

# Accounting and Reporting Manual for Political Committees



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# Introduction

The purpose of this manual is to provide a practical guide to accounting and reporting procedures for treasurers of political committees and others involved in the election process.

Montana law, Title 13, chapter 37, MCA, provides for public disclosure of contributions and expenditures made in Montana elections; therefore, accurate disclosure of those transactions requires:

- 1) An understanding of the laws and rules; and
- 2) The maintenance of detailed accounts from which periodic finance reports can be prepared.

**Part 1, Political Committees**, defines and describes the types of committees and the specific reporting requirements for each type.

**Part 2, Political Committee Accounting**, discusses the responsibilities of committee treasurers, outlines basic record maintenance practices and accounting principles, defines and provides examples of contributions and expenditures, and describes contribution limitations as well as contributions that are illegal to give and to receive.

**Part 3, Political Committee Reporting**, identifies the different statements and reporting forms required for filing, who must file them, how the various forms are to be completed, and when and where these forms are to be filed.

**Part 4, Required Attributions, Disclaimers, & Notices**, discusses the “Paid for by...” attributions, the Clean Campaign Act, as well as electioneering communication and the De Minimus Act.

**Part 5, Sample Electronic Forms**, examples of the C2, C-4, C-6, and C-7E and the sample personal service addendum.

On-line reporting will be **required** for all political committees, unless a waiver has been granted.



CERS (Campaign Electronic Reporting System) is a user-friendly system that aids in tracking things like total-to-date, contribution limits, and other required reporting information. Users will receive notifications of missing required information prior to filing a report. This step could reduce the headache of having to deal with the formal complaint process during your busy campaign season.

<https://camptrackext.mt.gov/CampaignTracker/dashboard>

This manual *is not a substitute* for the laws and rules governing campaign finance and practices. Specific citations are noted throughout the manual. If precise legal language is required, users of this manual need to consult Montana Code Annotated (MCA) and Administrative Rules of Montana (ARM), and the campaign finance decisions posted on our website.

## PART 1: POLITICAL COMMITTEES

### Political Committee

“Political committee” means a combination of two or more individuals, or a “person other than an individual” (a corporation, association, firm, partnership, cooperative, committee, club, union, or other organization) who receives a contribution or makes an expenditure:

- a) To support or oppose a candidate, or a committee organized to support or oppose a candidate or petition for nomination;
- b) To support or oppose a ballot issue, or committee organized to support or oppose a ballot issue; or
- c) To prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

Political committees include ballot issue committees, incidental committees, independent committees and political party committees. A political committee is formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or more of reportable election activity.

#### Naming your Committee

Political committees must name and identify themselves in a way that specifically identifies their economic, or special interest, or employer. For details, see 13-37-210, MCA and the interpretation and enforcement opinion on our website.

### Types of Committees

#### Ballot issue committee

As the name implies, a ballot issue committee is organized to support or oppose a particular ballot issue, including “initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question,” 13-1-101(6) and (7), MCA.

A statewide issue becomes a ballot issue “upon preparation and transmission by the Secretary of State of the form of the petition or referral to the person who submitted the proposed issue,” 13-1-101(6)(b), MCA. A local issue becomes a local ballot issue “upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed”, 13-1-101(6)(b), MCA.

Both statewide and local ballot issue committees must file a Form C-2, Statement of Organization, with the COPP within five days after the issue becomes a ballot issue, 13-37-201, MCA. A ballot issue committee's initial Form C-6, Political Committee Finance Report must include all contributions received and expenditures made by the committee since its date of foundation to qualify the issue for the ballot, 13-37-226, MCA. See Footnote 1 on page 8 for special district exceptions.

As with other committees, a ballot issue committee must keep accurate records of contributions and expenditures, must comply with campaign finance and practices laws, and must file the appropriate finance report forms and disclosures.

## Independent committee

An independent committee means a political committee organized for the primary purpose of receiving contributions and making expenditures that are not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with making expenditures except as within the contribution limits set in 13-37-216(1), MCA, and 13-1-101(23), MCA.

An independent committee is commonplace in campaign activities, both nationally and in the states. Frequently the committee is composed of employees of a common employer or members a particular profession or trade. These individuals contribute to their own committee for the purpose of supporting or opposing candidates and/or issues that the committee agrees on. Most independent committees participate in elections year after year.

## Political party committee

A political party committee is "a political committee formed by a political party organization and includes all county and city central committees", 13-1-101(31), MCA. In turn, a "political party organization" "means a political organization that was represented on the official ballot in either of the two most recent statewide general elections; or has met the petition requirements, as provided in Title 13, chapter 10, part 5", 13-1-101(32)(a) and (b). For the 2018 election cycle, the political party organizations that have qualified to be political party committees are the Republican, Libertarian, and Democratic Party committees.

These committees support candidates of their own party, oppose candidates of opposition parties, and support or oppose selected issues usually based on party platforms.

Political party committees are similar to independent committees in terms of their wide-ranging participation in campaigns; however, they are different in how they form and in their associational functions, which go beyond simply participating in elections.

Limitations on contributions from political party committees do not include a coordinated expenditure made solely by a political party committee for **personal services** by paid staff that benefits the associational interest of the political party as well as a candidate, ARM 44.11.401. The value of the paid personal services is reportable by the political party committee and the candidate benefitting on their campaign finance reports. See example addendum in Part 5 of this manual, to submit the addendum please email the spreadsheet to [CPPHelp@mt.gov](mailto:CPPHelp@mt.gov), which will then become searchable through the hard copy search system.

**Example:** the Montana Democratic Party hires interns to do literature drops for several candidates for the legislature. The Montana Democratic Party will have to report the amount of the paid personal services and report the value received by each candidate that benefitted from those services. The candidate will have to report the value as an in-kind contribution from the Montana Democratic Party as well. The personal services contributions do not count towards the aggregate political party contribution limit to a candidate.

Another important distinction of a political party committee is that it “may not contribute to a judicial candidate,” 13-35-231, MCA.

## **Incidental committee**

An incidental committee is a political committee that is not specifically organized or operated for the primary purpose of supporting or opposing candidates or ballot issues but may incidentally become a political committee by receiving a contribution or making an expenditure, 13-1-101(22), MCA.

**Example:** A local Ace Hardware has an interest in a ballot issue that could impact the owner’s ability to conduct business. The primary purpose of Ace Hardware is to sell home improvement supplies, not support or oppose ballot issues. Ace Hardware writes a check to the organized ballot issue committee that is opposing the issue on the ballot for \$1,000. In addition, the store owner decides that he will make some signs to put in his store window. By making these two expenditures, Ace Hardware incidentally became involved in a local election making it qualify as an incidental committee. Ace Hardware is required to register as a political committee and report the expenditures made to oppose the ballot issue.

## **Primary Purpose**

Identifying the primary purpose of a political committee helps both the officers of the committee and the COPP classify the committee appropriately. The term “primary purpose” refers to the major principal, important goal, or the reason for existence for a committee, ARM 44.11.203. The criteria that should be considered when determining the primary purpose of a committee is as follows:

- allocation and source of budget;
- allocation of staff or member’s activity, both during an election and otherwise;
- the statement of purpose, articles of incorporation, bylaws, or goals;
- reportable election activity;
- the history of the committee and the numbers of elections in which it has participated or registered;
- receipt of contributions in response to an appeal or that are designated for a specified candidate, ballot issue, petition, or reportable election activity;
- the number or cost of reportable election expenditures made;
- coordination with any candidates or other political committees;
- ordinary business actually conducted;
- if a corporation, whether it was created and maintained as provided by law; or
- the date of founding, incorporation, or organization.

A committee may submit any information it wishes the COPP to consider in classifying the committee. The organization will be notified of the COPP’s classification. If the organization disagrees with the COPP’s classification, the organization can submit additional information and request to be reclassified pursuant to ARM 44.11.204.



