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Campaign Finance and Practices

Complaint Form (08/17)

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SIGNED/NOTARIZED



Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Jeff Essmann
Complete Mailing Address P.O. Box 80945
Billings MT 59108
Phone Numbers: Work 406-534-8345 Home _____

Person or organization against whom complaint is brought (Respondent):

Complete Name Billings Chamber of Commerce
Complete Mailing Address 815 South 27th Street
Billings MT 59101
Phone Numbers: Work 406-245-4111 Home _____

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

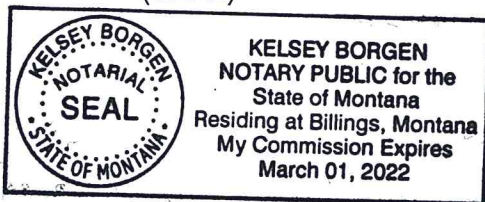
State of Montana, County of Yellowstone

I, Jeff Essmann, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

[Signature]
Signature of Complainant

Subscribed and sworn to before me this 10th day of September, 2018.

[Signature]
Notary Public



My Commission Expires: 3-1-2022

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

Please see attached

Complaints must be:

- signed
- notarized
- delivered in person or by mail.

Campaign Finance Complaint

This complaint is filed by Jeff Essmann of PO Box 80945, Billings MT 59108. This complaint is filed against the Billings Chamber of Commerce of 815 South 27th Street, Billings MT 59101.

The Billings Chamber of Commerce has violated several of Montana's campaign practice laws. It has failed to file as an incidental committee, it has failed to report expenditures on election and electioneering communications, and it has failed to properly disclose that it paid for political materials. This violates MCA 13-37-232, MCA 13-37-225, and MCA 13-37-226.

Supporting Facts

- The Billings Chamber of Commerce is an incidental committee located in Billings, Montana.
- It is a political committee that is not specifically organized to support or opposing a particular candidate or ballot issue, but has become a political committee because it has made an expenditure.
- The following link represents an election communication. Please also see Exhibit 1. <https://www.billingschamber.com/on-your-ballot-referendums-and-initiatives/>
- This communication supports and opposes various referendums and it is a paid placement of content on the internet.
- There is no label on the website that shows that the Billings Chamber of Commerce paid for the election communication.
- Exhibit 2 is an electioneering communication. Please see exhibit 2.
- The email is a paid communication. It was received August 30, 2018. It does not support or oppose a candidate or ballot issue. It can be received by more than 100 individuals in that voting district, and it refers to ballot issues.
- Exhibit 2 is not a communication made by a membership organization to its members as Mr. Essmann has not been a member of the Billings Chamber of Commerce for at least 10 years.
- There is no label on the email that shows that the Billings Chamber of Commerce paid for the electioneering communication.
- The Billings Chamber of Commerce issued a press release to the general public stating that they supported or opposed certain ballot issues. See Exhibit 3.
- There is no disclosure on the press release as to who paid for the press release.
- The Billings Chamber of Commerce has failed to file any of the required disclosures necessitated by its political activity.

Violations

- As described in MCA 13-37-101(23), when a committee is not specifically organized to support or oppose a political candidate or ballot issue, but makes an expenditure, it is an incidental committee.
- Since the Billings Chamber of Commerce is not a committee specifically organized to support or oppose a political candidate or ballot issue, but it has made expenditures.

- By meeting the definition of an incidental committee, the Billings Chamber of Commerce is required to register as an incidental committee pursuant to MCA 13-37-237. The Billings Chamber of Commerce has violated Montana law by failing to register with the Commissioner of Political Practices.
- In addition, the Billings Chamber of Commerce is also required to submit filings detailing their contributions, contributors, and expenses. The Billings Chamber of Commerce has not done so. This is a violation of Montana law.
- Excusable neglect cannot be applied to absolve the Billings Chamber of Commerce of its clear violations of Montana law. The Chamber of Commerce is made up of sophisticated individuals, and in fact the Billings Chamber of Commerce have filed the required documents in other years.
- The de minimis principle cannot be applied as at least \$500.00 have been spent.
- Though there is an exception for communications to members, none of the violations listed above fall under that category. As such, the disclosure rule should be strictly enforced against the Billings Chamber of Commerce.

Relief Requested

- That Billings Chamber of Commerce be determined to have violated Montana campaign finance laws, and that its members have failed to register, disclose, and timely file as required by Montana laws;
- That a civil penalty be assessed against the Billings Chamber of Commerce;
- That the civil penalty assessed against the Billings Chamber of Commerce be assessed for every non-member who has received an electioneering communication from the Billings Chamber of Commerce in violation of Montana laws.
- That an immediate order requiring the preservation of the list of recipients who received the communications detailed above be issued so an exact number of members and nonmembers can be determined.

