint. The commissioner also has jurisdiction over complaints against a