## PART 2: POLITICAL COMMITTEE ACCOUNTING

### Treasurer

#### Appointment

Each political committee must appoint a committee treasurer, 13-37-201 and 203, MCA. The only exceptions are for certain school districts and certain special districts.<sup>1</sup>

The treasurer performs the important functions of depositing and disbursing funds, keeping accurate accounts, and administering the financial affairs of the political committee. The treasurer must be registered to vote in Montana.

The appointment of a treasurer is the first step in the organization of any political committee. The name of the treasurer must be certified to the Commissioner of Political Practices on Form C-2, 13-37-201, MCA; see also Part 3, Political Committee Reporting section of this manual.

#### Certification

Timely certification is important. The treasurer is prohibited from performing any duty until a certification statement is filed, 13-37-203, MCA.

Only an appointed and certified treasurer or an appointed and certified deputy treasurer<sup>2</sup> may make deposits to or draw funds on the political committee account, 44.11.409, ARM. Political committees may appoint a deputy treasurer; however, having more than one person depositing funds and writing checks on the political committee account requires close coordination to ensure accurate accounting as well as timely preparation and filing of political committee finance reports.

#### Keeping accounts

The treasurer must keep detailed accounts that must be current within not more than 10 days after the date of receiving a contribution or making an expenditure, except that accounts shall be current as of the 5<sup>th</sup> day before the date of filing a report. . .13-37-208(1), MCA.

#### Maintaining Records

In addition to the accounting and reporting duties required by law, the treasurer for a political committee is required to preserve committee accounts and reports for a minimum of four years or for the length of the term of office, whichever is longer, 13-37-208(3), MCA and 13-37-231(2), MCA

### Depository

#### Designation

Each political committee must designate one primary depository. This depository may be a bank, a credit union, a savings and loan association, or a building and loan association; however, this depository must be authorized to transact business in Montana and must offer accounts on which the equivalent of a check may be drawn. Accounts must be

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<sup>1</sup> An exempt school district is “(1) a first-class located in a county having a population of less than 15,000; (2) a second- or third-class district; or (3) county high school district having a student enrollment of less than 2,000.” Excepted special districts include, but are not limited to, “a conservation district, a weed management district, a fire district, a community college district, a hospital district, an irrigation district, a sewer district, a transportation district, or a water district,” 13-37-206, MCA.

<sup>2</sup> Several deputy treasurers may be appointed but no more than one in each county in which a candidate or committee takes part in an election.

completely separate from any personal accounts, 13-37-205, MCA, although they may be in the same depository.

It is important that all monetary receipts be deposited in the political committee account and that all money spent by the political committee be by checks, debit card, wire transfer, or other electronic means drawn on this account, 44.11.409(4), ARM. (The only exception is the petty cash fund. Use of the political committee checking account will make record keeping and reporting much easier.)

All funds must first be deposited into the political committee checking account. A political committee, however, may have more than one account in the primary depository for instance, a savings account and payroll account.

A secondary depository is permitted in each county where an election is held and in which the political committee participates. With the specific written authorization provided by law, a deputy treasurer may make deposits to and expenditures from a secondary depository.<sup>3</sup>

## Certification

Immediately after designating or changing a primary depository and after appointing a treasurer, a political committee must complete and file a Statement of Organization (Form C-2) with the Commissioner of Political Practices, 13-37-201, MCA.

## Receipts

### Contribution defined

Contributions from supporters are the principal source of receipts. A contribution is defined by law, in part, as “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election. . .” 13-1-101(9), MCA.

### Depositing contributions

All monetary contributions (cash or checks) received by any political committee, must be transmitted to the treasurer (or deputy treasurer) within five days after the contribution is received. The treasurer must then deposit all funds within five business days of receipt. It is not uncommon in today’s technical world for political committees to use services such as PayPal or Square Up to receive contributions. An electronic contribution shall be reported as received **within the reporting period that it is received by the online service provider** regardless of whether the contribution has actually been received by the committee, 44.11.408, ARM. We encourage the committee treasurer to check the payment gateway frequently to avoid missing the window for deposits or conversions.

### Statement of contributions

Before making a deposit to the political committee account, the treasurer is required to prepare a statement of amounts received from each contributor, 13-37-207(2), MCA. This statement, all cash receipts, and the deposit slip must be kept together as part of the committee records maintained by the treasurer.

### Contributions by check

Checks are preferable to contributions of cash. Checks simplify tracking and accounting. A simple list of the names of contributors and the amounts contributed is a satisfactory method of maintaining a record of contributions received by check; however, the easiest

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<sup>3</sup> For more complete information on secondary depositories and access to them by deputy treasurers see 13-37-202 and 13-37-205, MCA.

and best way to satisfy the statement of contributions requirement is to make photocopies of checks as they are received. This ensures that contributions are properly credited and also preserves useful information for the political committee.

## **Cash contributions**

Receipts must be written for any contributions of currency and coin of \$25 or more. Cash receipts must show:

- The contributor's full name
- Complete mailing address
- Occupation
- Employer
- The exact amount received
- Date of receipt, and
- The name of the individual who received the contribution on behalf of the committee, 44.11.407, ARM.

While receipts are required only for cash contributions of \$25 or more, the best practice is to write a receipt for all cash contributions whenever possible. In this way, a treasurer can determine if or when an individual's contributions reach reporting thresholds. Written receipts also will assist candidates in identifying the source of funds contributed to their campaigns. Contributions and expenditures can be easily recorded in CERS and saved to be filed to COPP on reporting day.

## **Recording contributions**



All political committees are now required to electronically file their reports with the office, and should become familiar with the CERS system on the website to determine how to best keep their records. Some political committees will use the online service for their record keeping. The system allows the treasurer to enter the transactions as often as they like and save the information. The information does not become public until the report has been filed.

In addition to the statement of contributions and supporting documents, a treasurer must keep a detailed accounting of all contributors. Any system of recordkeeping may be used as long as it maintains the information required by law and necessary for filing reports. The COPP recommends making copies of the checks for the records. If the contribution is submitted through a payment gateway like PayPal, a copy of the transaction must also be maintained for the campaign's records.

Political committees may find a computer spreadsheet or card file the easiest way to maintain information on contributors and their contributions. Such a system will have a record or card for each contributor, which provides the full name, complete mailing address, occupation, employer, date of receipt, amount, and nature of donation (currency, check, loan, in-kind, dinner ticket, fundraiser purchase, etc.).

## Contributor card

A contributor card might look like this:

Brown, Charles 225 17th Avenue Anywhere, MT 59000	Owner Charlie's Pizza Place
	Total to date
2/3/18 \$25 Check	\$25
3/7/18 \$10 cash at fundraiser	\$35
5/5/18 \$50 Check	\$85
5/2/18 \$45 in-kind: painting by Yoda for auction	\$130

Or, your spreadsheet might look like this:

Contributor Card (Sample)			
Name:	Brown, Charles		
Address:	225 17th Avenue		
City/State	Anywhere, MT 59000		
Occupation:	Owner		
Employer:	Charlie's Pizza Place		
Date:	Amount	Type	Total to date
2/3/2018	\$35.00	check	\$35.00
3/4/2018	\$10.00	cash at fundraiser	\$45.00
5/5/2018	\$35.00	in-kind: pizza/volunteers	\$80.00
5/2/2018	\$50.00	in-kind: paint & signs	\$130.00

## Loan

By definition, any loan to a political committee is considered a contribution to the extent that it remains outstanding.

**Example:** If an individual loans a political committee \$400 of which \$300 is repaid; that individual's contribution is then \$100 (assuming that no more contributions are made).

Again, either a card or a computer entry must be made showing the full name, complete mailing address, occupation and employer of the lender, and the date and amount of the loan.<sup>4</sup>

## Mass collections from fundraising events

Mass collections from fundraising events (such as Pass the Hat or selling campaign pins, raffle tickets, or baked goods) also need to be recorded and reported.

