

COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

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December 26, 2013

Dick Barrett  
State Capitol  
PO Box 200500  
Helena, MT 59620-0500

**COPP-2013-AO-004**

**Re:** Constituency Services

**Issue:** Senate District boundary change

Dear Senator Barrett:

You asked for an administrative advisory opinion on a particular use of constituency account funds. You provided the following facts as a basis for the requested advisory opinion:

1. You are a sitting Montana state senator elected from Senate District 47 in 2012.
2. Following the 2012 election you used surplus campaign funds to establish a SD 47 constituency services account, with an appropriate filing with the Office of the Commissioner of Political Practices.
3. The most recent Montana legislative redistricting effort redrew senate district boundaries such that the district you now represent is Senate District 45.
4. The people living in Senate District 45 include some who, because of redistricting, did not have an opportunity to vote for your 2012 candidacy.

You asked for an advisory opinion as to whether you could use your former SD 47 constituency account to assist in providing constituency services to people living in SD 45, your current legislative district.

## ADVISORY OPINION

Based on the above four recited facts this advisory opinion determines that you may use your currently identified SD 47 constituency services account to provide constituency services to SD 45 constituents. An explanation is set out below.

A constituency services account is created and defined by Montana law. A legislator is authorized to establish a constituency services account. §13-37-240 MCA and 44.10.538(1)(j) ARM. The Commissioner's records include an appropriate filing whereby you properly established a constituency services account with surplus campaign funds.

Once established constituency services funds "may be used only for constituent services..." §13-37-402(2)(b) MCA and 44.10.540(1) ARM. A constituent is "an individual who resides in ...the district or geographic area represented by an eligible elected official." 44.10.536(2) ARM. Since February 12, 2013 (the effective date of redistricting) you have represented and will represent the constituents of SD 45. (Secretary of State, Elections communication.)

As listed above, Montana law places restrictions on the use of constituency services funds. Funds may only be spent to provide services to constituents. The 2014 election cycle incorporates and uses the new Redistricting Plan [Montana Secretary of State Website], meaning that your constituents are now those of SD 45. The change in your constituency base from SD 47 to SD 45 does not change the allowed use of constituency services funds. Those funds are allowed for, and limited to, use in servicing constituents with the constituents you represent now being those of SD 45.

It is noted that the information requested in opening your constituency services account included a representation of the "district or geographic area" you represent. 44.10.541 ARM. This Office will construe this letter as request that it change your district from SD 47 to SD 45.

## LIMITATIONS ON ADVISORY OPINION

This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules.

This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by the initials 'JM'.

Jonathan R. Motl

Commissioner of Political Practices