

**MONTANA  
CAMPAIGN FINANCE AND PRACTICES LAWS**

**Title 13, Chapters 35 and 37  
Montana Code Annotated (2015)  
with**

**Additional Applicable Miscellaneous Sections**

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**CAMPAIGN FINANCE AND PRACTICES  
ADMINISTRATIVE RULES  
of the  
COMMISSIONER OF POLITICAL PRACTICES**

**Title 44, Chapter 11**

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Montana Code Annotated (2015)  
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**Additional Applicable Miscellaneous Sections**

**MONTANA CODE ANNOTATED**  
**Title 2, Chapter 15, Part 4**

**2-15-411. Commissioner of political practices.** (1) There is a commissioner of political practices who is appointed as provided in 13-37-102.

(2) The office of the commissioner is attached to the office of the secretary of state for administrative purposes only, as specified in 2-15-121, except that the provisions of subsections (1)(b), (1)(c), (2)(a), (2)(b), (2)(d), (2)(e), and (3)(a) of 2-15-121 do not apply.

**History:** En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(part); amd. Sec. 19, I.M. No. 85, approved Nov. 4, 1980.

**Title 13, Chapter 1, Part 1. General Provisions**

**13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that 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.

(7) "Ballot issue committee" means a political committee specifically organized to support or oppose a ballot issue.

(8) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an

individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

- (i) solicitation is made;
- (ii) contribution is received and retained; or
- (iii) expenditure is made; or
- (c) an officeholder who is the subject of a recall election.

(9) (a) "Contribution" means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.

(10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) "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, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

(12) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(13) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(14) (a) "Election communication" means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;

(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

(15) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

(16) "Elector" means an individual qualified to vote under state law.

(17) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions

under subsection (9);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(18) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(19) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

(20) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(21) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(22) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection (22), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

(23) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

(24) "Independent expenditure" 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.

(25) "Individual" means a human being.

(26) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(27) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(28) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

(29) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(30) (a) "Political committee" means a combination of two or more individuals or a

person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) 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, an electioneering communication, or an independent expenditure of \$250 or less.

(31) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(32) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

(33) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

(34) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(35) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

(36) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(37) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(38) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(39) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(40) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(41) "Regular school election" means the school trustee election provided for in 20-20-105(1).

(42) "School election" has the meaning provided in 20-1-101.

(43) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(44) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(45) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(46) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(47) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(48) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(49) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(50) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(52) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(53) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot.

**History:** Ap. p. Sec. 1, Ch. 368, L. 1969; amd. Sec. 1, Ch. 365, L. 1977; Sec. 23-2601, R.C.M. 1947; Ap. p. Sec. 2, Ch. 480, L. 1975; amd. Sec. 2, Ch. 365, L. 1977; Sec. 23-4777, R.C.M. 1947; R.C.M. 1947, 23-2601, 23-4777; amd. Sec. 1, Ch. 571, L. 1979; amd. Sec. 1, Ch. 603, L. 1983; amd. Sec. 31, Ch. 370, L. 1987; amd. Sec. 1, Ch. 339, L. 1989; amd. Sec. 1, Ch. 390, L. 1993; amd. Sec. 2, Ch. 246, L. 1997; amd. Sec. 1, Ch. 208, L. 1999; amd. Sec. 1, Ch. 401, L. 2001; amd. Secs. 5, 93(1), Ch. 414, L. 2003; amd. Sec. 1, Ch. 475, L. 2003; amd. Sec. 1, Ch. 273, L. 2007; amd. Sec. 3, Ch. 481, L. 2007; amd. Sec. 10, Ch. 89, L. 2009; amd. Sec. 1, Ch. 297, L. 2009; amd. Sec. 2, Ch. 336, L. 2013; amd. Sec. 2, Ch. 347, L. 2013; amd. Sec. 165, Ch. 49, L. 2015; amd. Sec. 2, Ch. 259, L. 2015.



## **Title 13, Chapter 10, Part 2. Preprimary Procedures**

**13-10-204. Write-in nominations.** (1) An individual nominated by having the individual's name written in and counted as provided in 13-15-206(5) or otherwise placed on the primary ballot and desiring to accept the nomination may not have the individual's name appear on the general election ballot unless the individual:

(a) received at least 5% of the total votes cast for the successful candidate for the same office at the last general election;

(b) files with the secretary of state or election administrator, no later than 10 days after the official canvass, a written declaration indicating acceptance of the nomination; and

(c) complies with the provisions of 13-37-126.