The treasurer may account for proceeds from such fundraising activities by recording:

- The date of the event

<sup>4</sup> Money borrowed from a lending institution is considered to be from the person who is the obligor on the note and not from the lending institution itself, 44.11.405, ARM.

- The approximate number of people attending,
- A description of the event, and
- The total amount of contributions received, 44.11.406, ARM.

There is, however, an *exception to this rule*. If an individual donates \$35 in the aggregate or more, the donation or purchase must be recorded and reported individually. We recommend using a contribution envelope that requests basic contact information to ensure an accurate tracking of individual contributions. In addition, anonymous contributions are illegal. Even proceeds collected from Pass the Hat or raffle types of events are required to be recorded.

**Example:** An individual contributor attends multiple fundraising events. The first event may be a BBQ at a volunteer’s home. A basket is left at a table for donations. The individual puts \$20 in the donation basket. The following week that same individual purchases a raffle ticket valued at \$25; the aggregate contribution for this individual is \$45. Since the second fundraiser puts the aggregate contribution over the \$35 disclosure requirements, this contributor has to be itemized within the report. If the committee did not keep track of at least the basic information (name and date), it would be impossible to meet this reporting requirement.

## In-kind contributions

In-kind contributions must be accounted for and reported in the same manner as other contributions. The in-kind item or service must be identified in detail.

Frequently, in-kind contributions come in the form of services for which charges usually are made but which are rendered to the political committee free of charge or at a lesser amount than is customary.

A donation of goods is also an in-kind contribution. For instance, a person might donate beef for a fundraiser. The fair market value must be recorded as an in-kind contribution.

If something is sold to the political committee at less than fair market value, the difference must be recorded as an in-kind amount.

Certain small in-kind contributions, such as food brought to a potluck dinner or small items donated to a garage sale, need not be reported, although the political committee may wish to keep a record of them.

Sometimes goods donated to a political committee are intended to be sold; an art auction fundraiser is a common example.

**Example:** The fair market value of the donated piece of art is recorded and reported as an in-kind contribution by the donor. The purchaser of the art at the auction also makes a contribution to the committee in the amount paid for the item. This information must be recorded and reported as well.

The value of the services, property, or rights contributed in-kind shall be deemed to have been consumed in the reporting period in which received. The value of an in-kind contribution shall be determined as follows:

**44.11.403, ARM(1)** A candidate or political committee shall report an in-kind contribution on the appropriate reporting schedule and shall describe what was received consistent with the reporting requirements specified in ARM 44.11.402.

(2) A candidate who makes personal expenditures benefitting his or her campaign shall also report and disclose the expenditures as in-kind contributions or loans to the campaign; see ARM 44.11.501.

(3) The total value of the services, property, or rights contributed in-kind shall be deemed to have been consumed in the reporting period in which received.

(4) The value of an in-kind contribution shall be determined as follows:

(a) It shall be reported as its fair market value at the time of the contribution;

(b) It shall be reported as the difference between the fair market value at the time of the contribution and the amount charged the contributee;

(c) It shall be reported as the actual monetary value or worth at the time of the contribution; or

(d) If due to extraordinary circumstances none of these provisions would be appropriate or no reasonable fair market value can be established, it shall be sufficient to report a precise description of such in-kind contribution so received.

(5) Upon receiving or making an in-kind contribution, its value shall be calculated and reduced to writing, reflecting the calculation method used under (4) and the writing shall be retained by the treasurer and available for inspection as provided by 13-37-111, 13-37-208, and 13-37-209, MCA. The value shall also be reported consistent with ARM 44.11.502.

### **Interest, rebates, and refunds**

A receipt of interest earned on a checking or savings account is not considered a contribution to a campaign. Other receipts to a campaign might include rebates and refunds, although they are not contributions. However, they all must be recorded and reported under fundraisers so accounts will balance.

### **Earmarked Contributions**

An earmarked contribution, which is legal, is one made to a political committee but designated (“earmarked”) for use in a particular campaign. An earmarked contribution must be recorded and reported *regardless of amount* in the name of the political committee that originally provided the contribution. In addition, the name of the person who passed the contribution along must be recorded and reported. See Part 3, Campaign Reporting section of this manual.

**Example:** An earmarked contribution of money sent to a state political committee by a national political committee with the stipulation that it be equally divided among designated candidates.

### **Donations/items not considered contributions**

Some things are not included in the legal definition of “contribution.” For instance, any services provided by *individuals* who volunteer their time without compensation need not be recorded or reported, 13-1-101(9)(b)(i), MCA.

**Example:** Homemade food brought to a potluck dinner.

## Limitations on Contributions

### Unlimited contributions

There is no limit on the amount that an individual or a committee may contribute to a political committee.

### Contribution limitations

The passage of Initiative 118 in 1994 limited the amount that individuals (other than the candidate), political committees—both independent committees and political party committees—may contribute to a candidate, 13-37-216, MCA.

Limitations are not for the entire election cycle but are applied to EACH election: primary and general, if there is a contested primary.

**“Election” is defined as:** The general election OR a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only ONE election to which the contribution limits apply. If there is a contested primary, then there are TWO elections to which the contribution limits apply, 13-37-216(5), MCA.

### Individual and political committee limitations

An individual or political committee may contribute the following amount for an election:

Governor/Lt. Governor	\$680
Other statewide offices	\$340
Other public offices	\$180

These limits include **both** monetary and in-kind contributions effective on December 8<sup>th</sup>, 2017.

### Aggregate total political party committee limitations

Political party committee means a political committee formed by a political party organization and includes all county and city central committees. Some examples are the Montana State Democratic Party, Gallatin County Republican Action Club, or Helena Republican Women.

Contributions to candidates by political party committees are subject to the following **aggregate limits from ALL political party committees:**

Governor/Lt. Governor	\$24,500
Other statewide offices	\$8,800
Other public offices	\$3,550

State Senate \$1,450

Other public offices \$900

These limitations apply to **EACH** election: the contested primary and the general. These limitations include **BOTH** monetary and in-kind contributions.

**Example:** A candidate for the Secretary of State with a contested primary can receive a total of \$8,850 per election, which can consist of one check or multiple smaller checks from a political party committee or multiple political party committees. When the candidate has reached the \$8,850 aggregate for political party contributions they cannot accept any more political party contributions. It is important for the candidate campaign to track the political party contributions to avoid exceeding the limits. See exception, ARM 44.11.225(3).

### Aggregate Political limitations for state legislative candidates

A limitation is imposed on state legislative candidates as to the *total* contributions they may receive from *all* political committees (other than political party committees), 13-37-218, MCA. This limitation is commonly referred to as the total political committee contributions. Political committee contribution limits are subject to change based on an inflation factor and are published by the Commissioner as an administrative rule prior to the time legislative candidates begin their campaigns, 44.11.226, ARM.

For the current election cycle, the aggregate limit (total) a legislative candidate can receive from all independent committees is \$2,850 for Senate candidates and \$1,750 for House candidates. **NOTE: These limits are for the entire election cycle (include both primary and general in the limit).** In-kind contributions are counted in these aggregate limits.

For the most current information on contribution limits, visit [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

## ILLEGAL CONTRIBUTIONS

### Corporate and Union contributions

While corporations and unions are allowed to make independent expenditures related to a candidate, they are prohibited from making direct, in-kind, or coordinated contributions to a candidate, 13-35-227, MCA. Earmarked contributions by a corporation or union to a person as a contribution designated for a candidate's campaign are also prohibited.

Corporations or unions who intend to make contributions to a candidate, may establish a fund that consists only of funds solicited from non-corporate or non-union sources, 13-35-227(3). **Political committees who receive funds from corporations or unions should be aware of the prohibition on using those funds to make contributions to candidates, and should only use the funds for independent expenditures.**



Most candidates and large corporations or unions know this rule; however, some supporters may unwittingly write contribution checks on their business accounts. In such cases, the treasurer of the candidate or the political committee receiving the contribution will have to verify whether it is an individual or corporate contribution. Looking at the check itself will not reveal in every case whether it is drawn on a corporate account—for instance, many corporations are designated in ways other than the familiar “Inc.” If unclear, the best practice is to segregate the funds into the independent expenditure account.