Exhibit 1

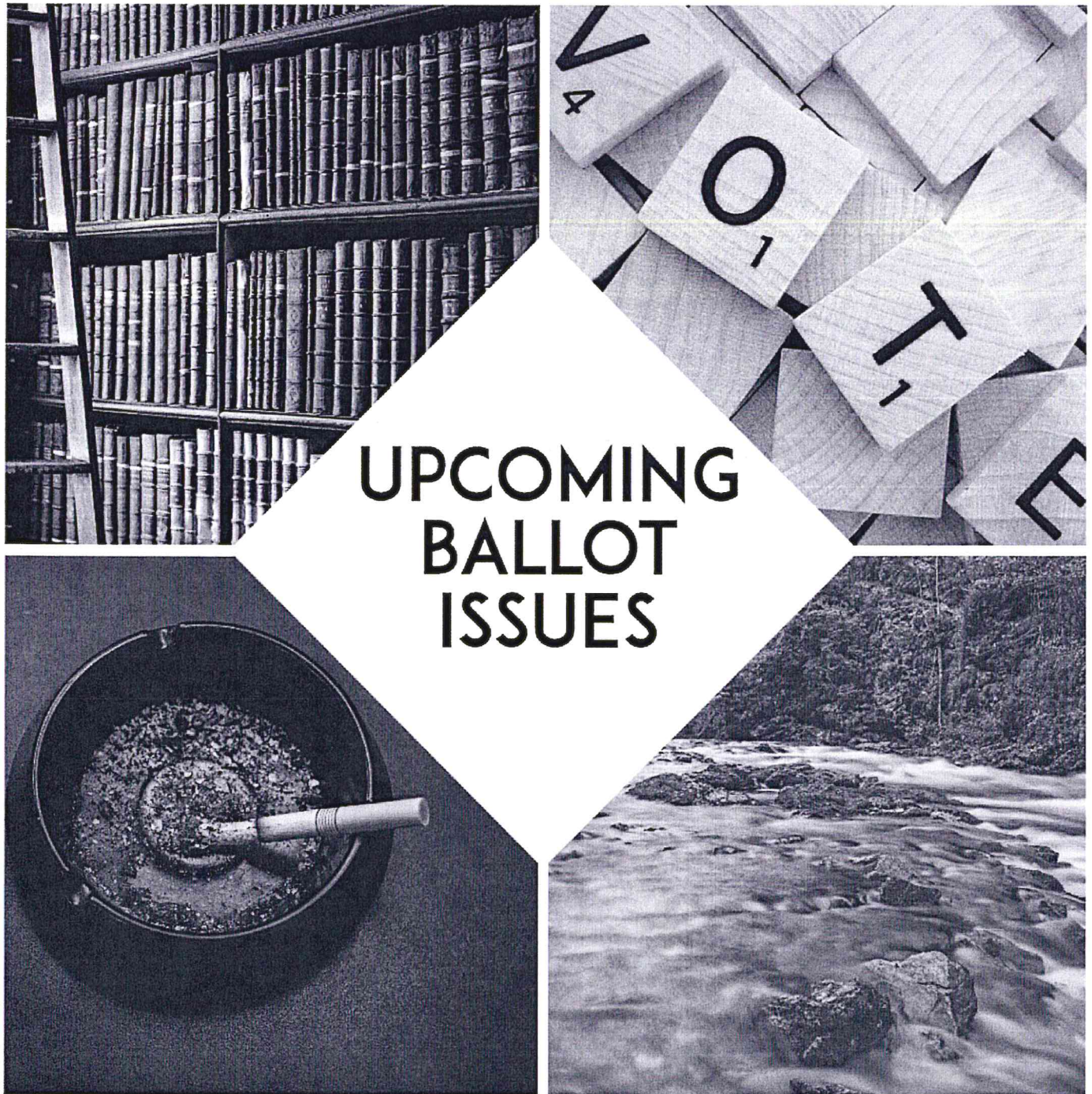


(<https://www.billingschamber.com>)

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On Your Ballot: Referendums and Initiatives

August 30, 2018



Another election is quickly approaching and that means it's time to start gathering up all the information you need to cast a well-informed vote. Not only will you be casting votes for numerous elected officials (local, state, and federal) there will also be four issues for you to vote on. And we want you to be prepared when ballots hit mailboxes in October. So, read on for more information about the referendums and initiatives you'll be voting on this year.