(2) A write-in candidate who was exempt from filing a declaration of intent under 13-10-211 shall, at the time of filing the declaration of acceptance, pay the filing fee specified in 13-10-202 or, if indigent, file the appropriate documents described in 13-10-203.

**History:** En. Sec. 59, Ch. 368, L. 1969; amd. Sec. 1, Ch. 28, L. 1973; amd. Sec. 1, Ch. 246, L. 1975; amd. Sec. 14, Ch. 365, L. 1977; R.C.M. 1947, 23-3304(6); amd. Sec. 66, Ch. 571, L. 1979; amd. Sec. 13, Ch. 414, L. 2003; amd. Sec. 7, Ch. 586, L. 2005; amd. Sec. 6, Ch. 273, L. 2007.

## **Title 13, Chapter 27, Part 1. General Provisions**

**13-27-112. Required reports -- time and manner of reporting -- exceptions -- penalty.** (1) Except as provided in this section, a person who employs a paid signature gatherer shall file with the commissioner reports containing those matters required by Title 13, chapter 37, part 2, for a political committee organized to support or oppose a ballot issue or for an independent committee that receives contributions and makes expenditures in connection with a ballot issue, as applicable. If a person who employs a paid signature gatherer is required by Title 13, chapter 37, part 2, to file a report pursuant to those provisions, the person need not file a duplicate report pursuant to this section, but shall report the matter required by subsection (2) as part of that report. As used in this section, "a person who employs a paid signature gatherer" means a political party, political committee, or other person seeking to place a ballot issue before the electors and does not mean an individual who is part of the same signature gathering company, partnership, or other business organization that directly hires, supervises, and pays an individual who is a signature gatherer.

(2) The reports required by subsection (1) must include the amount paid to a paid signature gatherer.

(3) Reports filed pursuant to this section must be filed at the same time, in the same manner, including the certification required by 13-37-231, and upon the same forms as required for reports filed pursuant to Title 13, chapter 37, part 2, except as the rules of the commissioner may otherwise provide.

(4) A person who violates subsection (1) is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

**History:** En. Sec. 2, Ch. 117, L. 1999.

**CHAPTER 35**  
**ELECTION AND CAMPAIGN PRACTICES**  
**AND CRIMINAL PROVISIONS**

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## Title 13, Chapter 35, Part 1 General Provisions

**13-35-101. Election code not to supersede criminal code -- statute of limitations.** (1) The penalty provisions of the election laws of this state are intended to supplement and not to supersede the provisions of the Montana Criminal Code.

(2) Unless otherwise provided, the general time limitations for prosecutions for violations of the election laws are those specified in 45-1-205.

**History:** En. 23-47-101 by Sec. 1, Ch. 334, L. 1977; R.C.M. 1947, 23-47-101.

**13-35-102. Trivial benefits not covered by criminal provisions.** It is not the intent of the election laws of this state to criminalize activities involving trivial benefits incidental to the campaign process which involve no substantial risk of undermining the election process.

**History:** En. 23-47-102 by Sec. 2, Ch. 334, L. 1977; R.C.M. 1947, 23-47-102.

**13-35-103. Violations as misdemeanor.** A person who knowingly violates a provision of the election laws of this state for which no other penalty is specified is guilty of a misdemeanor.

**History:** En. 23-47-103 by Sec. 3, Ch. 334, L. 1977; R.C.M. 1947, 23-47-103.

**13-35-104. Attempt as a violation.** An attempt, as defined in 45-4-103, to violate a provision of the election laws of this state is itself a violation of the election laws and is punishable as provided in 45-4-103.

**History:** En. 23-47-104 by Sec. 4, Ch. 334, L. 1977; R.C.M. 1947, 23-47-104.

**13-35-105. Aiding and abetting.** A person who is legally accountable, as provided in 45-2-302, for the conduct of another which violates a provision of the election laws of this state is also guilty of a violation of that provision.

**History:** En. 23-47-105 by Sec. 5, Ch. 334, L. 1977; R.C.M. 1947, 23-47-105.

**13-35-106. Ineligibility to hold office because of conviction.** In addition to all other penalties prescribed by law:

(1) a candidate who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office in the state of Montana until final discharge from state supervision;

(2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana until final discharge from state supervision;

(3) if an elected official or a candidate is adjudicated to have violated any provision of this title, except 13-35-207(9), the individual must be removed from nomination or office, as the case may be, even though the individual was regularly nominated or elected.