### **Business contributions**

Any check deposited by a campaign treasurer that is drawn on a business account must be recorded (and reported as necessary) in the name of the individual(s) actually making the contribution—not in the name of the business. See page 27 of this manual for incidental committee contributions. The treasurer of the candidate or the political committee receiving the contribution must verify exactly who is making the contribution. **Accepting a contribution from a business requires the business to file as an incidental committee, so committees should encourage their contributors to use personal checks.**

### **Anonymous contributions**

Anonymous contributions are illegal in Montana, 13-37-217, MCA. All contributions are required to have a source. A contribution is defined by law, in part, as “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or ballot issue. . .” 13-1-101(9), MCA.

Detailed information on contributors of less than the threshold reportable amount of \$35 need not be disclosed on reporting forms; however, campaign records must maintain the amount and the contributor’s information. Contributions must be refused when the source is not known or when the person offering money wishes not to be known. Fundraisers tend to often be misunderstood, below are two examples of fundraising reporting scenarios:

**Example:** If a contributor attends four pass the hat events and puts \$15 in the hat each time, the contributor has exceeded the aggregate of \$35 which requires detailed reporting.

**Example:** A contributor purchases a dinner ticket for \$25 for a fundraiser event put on by the committee. The dinner ticket, regardless of the price, is a contribution even though the contributor receives a dinner in exchange for the ticket and will need to be recorded with the amount and contributor information for records in the event they contribute over the \$35 mark in the future.

We recommend using an envelope for the attendees to put their cash in. The envelope should at least include the names of the attendees and the amounts each gave, 44.11.702, ARM. This small step can avoid some complicated accounting for your campaign. If your campaign does inadvertently receive an anonymous contribution the best thing to do is to donate it to an organization, and maintain a record of the donation.

## Money laundering

Use of an intermediary to pass funds along from a third party as a means of concealing the identity of the true donor is illegal. A campaign may not knowingly accept a contribution in a name other than that of the person who is the actual contributor, 13-37-217, MCA.

## Contributions from foreign nationals prohibited.

Federal law prohibits foreign nationals from making contributions in connection with any state, local, or federal election. Contributions cannot be made directly, or through any other person. Further, no person may solicit, accept, or receive such a contribution. If your campaign receives a check with a foreign address, it could be that of a US citizen that is overseas for military purposes, etc. The campaign should note that on the report so that the staff at the COPP knows that your campaign researched the contribution to ensure that it is not a foreign national.

## COMMITTEE DEBTS AND OBLIGATIONS

Reporting of campaign debts and obligations is one of the most commonly missed requirements during the reporting process. **A committee shall report the full name and mailing address of each person or entity to which the debt or obligation is owed at the end of a reporting period, including the amount, date contracted, and a detailed purpose of each debt. If the exact amount is unknown at the time, the estimated amount shall be reported.** (44.11.506, ARM)

**Example:** A committee orders 1,000 campaign mailers to be sent the Thursday before Election Day in a specific voting district, and receives an estimate from the vendor for the cost of the mailer and postage. The committee must report the obligation on the next report (including C-7E or in Schedule C on a C-6 Finance Report) even though the vendor has not yet been paid for the mailer and postage.

All debt or obligations must be in writing at the time it is incurred and must be signed by the parties and retained for inspection.

## Expenditures

An expenditure is defined in law as “a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made by a candidate or political committee to support or oppose a candidate or ballot issue; or for intended use in making independent expenditures or in producing electioneering communications, MCA § 13-1-101(17)(a). As such, an expenditure means just about anything a political committee expends in support of or in opposition to a candidate or ballot issue. Expenditures that are exempt from the reporting requirements are; bona fide news stories, commentary, blogs, or editorials, and communications by a membership organization or corporation to its members, stockholders or employees.

All money spent must be by check, debit card, wire transfer, or other electronic means that clearly identifies the person or entity receiving payment—except for money from petty cash, 44.11.409(3), ARM. The person who draws the check must be an appointed treasurer or an appointed deputy treasurer who has been certified to the Commissioner of Political Practices. All expenditures must be supported by a contemporaneous written agreement, invoice, billing statement, or similar documentation appropriate to the transaction that describes the services provided, the billing period identifying the specific dates on which services were provided (44.11.502(6), ARM).

A small political committee might be able to note all expenditures in its checkbook, but a larger political committee might need to introduce cards or ledger—manually or electronically—to maintain accounting control.

**Example:** An expenditure card might be prepared for each recipient of political committee checks. The cards or ledgers could then be organized by categories of expenses that would assist the political committee in knowing where its resources are being spent and would be helpful in preparing reports.

With computer capabilities, the tasks of recording, aggregating and reporting expenditures are made easier. Since online reporting is required for political committees, regular data entry of the expenditure transactions may be helpful. In any case, expenditures must be recorded showing each person or business to whom an expenditure is made including:

- The full name,
- The complete mailing address,
- The date,
- The amount, and
- The purpose, quantity, and subject matter, candidate or issue

## Petty Cash

A petty cash fund is permitted. A statewide political committee may establish a \$100 petty cash fund that may be replenished to that figure each week.

For other than statewide committees, a \$25 petty cash fund is allowed which also may be replenished each week. In both cases, money from the fund may be spent for office supplies, transportation expenses, postage stamps and other small necessities in an amount less than \$25. Petty cash may not be used for the “purchase of time, space, or services from any communications medium,” 13-37-215, MCA.

Each time an expenditure is made from the petty cash fund, a receipt voucher must be completed showing:

- The date money was withdrawn,
- The exact amount taken and by whom,
- The name of the person or vendor to whom paid, and
- The purpose (Office supply stores have petty cash fund receipt vouchers.)

When the fund begins to run low, it may be replenished—but not more often than once a week—by drawing another check for the amount of the total of the vouchers.

**Example:** if a \$100 fund is down to \$8.73 then the total of the vouchers for money expended should be \$91.27. A check for that amount could then be written to bring the fund back to \$100. The vouchers should be attached to the canceled check and maintained as part of the permanent records of the political committee, 44.11.503(3)(a), ARM.

The total of petty cash expenditures to be recorded and eventually reported will be the total of checks written to petty cash.

Many political committees either organize or participate in an election for the purpose of independent expenditure activities. Independent expenditure traditionally means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee, 13-1-101(24) MCA. Starting with the 2016 elections, an independent expenditure also includes electioneering expenditures as described in pages 32-33 of this manual.

**Example:** A political committee named Montanans for a Brighter Future organizes to support candidates that advocate for higher graduation standards. They identify three candidates that they want to do an ad buy for. The political committee does not coordinate with any of the candidates therefore making the expenditure independent. The political committee is required to disclose the expenditure information detailed above but **also needs to include the candidates' names that the expenditure benefitted.** Additionally, the committee will want to add the names of the candidates these expenditures supported to their C-2 Statement of Organization, under the Purpose section.

**Example Reporting:**

Payee Name: Mary's Print Shop

Mailing Address: PO Box 456 Helena, MT 59601

Date: 11/12/2015

Purpose: Brochure Education printing to support 2 Candidates 1000 brochures at \$333.33 each;

Candidate/Issue; Charlie Brown, SD 12, and Linus Sinus, Gov..

Amount: \$1,000

A common allegation the COPP receives through the formal complaint process is that of coordination. Coordinated expenditure is another type of expenditure that some political committees participate in. A coordinated expenditure means an expenditure that is made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate, political committee or an agent of either. A coordinated expenditure is required to be reported by the political committee or candidate as an in-kind expenditure and the candidate or other political committee receiving the in-kind expenditure is required to report it as an in-kind contribution.