But first, if you don't know whether you're registered to vote, just go to <https://app.mt.gov/voterinfo> (<https://app.mt.gov/voterinfo>). According to recent Billings Chamber surveys, a very large percentage of our membership votes. In the last municipal election 93% reported having cast their ballots, with the few who didn't vote mostly missing the mailing date. Among our NextGEN Young Professionals group, 84% responded that they had voted in the most recent election. Considering Montana's voter turnout in 2016 was at 74%, our chamber member voting numbers are pretty good.

Legislative Referendums

The first two additional items on your ballot are legislative referendums. These are proposals that have been placed on the ballot by the Montana Legislature. During the 2017 Session, the legislature passed two referendums, LR-128 and LR-129, sending approval power to the electorate—you, the voter.

LR-128

The first referendum on your ballot is the 6-mill Montana University System levy. The 6-mill levy:

- Has been reauthorized every ten years by Montana voters since it was first established in 1948.
- The 6-mill levy is not a new tax, but rather the continuation of a tax that has been supported by Montanans for over 60 years.
- The 6-mills go directly to fund Montana universities and colleges and can only be used to support academic programs, not dormitories, stadiums, or other building construction.

The Billings Chamber of Commerce supports the Higher Education levy because of the benefits higher education brings to our business community. Graduates of MSU Billings begin careers with Billings employers. In fact, over 140 businesses in Yellowstone County employ MSU Billings grads. And the economic benefit MSU Billings generates is substantial, at about \$86 million. You can read the Billings Chamber's letter of support here (<https://www.billingschamber.com/media/6-mill-Higher-Ed-Levy-Support.pdf>).

Below is the text you will see on your ballot, and the hyperlink will take you to the full text of the bill.

LEGISLATIVE REFERENDUM NO. 128 (<https://sosmt.gov/wp-content/uploads/LR-128.pdf>)

AN ACT REFERRED BY THE LEGISLATURE

AN ACT SUBMITTING A 6-MILL LEVY FOR CONTINUED SUPPORT OF THE MONTANA UNIVERSITY SYSTEM TO THE ELECTORATE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

The 2017 Montana legislature has submitted this proposal for a vote. LR-128 asks Montana voters to continue the existing 6-mill levy to support Montana's public colleges and universities. Without voter approval, the current 6-mill levy to support Montana's public colleges and universities will expire in January 2019. If passed, this proposal will be effective on January 1, 2019 and terminate January 1, 2029.

According to revenue estimates, the projected annual revenue from the 6-mill levy is \$20,890,000 for fiscal year 2020 and is estimated to grow to \$23,620,000 by fiscal year 2023.

YES on Legislative Referendum LR-128

NO on Legislative Referendum LR-128

LR-129

After narrowly passing the House by a 51-49 vote

([http://laws.leg.mt.gov/legprd/LAW0211W\\$BLAC.VoteTabulation?P_VOTE_SEQ=H1628&P_SESS=20171](http://laws.leg.mt.gov/legprd/LAW0211W$BLAC.VoteTabulation?P_VOTE_SEQ=H1628&P_SESS=20171)), the second referendum to make it on your ballot would authorize only specific persons to collect voters' ballots. Titled the Montana Ballot Interference Prevention Act, the act specifies who is authorized to collect voters'

ballots, and limits the collection to a total of six ballots. The intent of the referendum is to ensure voters' ballots aren't collected by fraudulent or partisan actors who might dispose of peoples' ballots improperly. While it is already illegal to do so, the referendum would provide an additional degree of verification to ensure that ballots are only submitted by people familiar with the voters whose ballots they carry. Fortunately there is very little evidence to suggest Montanans' ballots are being hijacked during elections.

The Billings Chamber has not taken a position on LR-129.

Below is the text you will see on your ballot, and the hyperlink will take you to the full text of the bill.

LEGISLATIVE REFERENDUM NO. 129 (<https://sosmt.gov/wp-content/uploads/LR-129.pdf>)

AN ACT REFERRED BY THE LEGISLATURE

AN ACT ESTABLISHING THE MONTANA BALLOT INTERFERENCE PREVENTION ACT; PROHIBITING THE COLLECTION OF ANOTHER INDIVIDUAL'S BALLOT; PROVIDING EXCEPTIONS; REQUIRING CERTAIN INDIVIDUALS WHO ARE AUTHORIZED TO COLLECT BALLOTS TO PROVIDE CERTAIN INFORMATION WHEN DELIVERING THE BALLOT TO A POLLING PLACE OR ELECTION ADMINISTRATOR'S OFFICE; PROVIDING PENALTIES AND DEFINITIONS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

The 2017 Legislature has submitted this proposal for a vote. LR-129 prohibits a person from collecting another voter's ballot, with certain exceptions. The prohibition would not apply to an election official, postal worker, caregiver, family member, household member, or an acquaintance. Any such individuals that are caregivers, family members, household members or acquaintances would be required to sign a registry at the polling place or the election administrator's office when delivering the ballot and are required to provide the following information: the individual's name, address, and phone number; the voter's name and address; and the individual's relationship to the voter. An individual who violates any provision within LR-129 could be fined \$500 for each ballot unlawfully collected.