**History:** En. 23-47-106 by Sec. 6, Ch. 334, L. 1977; R.C.M. 1947, 23-47-106; amd. Sec. 215, Ch. 571, L. 1979; amd. Sec. 92, Ch. 56, L. 2009.

**13-35-107. Voiding election.** (1) (a) If a court finds that the violation of any provision of this title by any person probably affected the outcome of any election, the result of that election may be held void and a special election held at least 85 days after the finding.

(b) If the violation occurred during a primary election, the court may direct the selection of a new candidate according to the provisions of state law relating to the filling of vacancies on the general election ballot. Except as provided in subsection (2), an action to void an election must be commenced within 1 year after the date of the election in question.

(2) An action to void a bond election must be commenced within 60 days after the date of the election in question.

**History:** En. 23-47-107 by Sec. 7, Ch. 334, L. 1977; R.C.M. 1947, 23-47-107; amd. Sec. 216, Ch. 571, L. 1979; amd. Sec. 38, Ch. 250, L. 1985; amd. Sec. 14, Ch. 292, L. 2009; amd. Sec. 191, Ch. 49, L. 2015.

**13-35-108. Powers of district court.** In any action brought under the election laws of this state, the appropriate district court may enjoin any person to prevent the doing of any prohibited act or to compel the performance of any act required by the election laws.

**History:** En. 23-47-108 by Sec. 8, Ch. 334, L. 1977; R.C.M. 1947, 23-47-108.

### **Title 13, Chapter 35, Part 2 Specific Provisions**

**13-35-201. Electors and ballots.** (1) An elector may not show the contents of the elector's ballot to anyone after it is marked. An elector may not place any mark upon the ballot by which it may be identified as the one voted by the elector.

(2) An elector may not receive a ballot from any person other than an election judge and may not vote any ballot except one received from an election judge. A person other than an election judge may not deliver a ballot to an elector.

(3) A person may not solicit an elector to show the elector's ballot after it is marked.

(4) An elector who does not vote a ballot delivered to the elector shall, before leaving the polling place, return the ballot to an election judge.

**History:** En. 23-47-109 by Sec. 9, Ch. 334, L. 1977; R.C.M. 1947, 23-47-109; amd. Sec. 93, Ch. 56, L. 2009.

**13-35-202. Conduct of election officials and election judges.** An election officer or judge of an election may not:

- (1) deposit in a ballot box a paper ballot that is not marked as official;
- (2) examine an elector's ballot before putting the ballot in the ballot box;
- (3) look at any mark made by the elector upon the ballot;
- (4) make or place any mark or device on any ballot with the intent to ascertain how the elector has voted;
- (5) allow any individual other than the elector to be present at the marking of the ballot except as provided in 13-13-118 and 13-13-119; or
- (6) make a false statement in a certificate regarding affirmation.

**History:** En. 23-47-110 by Sec. 10, Ch. 334, L. 1977; R.C.M. 1947, 23-47-110; amd. Sec. 217, Ch. 571, L. 1979; amd. Sec. 83, Ch. 414, L. 2003.

**13-35-203. Interference with officials.** A person who, in any manner, interferes with the officers holding an election or conducting a canvass so as to prevent the election or canvass from being fairly held and lawfully conducted is guilty of obstruction of a public servant and is punishable as provided in 45-7-302.

**History:** En. 23-47-111 by Sec. 11, Ch. 334, L. 1977; R.C.M. 1947, 23-47-111.

**13-35-204. Official misconduct.** A person charged with performance of any duty under the provisions of the election laws of this state is guilty of official misconduct and is punishable as provided in 45-7-401 whenever the person:

- (1) knowingly neglects or refuses to perform that duty; or
- (2) knowingly and fraudulently acts, in the person's official capacity, in contravention or violation of any provision of the election laws.

**History:** En. 23-47-112 by Sec. 12, Ch. 334, L. 1977; R.C.M. 1947, 23-47-112; amd. Sec. 94, Ch. 56, L. 2009.

**13-35-205. Tampering with election records and information.** A person is guilty of tampering with public records or information and is punishable as provided in 45-7-208 whenever the person:

- (1) suppresses any declaration or certificate of nomination that has been filed;
- (2) purposely causes a vote to be incorrectly recorded as to the candidate or ballot issue voted on;
- (3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;
- (4) changes any ballot after it has been completed by the elector;
- (5) adds a ballot to those legally polled at an election, either before or after the ballots have been counted, with the purpose of changing the result of the election;
- (6) causes a name to be placed on the registry lists other than in the manner provided by this title; or
- (7) changes a poll list or checklist.