A best practice to avoid coordination is prior to engaging in a reportable election activity, establish a written firewall policy to prevent the flow of information about the candidate's plans, projects, activities, or needs from the persons providing services to the

**Independent Expenditures**

**Coordinated Expenditure**

candidate or persons involved in the creation, production, or dissemination of the communication or activity. The firewall policy should be distributed to all relevant employees, consultants, and clients affected by the policy and filed with the COPP. The firewall policy will be made publicly available on the COPP website, 44.11.602 ARM.

**Example:** Montanans for a Brighter Future independent political committee contacts a candidate letting them know that they want to purchase a radio ad on their behalf. The cost of the radio ad exceeds the contribution limit therefore the candidate campaign will be required to pay the difference. The in-kind expenditure must be reported as an in-kind contribution to the candidates' campaign. The cost of the radio ad is \$500. The contribution limit for this particular candidate is \$400. The candidate is required to report this \$400 in-kind contribution from the Montanans for a Brighter Future. The detail must include the name, address, date, amount, and description of the in-kind contribution. The Montanans for a Brighter Future must report the expenditure including the specific details such as which candidate the coordinated expenditure benefitted. The candidate's campaign must also pay the difference of \$100 to the radio station which exceeded the contribution limit. This also must be reported on the political committee's financial report.

### **Payroll Account**

Large political committees that employ salaried staff may find a separate payroll account helpful. Such an account may be established in the same depository as the regular political committee account.

In calculating a payroll, the treasurer would include the gross salary of staff, the employer's contribution to Social Security (FICA), workers' compensation, unemployment insurance, and any other employer liability.

The total of the payroll would then be deposited periodically into the payroll account (for political committees using such an account) by a check drawn on the regular account. This check is not an expenditure but a transfer of funds. Checks would then be drawn on the payroll account to pay staff members the net amounts due them.

The amounts for employee withholding, along with the amounts for employer obligations, would remain in the payroll account until the funds were required to be remitted to state and federal revenue departments. As checks are drawn on the payroll account, each amount would be recorded as a political committee expenditure.

While a payroll account introduces more complexity to political committee accounting, its use conforms to basic accounting principles.

### **Savings Account**

Funds not currently needed by a political committee may be deposited into savings or other interest-bearing accounts or may be used to purchase certificates of deposit. To do so, a check would be drawn on the political committee checking account. This would not be reported as an expenditure.

### **Bank Service Charges**

Bank service charges (if any) are typically not paid by a check drawn on the political committee account; however, bank service charges should be recorded in the accounts to ensure balanced books and should be reported as expenditures on financial reports.

## PART 3: POLITICAL COMMITTEE REPORTING

### Statements and Reports

#### Obtaining Forms



Political committees are required to submit their reports electronically using the COPP's online service. The Campaign Electronic Reporting Service can be accessed from the homepage on the website [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov). The website also offers guidance for electronic reporting. Staff is available to answer questions and assist in navigating these services.

#### Who must file statements

The filing requirements of Montana Law apply to every political committee with the exception of those associated with certain school districts and certain special districts and those political committees that their activities qualify as a de minimis act, see page 33 for more information on the de minimis act.<sup>5</sup>

#### Who must file reports

With the exceptions noted above, all political committees must file a Statement of Organization, Form C-2, to certify their treasurers and depositories and to provide other information required by the Commissioner of Political Practices, 13-37-201 and 205, MCA. Political committees that file reports with the Federal Election Commission (FEC) may file copies of their FEC statement forms instead of using Montana forms, as long as they meet the reporting and disclosure requirements of Montana law, 44.11.305 ARM.

Political committees that file reports with the FEC may file copies of their FEC reports (instead of Montana forms) if these reports “fully disclose the source and disposition of all funds used to influence elections in Montana,” 44.11.305(1)(a), ARM.

Nonresident political committees that participate in Montana elections also must file finance reports disclosing their contributions and expenditures in Montana, 44.11.305(2), ARM.

All other political committees must file periodic reports disclosing campaign contributions and expenditures, as well as other information required by law, 13-37-229 and 232, MCA.

Incidental political committees use Form C-4 to report their financial activities; other political committees use Form C-6. Political committees (with the exception of independent committees (PAC), also use a special notice, Form C-7, for large contributions received and Form C-7E for large expenditures made close to Election Day.

Committee finance report filing requirements apply to all political committees with the exception of county, municipal, and school committees whose expenditures do not exceed \$500 in all elections in a campaign, 13-37-226(3), MCA.

All statements and reports of political committees must be filed with the Commissioner of Political Practices by 5:00 pm on the reporting deadlines.

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<sup>5</sup> The political type actions of certain school districts and certain special districts are exempt as well as activities that qualify as a de minimis act. For more information on special districts and school districts see Footnote 1 on page 8.

## Where to file statements and reports

All statements and report filings now take place online using the Campaign Electronic Report System (CERS) with the deadline to be submitted by 5pm the date due. A hard paper copy is no longer necessary or required when utilizing the online filing system. If hand-delivered to the Commissioner, which only applies to a committee who has received the electronic waiver, all statements and reports meet filing deadlines if received before 5pm on the date due. If mailed, statements and reports must be deposited in “a U.S. Post Office, postage pre-paid, no later than 5pm *three days before* the prescribed filing date,” 44.11.302, ARM.

## Deadlines

Statements of Organization and Finance Reports need to be filed electronically using the CERS program by 5pm on the due date, a hard copy is no longer necessary or required as follow up with the electronic filing. **We encourage committees to file early and not wait until the end of the due day to submit reports.** Faxed statements and reports are considered to be filed in a timely manner if received by the filing deadline; however, a hard copy with an original signature must also be mailed to complete the filing. (This only applies to committees who have received the electronic waiver.)

## Maintaining records

Political committees are required to preserve campaign accounts and reports for a minimum of four years or for the length of the term of office, whichever is longer, 13-37-208(3), MCA and 13-37-231(2), MCA.

## Report periods and due dates

The time periods covered by reports as well as the due dates for filing vary, depending upon whether a committee is statewide, state district, or local, 13-37-226 and 13-37-228, MCA.

For clarification, a specific calendar of reporting periods with due dates is developed for each category of political committee prior to the election cycle. Reporting calendars are available on the Commissioner’s website, [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov).

Please note; in addition to the regularly scheduled reports that are due, contributions and/or expenditures that are received close to an election have additional reporting obligations that are triggered by the campaign itself. See 13-37-226(1)(d), (2)(d), (3)(b), (4), and (5)(b).

## Failure to file statements/reports

If a political committee fails to file the statements and reports as required, the Commissioner notifies the treasurer of the noncompliance. If the political committee treasurer fails to comply after being notified, the Commissioner may issue an order of noncompliance or a formal complaint could be filed, 13-37-121, MCA.

## Preparing Statements

### Form C-2. Statement of Organization

Most political committees are required to complete a Statement of Organization (Form C-2) that must be filed within five days after a committee receives a contribution or makes an expenditure, 13-37-201, MCA. A committee that files reports with the Federal Election Commission, however, may use a copy of its FEC form for filing rather than a state Form C-2, as long as it meets the disclosure requirements of Montana law.

## **Amended statements**

Many committees are on-going, such as political party committees and independent committees; once an initial statement has been filed, an on-going committee need only file amended statements when changes occur. If a committee treasurer is removed or a depository is changed, then an amended statement must be filed within five days, 13-37-204, MCA. An amended statement identifying other changes, such as addresses, telephone numbers, candidates or issues supported or opposed, and officers should be filed within five days as well.

## **Naming your committee**

The full name of the committee and its complete mailing address is required to avoid any potential confusion with similarly named committees. For instance, “Democratic Committee, Great Falls” would be insufficient as would “Cascade County Democratic Committee,” because there may be several Democratic committees in the county and/or city.

Political committees must name and identify themselves in a way that specifically identifies their economic or special interest, or employer. For details, see 13-37-210, MCA and the interpretation and enforcement opinion on our website.