YES on Legislative Referendum LR-129

NO on Legislative Referendum LR-129

Ballot Initiatives

A citizen-proposed ballot initiative can get onto the ballot (only during a federal general election) as long as it meets a number of requirements. Every ballot initiative must make it through a review from Legislative Services, the Attorney General, and the Secretary of State. Once the initiative is approved for signature gathering, the sponsor and supporters must gather signatures from Montana voters. In order to qualify for the ballot, the sponsor must submit to the Secretary of State signatures from 5% of the total Montana electorate, including 5% within 34 different legislative house districts. The two initiatives below have cleared all the hurdles necessary to make it onto your ballot.

I-185

One of the initiatives you will get to vote on this November raises tobacco taxes, and includes e-cigarettes. The increased revenue from tax collections is designated for Montana's Medicaid program, vets' services, smoking prevention, and seniors with disabilities. Increasing the price of a product reduces the quantity purchased,

which brings up two considerations: (1) fewer smokers means a healthier, more productive workforce, earning more money for themselves and our Montana businesses; and (2) by reducing the number of smokers, the revenue generated from a tax increase can be volatile, prone to reductions due to smoking cessation. So, while there are a number of positive aspects to this initiative, it is important to remember the increased revenues may not remain stable over long periods of time.

While there are some downsides—increasing taxes and volatile revenues—the positives far outweigh the negatives. Because the revenue generated is dedicated to valuable programs and the end state is a healthier, more productive workforce, benefitting our businesses and taxpayers, the Billings Chamber supports I-185.

Below is the text you will see on your ballot, and the hyperlink will take you to the full text of the bill.

INITIATIVE NO. 185 (<https://sosmt.gov/Portals/142/Elections/archives/2010s/2018/I-185.pdf>)

A LAW PROPOSED BY INITIATIVE PETITION

I-185 raises taxes on all tobacco products, amends the definition to include e-cigarettes and vaping products, and dedicates funds. Taxes are increased by \$2.00 per pack of cigarettes for a total tax of \$3.70 per pack. Taxes on moist snuff increase to the greater of 83% of wholesale or \$3.70 per 1.2 ounces. The tax rate increases by 33% of the wholesale price for all other tobacco products including new taxes on e-cigarettes and vaping products. I-185 eliminates the sunset date for expanded Medicaid services for certain low-income adults, which otherwise ends June 30, 2019. I-185 dedicates a percentage of these increased tax revenues for: certain health-related programs, including some of the costs for Montana's current Medicaid program; veterans' services; smoking prevention and cessation programs; and long-term care services for seniors and people with disabilities.

New revenue from increases in tobacco taxes will generate \$74.3 million per year by 2023. Revenues may decline as fewer people use tobacco. The State must pay a percentage of the cost of the extended Medicaid services, which increases from 6.77% in 2019 to a cap of 10% by 2021.

YES ON INITIATIVE I-185

NO ON INITIATIVE I-185

I-186

After getting a re-write to exclude existing mines, I-186 aims to ensure new hardrock mine permits are denied unless there is clear and convincing evidence polluted water will not require perpetual treatment. While there is good precedent (<https://www.asmr.us/Portals/0/Documents/Conference-Proceedings/2009/1583-Williams.pdf>) for the proposed additional requirement, previous failures and negative environmental consequences have led to the regulatory safeguards of today. Advances in administration, science, and technology ensure that we do not make the same mistakes of the past. And absent passage of I-186, Montana will continue to preserve its balance between jobs and the environment. However, passage of the initiative could chill, if not completely freeze, investor interest in hardrock mining in our state.

Because of the negative impact on Montana jobs, strict federal and state environmental standards already in place, and technological enhancements in mining operations, the Billings Chamber opposes I-186.

Below is the text you will see on your ballot, and the hyperlink will take you to the full text of the bill.