**History:** En. 23-47-113 by Sec. 13, Ch. 334, L. 1977; R.C.M. 1947, 23-47-113; amd. Sec. 84, Ch. 414, L. 2003.

**13-35-206. Injury to election equipment, materials, and records.** A person is guilty of criminal mischief or tampering with public records and information, as appropriate, and is punishable as provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

- (1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;
- (2) during an election:
  - (a) removes or defaces instructions for the voters; or
  - (b) removes or destroys any of the supplies or other conveniences placed in the voting station for the purpose of enabling a voter to prepare the voter's ballot;
- (3) removes any ballots from the polling place before the closing of the polls with the

purpose of changing the result of the election;

(4) carries away or destroys any poll lists, checklists, ballots, ballot boxes, or other equipment for the purpose of disrupting or invalidating an election;

(5) knowingly detains, mutilates, alters, or destroys any election returns;

(6) mutilates, secretes, destroys, or alters election records, except as provided by law;

(7) tampers with, disarranges, defaces, injures, or impairs a voting system with the intent to alter the outcome of an election;

(8) mutilates, injures, or destroys a ballot or appliance used in connection with a voting system; or

(9) fraudulently defaces or destroys a declaration or certificate of nomination.

**History:** En. 23-47-114 by Sec. 14, Ch. 334, L. 1977; R.C.M. 1947, 23-47-114; amd. Sec. 85, Ch. 414, L. 2003.

**13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

(1) falsely represents the person's name or other information required upon the person's registry card and causes registration with the card;

(2) signs a registry card knowingly witnessing any false or misleading statement;

(3) knowingly causes a false statement, certificate, or return of any kind to be signed;

(4) falsely makes a declaration or certificate of nomination;

(5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;

(6) forges or falsely makes the official endorsement of a ballot;

(7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;

(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

(9) signs a name other than the person's own to a petition, signs more than once for the same ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law.

**History:** En. 23-47-115 by Sec. 15, Ch. 334, L. 1977; R.C.M. 1947, 23-47-115; amd. Sec. 218, Ch. 571, L. 1979; amd. Sec. 23, Ch. 481, L. 2007.

**13-35-208. Deceiving an elector.** A person who deceives an elector voting under 13-13-118 or 13-13-119 is guilty of a misdemeanor.

**History:** En. 23-47-116 by Sec. 16, Ch. 334, L. 1977; R.C.M. 1947, 23-47-116; amd. Sec. 56, Ch. 575, L. 1981.

**13-35-209. Fraudulent registration.** (1) A person may not knowingly cause, procure, or allow the person to be registered in the official register of any election district of any county knowing that the person is not entitled to the registration.

(2) A person may not impersonate another and cause the impersonated person to be

registered.

(3) When, on the trial of the person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in the register of any county without being qualified for registration, the court shall order the registration canceled.

**History:** En. 23-47-117 by Sec. 17, Ch. 334, L. 1977; R.C.M. 1947, 23-47-117; amd. Sec. 95, Ch. 56, L. 2009.

**13-35-210. Limits on voting rights.** (1) No person may vote who is not entitled to vote. No person may vote more than once at an election.

(2) No person may, for any election, apply for a ballot in the name of some other person, whether it be the name of a living, dead, or fictitious person.

**History:** En. 23-47-118 by Sec. 18, Ch. 334, L. 1977; R.C.M. 1947, 23-47-118.

**13-35-211. Electioneering -- soliciting information from electors.** (1) A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located that aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) On election day, a candidate, a family member of a candidate, or a worker or volunteer for the candidate's campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which the polling place is located.

(3) A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia that is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

(4) A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue.

**History:** En. 23-47-119 by Sec. 19, Ch. 334, L. 1977; R.C.M. 1947, 23-47-119; amd. Sec. 219, Ch. 571, L. 1979; amd. Sec. 1, Ch. 192, L. 1985; amd. Sec. 1, Ch. 216, L. 1989; amd. Sec. 2, Ch. 401, L. 2001; amd. Sec. 1, Ch. 241, L. 2015.