A Statement of Organization will be rejected if the name of the committee does not conform to the law. Until another statement is filed with a name that is acceptable, a committee is enjoined from making any expenditures which, essentially, would curtail any political committee activity.

All committee officers, in addition to the treasurer, must be listed on the Statement of Organization (or on an attached sheet, if more space is required).

## **Other requirements**

One section of the statement requires the “*Name of Candidate(s) or Ballot Issue(s)*” that the committee supports or opposes. Check the appropriate box, and provide the date of the election. A political committee involved with a number and variety of candidates and ballot issues may attach a separate sheet listing them and indicating support or opposition.

The box at the bottom of the form should be checked only by a county, municipal, or school committee that does not expect contributions or expenditures to exceed \$500. If \$500 is subsequently exceeded, the committee must file an initial finance report within five days and file future reports as required, 44.11.304, ARM.

## **Preparing Reports**

### **Reporting Forms**

Incidental political committees use Form C-4 to report financial activities; all other committees use Form C-6.

Large contributions from a single source received by committees between the last reporting day included in the pre-election report and Election Day are reported on Form C-7. This form is also used by candidates. Filing instructions are provided below for C-4, C-6, C-7 and C-7E forms.



Federally-filing committees may use copies of their FEC reports instead of Montana forms. Committees headquartered outside of Montana that do not file FEC reports may file reports submitted to their home states provided such reports satisfy Montana reporting requirements; otherwise, such committees must file using Montana forms, 13-37-227, MCA; 44.11.305, ARM.

## Form C-4. Incidental Political Committee Finance Report

### Reporting Period

The time periods covered for all reports (initial and periodic) include up to the fifth day before the due date of the appropriate report. All accounts must be current up to the fifth day before the due date. A closing report covers the period from the last report to the final closing of the books.

### Name and Address

The full registered name of the incidental committee should be entered together with the complete mailing address.

### Cash Summary: Money Received and Spent

This part of the report summarizes only cash transactions for the reporting period. The summary documents Form C-4 schedule totals. Care must be exercised when transferring totals from schedules to the Cash Summary to ensure totals from these columns are accurately entered.

Line 1 in the summary, *receipts*, is the total for the reporting period from Schedule A.

Line 2 in the summary, *corrections*, reflects either an addition or subtraction from Schedule C.

Line 3 in the summary, *expenditures*, is the total paid out for the reporting period from Schedule B.

### Certification

Electronically filed reports do not require an original signature. The access ID is given to the treasurer of the political committee. CERS also requires that the users set-up a username and password. These three steps offer certification when they file and allow the COPP to eliminate the need for paper copies of the submitted reports.

## Form C-4. Schedule A: Receipts

### Contributions

All contributions from individuals, both monetary and in-kind should be reported here. Note: only one name is to be listed for each contribution. A contribution drawn on a joint checking account should not be reported in the names of the individuals printed on the check but should be reported in the name of the person who signed the check, unless there is written authorization by the parties to split the contribution. Even if the amount of the contribution written on the check is to be split, the amount on the check should be divided and reported as two separate individual contributions.

### Rebates, Refunds, Other Miscellaneous Receipts

This section would be used, for example, to report a refund from a candidate or vendor for overpayment.

## Form C-4. Schedule B: Expenditures

Expenditures made directly by committees are reported in this section and the full name and complete mailing address of the candidate or committee is reported under “payee.”

If an expenditure is made on behalf of a candidate or committee (in-kind) and it is coordinated with the candidate or committee, the full name and complete mailing address of the recipient is reported under “payee” and the name of the candidate or committee on whose behalf the expenditure was made is reported under “purpose.”

Expenditures made independently of candidates and committees also are reported in this section. The full name and complete mailing address of the candidate or committee is reported under “payee,” and the fact that the expenditure was independent is reported under “purpose.”

See 44.11.103(11) and (25), ARM for definitions of “independent expenditure” and “coordinated expenditure.”

## Form C-6. Political Committee Finance Report

### Reporting Period

The time periods for all reports (initial and periodic) include all contributions, obligations, and expenditures made up to the fifth day before the due date of the appropriate report. All accounts must be current up to the fifth day before the due date. A closing report covers the period from the last report to the final closing of the books.

### Name and Address

The full registered name of the political committee must be entered together with the complete mailing address.

### Cash Summary; Money Received and Spent

This part of the report summarizes only cash transactions for the reporting period and *does not include in-kind contributions*. (For more information on in-kind contributions see page 12.) The summary documents totals from the schedules of Form C-6. Care must be exercised when transferring totals from schedules to the Cash Summary to ensure totals from “Primary” and “General” columns are accurately entered.

Line 1: In the summary, *Cash in Bank*, is the ending balance of the previous report (or zero if this is the initial report). Any discrepancy between the previous ending balance and the beginning balance for the current reporting period must be explained. Please note that the beginning balance (cash in bank) includes all accounts and funds (checking savings, payroll, money market, and certificates of deposit).

Line 2: *Receipts* for the reporting period, is added to *Cash in Bank*. The resulting Subtotal is then entered.

Line 3: *Expenditures* for the reporting period, is entered and then subtracted from the Subtotal, resulting in the ending balance *Cash in Bank*. This balance should

correspond with the committee's accounts as of the closing date of the reporting period; that is the fifth day before the report is due.

### **Certification**

Electronically filed reports do not require an original signature. The access ID is given to the treasurer of the political committee. CERS also requires that the users set-up a username and password. These three steps offer certification of the information which allows the COPP to eliminate the need for paper copies of the submitted reports.

## **Form C-6. Schedule A: Receipts**

### **Loans**

Any loan, of whatever amount, made during the reporting period is recorded here—even if the loan is repaid during the same reporting period. (Any repayment for a loan would be reported as a Payment, the electronic filing service automatically tracks the payments made and the balance owed for debts and loans. The date of the loan is required.

### **Interest, Rebates, Refunds, Other Miscellaneous Receipts, and Fundraisers**

This section is used to report all types of receipts, some of which are not actual contributions. The most common of these are interest earned from the committee's account, rebates, and refunds.

**Example:** A rebate of ten percent given by a vendor for a bill that was promptly paid.

Total receipts from a fundraiser for receipts of less than \$35 should also be reported here. These fundraiser receipts may be lumped together and reported with:

- The date of the fundraiser,
- A description of the fundraising event, and
- The approximate number of people attending.

Each fundraising event should be reported separately. Any expenses associated with a fundraiser should be reported in Schedule B as expenditures.

### **Independent Committee Contributions**

All contributions received from independent committees, regardless of amount, and including both monetary and in-kind, should be reported here. The *full registered name* of the political action committee should be used; and the complete mailing address and the date the contribution was received must be reported.

Use this portion of Schedule A to report any *earmarked committee contributions*, of whatever amount, in the name of the original donor.

### **Political Party Contributions**

All contributions received from political party committees, regardless of amount, and including both monetary and in-kind, should be reported here. The *full registered name* of the political committee should be used; and the complete mailing address and the date the contribution was received must be reported. Use this portion of Schedule A to report any *earmarked committee contributions*, of whatever amount, in the name of the original donor.

**Incidental Committee Contribution**

All contributions received from incidental committees, regardless of amount, including both monetary and in-kind, should be reported here. The *full registered name* of the incidental committee should be used and the complete mailing address and the date the contribution was received must be reported. Use this portion of Schedule A to report any *earmarked committee contributions*, of whatever amount, in the name of the original donor.

**Other political committee contributions**

All contributions received from any other political committees, regardless of amount, including both monetary and in-kind, should be reported here. The *full name* of the committee should be used and the complete mailing address reported. Use this portion of Schedule A to report any *earmarked committee contributions*, of whatever amount, in the name of the original donor.