INITIATIVE NO. 186 (<https://sosmt.gov/wp-content/uploads/I-186.pdf>)

A LAW PROPOSED BY INITIATIVE PETITION

I-186 requires the Department of Environmental Quality to deny a permit for any new hardrock mines in Montana unless the reclamation plan provides clear and convincing evidence that the mine will not require perpetual treatment of water polluted by acid mine drainage or other contaminants. The terms “perpetual treatment,” “perpetual leaching,” and “contaminants” within I-186 are not fully defined and would require further definition from the Montana Legislature or through Department of Environmental Quality rulemaking.

I-186 will cost \$115,360 in its first fiscal year, increasing to \$118,767 by fiscal year 2021. These costs are associated with more staff for environmental review for mining permit applications and anticipated litigation.

YES ON INITIATIVE I-186

NO ON INITIATIVE I-186

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[NEXTGEN IS WHAT YOU MAKE OF IT... \(/NEXTGEN-IS-WHAT-YOU-MAKE-OF-IT/\)](#)

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Exhibit 2

From: Billings Chamber of Commerce [<mailto:kelly@billingschamber.com>]

Sent: Thursday, August 30, 2018 1:10 PM

To: Jeff Essmann

Subject: Business Advocacy: Upcoming Ballot Issues

Cast an informed vote - learn about the referendums and initiatives on the ballot.

No Images? [Click here](#)

On Your Ballot: Referendums and Initiatives

Another election is quickly approaching and that means it's time to start gathering up all the information you need to cast a well-informed vote. Not only will you be casting votes for numerous elected officials (local, state, and federal) there will also be four issues for you to vote on. And we want you to be prepared when ballots hit mailboxes in October. So, read on for more information about the referendums and initiatives you'll be voting on this year.

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Billings Chamber of Commerce

815 South 27th Street

Billings, MT 59101

406-245-4111

You're receiving this email as part of our regular membership communication.

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Exhibit 3



MENU ☰

NEWS: BILLINGS CHAMBER OF COMMERCE ENDORSES I-185, THE HEALTHY MONTANA INITIATIVE

Posted on Tuesday, September 4, 2018

Montana's largest local chamber of commerce announces official support for I-185 as crucial to bolstering the Billings economy, quality of life

(Billings, Mont.) – The Billings Chamber of Commerce, Montana's largest local chamber, announced its official endorsement of I-185, the Healthy Montana Initiative. The Billings Chamber is a non-profit, membership-driven organization comprised of nearly 1,300 members that represent diverse businesses from small family shops to real estate, technology and beyond.

“After looking at the economic benefits I-185 will bring to our state and business community, the Billings Chamber decided to support the initiative. I-185 will continue creating jobs and saving the state money on healthcare costs through our very successful Medicaid expansion,” said Daniel Brooks, Billings Chamber of Commerce Business Advocacy Manager.

A recent Bureau of Business and Economic Research economic analysis of Medicaid expansion in Montana shows it has infused more than \$500 million into Montana's economy while reducing state spending to the tune of more than \$40 million to date. The report details very clearly that Medicaid expansion in Montana has:

- 1) Reduced medical debts,
- 2) Prevented bankruptcies
- 3) Improved credit scores among working families

Fewer Montanans are going into bankruptcy because of a medical emergency and are able to continue working thanks to Medicaid expansion.

The opposition to I-185 is funded almost entirely by the lobbying arms of some of the world's largest tobacco corporations and is currently under investigation by the Montana Commissioner of Political Practices.

Increasing the state cigarette tax by \$2 per pack will:

- decrease youth smoking rates by 20.6 percent;
- prevent 8,000 Montana kids from becoming adult smokers; and
- help 9,300 adults quit smoking.

Learn more about I-185 at www.healthymontana.org.

About the Billings Chamber of Commerce

The Billings Chamber of Commerce serves the greater Billings area. Our Vision is to achieve excellence in community leadership and growth. Our Mission is to develop a strong business climate and vibrant economy by serving the community in a leadership role thereby enhancing the quality of life.

The Billings Chamber is a non-profit, membership-driven organization comprised of nearly 1,300 members. Our membership consists of a vast profile of the Billings business community. It includes larger companies that have been in business for 100 years, entrepreneurs who are just opening their doors, sole proprietors like real estate agents and CPA's, educational systems and every business niche in between. The Billings Chamber of Commerce provides leadership and networking opportunities to the entire Billings area. We work to help businesses and Billings succeed for the greater good of the community and for the future.

The Billings Chamber believes in supporting the Billings business community. The staff is a dedicated and professional team with a passion for our region. We work with the best in mind for Billings. Our three core functions are: Business Advocacy, promoting Billings as a preferred travel destination and membership services.

#

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