**13-35-212. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-120 by Sec. 20, Ch. 334, L. 1977; R.C.M. 1947, 23-47-120.

**13-35-213. Preventing public meetings of electors.** (1) A person who, by threats, intimidations, or violence, willfully hinders or prevents electors from assembling in public meeting for the consideration of public questions is guilty of a misdemeanor.

(2) A person who willfully disturbs or breaks up a public meeting of electors or others, lawfully being held for the purpose of considering public questions, or a public school meeting is guilty of a misdemeanor.

**History:** En. 23-47-121 by Sec. 21, Ch. 334, L. 1977; R.C.M. 1947, 23-47-121.



**13-35-214. Illegal influence of voters.** A person may not knowingly or purposely, directly or indirectly, individually or through any other person, for any election, in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party ticket, or ballot issue:

(1) give, lend, agree to give or lend, offer, or promise any money, liquor, or valuable consideration or promise or endeavor to procure any money, liquor, or valuable consideration; or

(2) promise to appoint another person or promise to secure or aid in securing the appointment, nomination, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument in order to aid or promote the candidate's nomination or election, except that the candidate for governor may publicly announce or define the candidate's choice for lieutenant governor.

**History:** En. 23-47-122 by Sec. 22, Ch. 334, L. 1977; R.C.M. 1947, 23-47-122; amd. Sec. 96, Ch. 56, L. 2009; amd. Sec. 1, Ch. 95, L. 2013.

**13-35-215. Illegal consideration for voting.** A person, directly or indirectly, individually or through any other person, may not:

(1) before or during any election, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at the election or for inducing another to do so:

(a) receive, agree, or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for the person or any other person; or

(b) approach any candidate or agent or person representing or acting on behalf of any candidate and ask for or offer to agree or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for the person or any other person;

(2) after an election, for having voted or refrained from voting or having induced any other person to vote or refrain from voting at the election:

(a) receive any money, gift, loan, valuable consideration, office, place, or employment; or

(b) approach any candidate or any agent or person representing or acting on behalf of any candidate and ask for or offer to receive any money, gift, loan, liquor, valuable consideration, office, place, or employment for the person or any other person.

**History:** En. 23-47-123 by Sec. 23, Ch. 334, L. 1977; R.C.M. 1947, 23-47-123; amd. Sec. 220, Ch. 571, L. 1979; amd. Sec. 97, Ch. 56, L. 2009.

**13-35-216. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-124 by Sec. 24, Ch. 334, L. 1977; R.C.M. 1947, 23-47-124.

**13-35-217. Officers not to influence voter.** An officer, while acting in an official capacity, may not, by menace, reward, or promise of reward, induce or attempt to induce any elector to cast a vote contrary to the elector's original intention or desire.

**History:** En. 23-47-125 by Sec. 25, Ch. 334, L. 1977; R.C.M. 1947, 23-47-125; amd. Sec. 57, Ch. 575, L. 1981; amd. Sec. 98, Ch. 56, L. 2009.

**13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or

any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to refrain from giving the elector's vote at any election.

(3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

(4) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.

**History:** En. 23-47-126 by Sec. 26, Ch. 334, L. 1977; R.C.M. 1947, 23-47-126; amd. Sec. 1, Ch. 561, L. 1981; amd. Sec. 99, Ch. 56, L. 2009; amd. Sec. 59, Ch. 336, L. 2013.

**13-35-219. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-127 by Sec. 27, Ch. 334, L. 1977; R.C.M. 1947, 23-47-127.

**13-35-220. Bribing members of political gatherings.** (1) No person may give or offer a bribe to any officer or member of any legislative caucus, political convention, or political gathering of any kind held for the purpose of nominating candidates for offices of honor, trust, or profit in this state, with intent to influence the person to whom such bribe is given or offered to be more favorable to one candidate than another. No person who is a member of any of the bodies mentioned in this section may receive or offer to receive any such bribe.

(2) A violation of this section is punishable as provided in 45-7-101(3).

**History:** En. 23-47-128 by Sec. 28, Ch. 334, L. 1977; R.C.M. 1947, 23-47-128.

**13-35-221. Improper nominations.** (1) A person may not pay or promise valuable consideration to another, in any manner or form, for the purpose of inducing the other person to be or to refrain from or to cease being a candidate, and a person may not solicit or receive any payment or promise from another for that purpose.