**Individual Contributions of \$35 or More**

All contributions from individuals (both monetary and in-kind) of \$35 or more should be reported here. Note: only one name is to be listed for each contribution. If a check is received with the intention that the dollar amount be split between two individuals, then two separate contributions must be reported. The complete name, mailing address, occupation, employer, and total to date are required for all contributors over \$35. A perk for using the online service is that the service can track the total to date for each contributor.

**Form C-6. Schedule B. Expenditures****Petty Cash**

The total of all checks written to petty cash for the period should be reported in this section. No further itemization of petty cash expenditures is required on the reporting form; however, receipt vouchers for money spent from petty cash should be attached checks drawn to replenish the fund and retained in the campaign records.

**Other Expenditures** All other expenditures of the committee must be listed giving the full name and complete mailing address to whom paid, as well as purpose, date, and amount. All expenditures should be reported in the appropriate “primary” or “general” election column.

Political committees should be aware of the limitations on amounts that may be contributed to candidates, and aggregate limitations to legislative candidates from political committees, 13-37-216(2), MCA, 44.11.226 and 227, ARM.

Expenditures made directly to candidates and committees are reported in this section. The full name and complete mailing address of the candidate or committee is reported under “payee.”

If an expenditure is made on behalf of a candidate or committee (in-kind) and it is coordinated with the candidate or committee, the full name and complete mailing address of the recipient is reported under “payee” and the name of the candidate or committee on whose behalf the expenditure was made is reported under “purpose.”

Expenditures made independently of candidates and committees are reported in this section; and the full name and complete mailing address of the vendor is reported under “payee” and the fact that the expenditure was independent is reported under “purpose.”

The purpose must include the name of the vendor that the independent expenditure was intended to benefit.

**Example:** Montanans for a Brighter Future purchases an advertisement that advocates support for two candidates for school trustee seats. The two candidates do not have knowledge of the advertisement. The report in this example should include the payee name, the mailing address, date paid, and the purpose. The purpose would include the name of the two candidates and the value attributed to each candidate and subject matter of advertisement.

See 44.11.103(11) and (25), ARM for definitions of “independent expenditure” and “coordinated expenditure.”

## **Form C-6. Schedule C: Debts Not Yet Paid.**

Show unpaid debts of whatever amount. The full name and complete mailing address of the individual or business to whom the debt is owed, the nature of the debt or loan, the date incurred, and whether the obligation is for the primary or the general election must be reported. Debts and obligations must continue to be reported so long as they remain outstanding. Unpaid loans are also reported here.

If the exact amount of a debt or obligation is not known, the estimated amount must be reported, 44.11.506(2), ARM.

**Example:** If the committee has purchased printed materials, but an invoice has not yet been received and paid before the end of the reporting period, the amount (or the estimated amount) of the committee’s outstanding obligation must be reported. As with all expenditures, the debt must be itemized as to its purpose and candidate or issue and subject matter.

All debts, loans, and obligations need to be backed up in writing. If the debt is an oral agreement for services, the agreement must be contemporaneously reduced to writing at the time it is made and must be signed by the parties and retained by the campaign, 44.11.506(4), ARM.

## **Form C-7 & C-7E Notice of Pre-Election Contributions & Expenditures**

Pre-election contributions are reported using Form C-7, and pre-election expenditures are reported using Form C-7E. All information included on the C-7 and C-7E reports must also be reported on the next regular post-election C-4 or C-6 that is filed with the COPP. Another advantage of using CERS is that the program will automatically insert the transactions reported on the C-7 and C-7E into the next required report.

The application of 13-37-226, MCA and the requirement to file within 2 business days reports of late election contributions and expenditures is elegant and catches almost everything that happens for a committee close to an election day. Please remember that obligations incurred, but not yet paid, are expenditures and must be reported.

**Example:** An Independent Committee typically engages in election activity that supports or opposes a particular candidate. They plan to do a last minute newspaper advertisement which references a candidate 10 days before the election in the district where the candidate is running, but they do not say in the advertisement that they support or oppose the candidate. The Committee, having read subsection (1) believes they do not have a reporting obligation. Incorrect, the advertisement would fall under the reporting obligation of (4).

**Best practice is to report any contributions made and expenditures received by your committee in the 17/20 days preceding an election in order to avoid a campaign practice violation.**

1. All Committees who receive a contribution or make an expenditure supporting or opposing a statewide candidate or ballot issue must report within two business days all contributions received of \$200 or more if received within 20 days before the election.
2. All Committees, not subject to reporting under the statewide calendar (1) above, who receive a contribution or make an expenditure supporting or opposing a state district candidate or issue must report within two business days all contributions received of \$100 or more if received within 17 days before the election.
3. Local Committees, not subject to reporting under the state district calendar (2) above, who receive contributions or make expenditures exceeding a total of \$500 for the campaign, must report within two business days all contributions received of \$100 or more if received within 17 days before the election.
4. Independent, Political Party Committees, and Incidental Committees, not subject to reporting under either (1) or (2) above, who receive a contribution of \$500 or more within 17 days before an election, or who make an expenditure of \$500 or more for an electioneering communication within the 17 days before an election shall file a report within two business days of each contribution and expenditure.

## PART 4: REQUIRED ATTRIBUTION & NOTICES

### Attribution

All election communications, electioneering communications and independent expenditures must include a “Paid for by. . .” attribution.

Election communications, electioneering communications, or independent expenditures financed by a political committee need to list: the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer. Election communications, electioneering communications, or independent expenditures financed by a corporation or a union need to have: the name of the corporation or union, its chief executive officer or equivalent, and the address of the principal place of business. See 13-35-225(1), MCA.

**Example:** An appropriate attribution for a political committee is:

Paid for by the Committee FOR the Levy  
Linda Evans, treasurer  
PO Box 292  
Glendive, MT 59330

**Example:** Appropriate attributions for a political committee that is a corporation or union are:

Corporation:  
Paid for by Pretty Good Manufacturing Co.  
Susan Smith, CEO  
1000 Industry Drive  
Helena, MT 59605

Union:  
Paid for by Montana Grocery Workers Union  
James Miller, President  
2000 Shopping Cart Avenue  
Helena, MT 59605

All election materials are required by 13-35-225, MCA, to clearly and conspicuously include the appropriate attribution language. To ensure compliance with this directive, the Commissioner established the following specifications (44.11.601, ARM):

- The reader should have no difficulty locating and reading the attribution language;
- The attribution language should be of sufficient type size to be clearly readable by the recipient or reader of the communication;
- The language should be contained in a printed area or segment set apart from the other contents of the election materials;
- The language should be printed with a reasonable degree of color contrast between the background and the printed statement; and

- In the case of yard signs or other campaign signs, the attribution language should appear on the side of the sign that contains the campaign message;
- For broadcast election materials that contain audio content, the attribution shall be spoken in the communication;
- For broadcast election materials containing visual content, the attribution shall be displayed in the communication.

On rare occasions some election materials are too small for the inclusion of the attribution language and other information required by 13-35-225, MCA. When this occurs, the person who financed the election material must file a copy of the material with the Commissioner, together with the information required by the statute at the time or ahead of time of public distribution.

The attribution is one of the most commonly missed campaign practices. COPP staff field dozens of phone calls and emails every week during an election year regarding missing attribution language on election materials. When the staff is alerted of the missing attribution, the political committee is contacted informally in hopes that the election material is promptly corrected. If information required by 13-35-225, MCA, is omitted from election materials and the person who financed the material discovers the error, they must file notification of the deficiency with the Commissioner within two business days of discovery; bring the election material into compliance, or withdraw any noncompliant material from circulation as soon as possible. Correcting the election material and following these steps can sometimes avoid a formal complaint and/or be a mitigation factor if a formal complaint is filed.

## Clean Campaign Act

The "Clean Campaign Act" requires committees to provide candidates with copies of campaign advertising in print media, in printed material, or by broadcast media that is intended to be distributed within the 10 days prior to an election, 13-35-402, MCA. The only exception to this rule is if one of the following apply:

1. Identical material was already published or broadcast, or
2. The material does not identify or mention the opposing candidate.

Copies of the campaign advertising must be provided before or at the time the material is published, broadcast, disseminated, or otherwise made available to the public, *see* ARM 44.11.607. The material must be provided to all other candidates who have filed for the same office and who are individually identified or mentioned in the advertising. The copy must be provided to the candidates by electronic mail, facsimile transmission, or hand delivery, on or before the date of distribution to the public. If the material is for broadcast media, the copy must be a written transcript of the broadcast. If a candidate does not have either electronic mail or fax, a hand delivered copy must be provided before distribution to the public, and followed up with a copy by direct mail.



## Electioneering Communication

The 2015 Montana Disclose Act added a couple of new important areas of reporting responsibilities for political committees. One of these new areas is electioneering communication.

### What is an electioneering communication?

An electioneering communication is a paid communication that:

1. Is publically distributed by one or more modes of communication listed in the statute 13-1-101(15)(a), MCA that:
  - a. Is made within 60 days of the initiation of voting in an election;
  - b. Does not support or oppose a candidate or ballot issue
  - c. Can be received by more than 100 recipients in the district voting on the candidate or ballot issue;
  - d. Meets one or more of the following criteria:
    - i. Refers to one or more clearly identified candidates in the election;
    - ii. Depicts the name, image, likeness, or voice of one or more clearly identified candidate in the election; or
    - iii. Refers to a political party, ballot issue, or other questions submitted to the voters in the election, 44.11.605 ARM.

Paid social media posts that include above criteria are also considered Electioneering communication and need to be attributed and reported.

**Example:** Montanans for a Brighter Future purchases 5000 mailers that are scheduled to be mailed out two weeks before a primary election. The communication has a picture of a candidate that opposed a tax break in the last legislature. The communication encourages voters to contact this candidate and tell him/her that he/she was wrong to oppose this bill. Because the communication includes a picture of a candidate, is being distributed to 5000 voters in the district and will be received two weeks prior to an election; the Montanans for a Brighter Future is required to report this expenditure as an electioneering communication.

### What is not an electioneering communication? Examples include:

1. Voter information pamphlet prepared and distributed by the Secretary of State;
2. A bona fide news story, blog, or editorial.
3. A communication by any membership organization to their membership.
4. See 13-1-101(15)(b) and 44.11.603(3) ARM.

## How does a political committee report an electioneering communication?

A person who makes an electioneering communication is subject to the reporting and disclosure requirements of Title 13, chapters 35 and 37, MCA and the administrative rules. A Statement of Organization (Form C-2) is required. The form includes a section that requires a political committee to disclose their purpose as well as the candidate or issue they support or oppose. The purpose should include the quantity, subject matter, and that the activity is electioneering. All contributions and/or expenditures are required to be reported as explained in Part 4 of this manual.

## De Minimis Act

On occasion, a small group of people or an entity may organize a political committee that plays a minor role in influencing an election.

**Example:** A local hardware store that wishes to support a school bond issue. The hardware store spends \$200 on a newspaper ad that is placed in the local tribune, advocating support for the school issue. This is the only election activity the hardware store engages in. Since the value of the ad is less than \$250, the store is not required to register or report. This activity is considered a de minimis election activity.

A de minimis act means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, 13-1-101(11), MCA. A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, electioneering communication, or an independent expenditure of \$250 or less, 13-1-101(30)(d), MCA and 44.11.603 ARM.

## Formal Complaints

### Following receipt

Anyone who believes a violation of campaign finance and practices laws or rules has occurred can file a complaint with the COPP. The complaint must describe in detail the alleged violation, attach evidentiary material, and must be signed and notarized. The laws and rules under the Commissioner's jurisdiction can be found on the COPP website. Additional information and fillable complaint forms are also available on the COPP website.

### Investigation

The Commissioner reviews the complaint and is required to either accept, dismiss, or reject the complaint within 5 business days. Both the complainant and the subject of the complaint will be notified if the complaint has been accepted. The subject of the complaint is offered an opportunity to respond in writing.

Once a complaint is accepted the investigator analyzes documents, collects evidence, and interviews witnesses as needed. There is no set time frame for the length of an investigation. Some complaints can be investigated and decided within 48 hours while others can take longer. The COPP's legal team does everything within their power to respond to all complaints in a timely way and during the applicable election cycle. Some respondents prefer to retain legal representation at his or her own expense; this is not required, however.

### **Resolution**

Once an investigation is completed and the necessary legal research has been done, the Commissioner will issue a formal *Summary of Facts and Findings*. A copy of the decision is sent to the complainant and the respondent.

### **Enforcement**

If the Commissioner determined that there is sufficient evidence to justify enforcement, the county attorney is notified and is sent a copy of the decision. The county attorney is afforded 30 days to either accept jurisdiction or waive the right to enforce. If the county attorney waives the right to enforce, the Commissioner then either works with the respondent to settle or file a case in district court. The legal team works extremely hard at settling these matters and the majority of the cases settle. Respondents who promptly respond to allegations and correct the activity if needed are taken in to consideration when the Commissioner determines settlement terms. The Commissioner understands that mistakes happen and the majority of Montana's candidates and political committees are attempting to comply.

### **Disclosure**

Campaign finance and practices complaints are publically available. The COPP maintains a complaint docket on their website. The *Summary of Facts and Findings* and the final resolution is also available on the COPP website.

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# COMMISSIONER OF POLITICAL PRACTICES



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## COPP Committee Forms Guide

The following is a list of reporting forms available to political committees from the Office of the Commissioner of Political Practices and a brief description of what each form is, where and when the form must be filed, and by whom:

**-C2 Statement of Organization:** The C-2 Statement of Organization must be filed by all political committees who participate in Montana elections by making expenditures or receiving contributions. Form C-2 must be filed within five (5) days after appointing a campaign treasurer or making an expenditure to support or oppose a candidate or ballot issue, whichever occurs first, and must include the full name and address of the committee, the name and address of the bank the committee has opened an account with, the treasurer's full name and contact information, and all candidates or ballot issues supported or opposed and the date of those elections. Form C-2 must also denote the type of committee you wish to register as (Incidental, Ballot Issue, Political Party, and Independent)- to assist in determining the proper type of Political Committee to register as see MCA 13-1-101.

**-C4 Incidental Political Committee Finance Report:** Form C-4 is the Incidental Committee finance report and must detail all contributions received and expenditures made by an incidental committee during a specific timeframe. C4's are to be filed periodically according to the proper reporting calendar, which can be found here: <http://politicalpractices.mt.gov/calendars>.

**-C6 Political Committee Finance Report:** Form C-6 is the Committee Finance report that must be filed by political party, ballot issue, and independent (PAC's) committees. Like the C-4, form C-6 must detail all contributions received and expenditures made by the committee during a certain time period and must be filed according to dates laid out in the proper reporting calendar.

**-C7 Notice of Pre-Election Contributions:** Form C-7 is the Notice of Pre-Election Contributions and must be filed:

- any statewide political committee organized to support or oppose statewide ballot issues must file a Form C-7 if \$500 or more is received from a single source between the 10th day before an election and the date of election;
- any other candidate or political committee must file a Form C-7 if \$100 or more is received from a single source between the 17th day before an election and the date of the election.

The timeframe for C-7's to be filed is as follows:

- Statewide political committees must file within 24 hours after receipt of a contribution of \$500 or more.
- All other candidates or political committees must file within 48 hours after receipt of a contribution of \$100 or more.



**-C7E 24 Hour Notice of Pre-Election Expenditures:** Form C-7E, the 24 Hour Notice of Pre-Election Expenditures, must be filed by all political committees that make an expenditure or incur a debt or obligation of \$500 or more for election material described in 13-35-225(1), MCA if made between the 17th day before the election and the day of the election. (13-37-226, MCA). Form C-7E must be filed within 24 hours after making expenditure or incurring a debt of \$500 or more.