(2) A person, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in subsection (1), may not:

(a) be nominated or refuse to be nominated as a candidate at an election;

(b) become, individually or in combination with any other person or persons, a candidate for the purpose of defeating the nomination or election of any other person, without a bona fide intent to obtain the office; or

(c) withdraw if the person has been nominated.

(3) Upon complaint made to any district court, the judge shall issue a writ of injunction restraining the officer whose duty it is to prepare official ballots for a

nominating election from placing the name of a person on the ballot as a candidate for nomination to any office if the judge is convinced that:

(a) the person has sought the nomination or seeks to have the person's name presented to the voters as a candidate for nomination by any political party for any mercenary or venal consideration or motive; and

(b) the person's candidacy for the nomination is not in good faith.

**History:** En. 23-47-129 by Sec. 29, Ch. 334, L. 1977; R.C.M. 1947, 23-47-129; amd. Sec. 100, Ch. 56, L. 2009.

**13-35-222. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-130 by Sec. 30, Ch. 334, L. 1977; R.C.M. 1947, 23-47-130.

**13-35-223. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-131 by Sec. 31, Ch. 334, L. 1977; R.C.M. 1947, 23-47-131.

**13-35-224. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-132 by Sec. 32, Ch. 334, L. 1977; R.C.M. 1947, 23-47-132.

**13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.** (1) All election communications, electioneering communications, and independent expenditures must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. The attribution must contain:

(a) for election communications or electioneering communications financed by a candidate or a candidate's campaign finances, the name and the address of the candidate or the candidate's campaign;

(b) for election communications, electioneering communications, or independent expenditures financed by a political committee, the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer; and

(c) for election communications, electioneering communications, or independent expenditures financed by a political committee that is a corporation or a union, the name of the corporation or union, its chief executive officer or equivalent, and the address of the principal place of business.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of all votes made by the candidate on the same legislative bill or enactment; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's agent if the election material was not prepared for a candidate.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed or if the information required by subsection (4) is not filed with the commissioner, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 2 business days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3) or file the information required by subsection (4) with the commissioner; and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

(6) Whenever the commissioner receives a complaint alleging any violation of subsections (1) through (3), the commissioner shall as soon as practicable assess the merits of the complaint.

(7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the complainant and the candidate or political committee of the commissioner's determination. The notice must state that the candidate or political committee shall bring the material into compliance as required under this section:

(i) within 2 business days after receiving the notification if the notification occurs more than 7 days prior to an election; or

(ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an election.

(b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to a civil penalty pursuant to 13-37-128.

**History:** En. 23-47-133 by Sec. 33, Ch. 334, L. 1977; R.C.M. 1947, 23-47-133; amd. Sec. 221, Ch. 571, L. 1979; amd. Sec. 1, Ch. 368, L. 1987; amd. Sec. 1, Ch. 23, L. 1991; amd. Sec. 1, Ch. 482, L. 1991; amd. Sec. 1, Ch. 415, L. 2003; amd. Sec. 1, Ch. 419, L. 2003; amd. Sec. 1, Ch. 367, L. 2013; amd. Sec. 1, Ch. 423, L. 2013; amd. Sec. 3, Ch. 259, L. 2015.

**13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to influence the political opinions or actions of the employees.

(2) It is unlawful for an employer to exhibit in a place where the employer's workers

or employees may be working any handbill or placard containing:

(a) any threat, promise, notice, or information that, in case any particular ticket or political party, organization, or candidate is elected:

(i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or increased;

(ii) the employer's place or establishment will be closed; or

(iii) the salaries or wages of the workers or employees will be reduced or increased;

or

(b) other threats or promises, express or implied, intended or calculated to influence the political opinions or actions of the employer's workers or employees.

(3) A person may not coerce, command, or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

(4) A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform activities properly incidental to another activity required or authorized by law or to express personal political views.

(5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125.

**History:** En. 23-47-134 by Sec. 34, Ch. 334, L. 1977; R.C.M. 1947, 23-47-134; amd. Sec. 222, Ch. 571, L. 1979; amd. Sec. 1, Ch. 655, L. 1983; amd. Sec. 13, Ch. 562, L. 1995; amd. Sec. 3, Ch. 401, L. 2001; amd. Sec. 18, Ch. 114, L. 2003; amd. Sec. 2, Ch. 437, L. 2005.

**13-35-227. Prohibited contributions from corporations and unions.** (1) A corporation or union may not make a contribution to a candidate directly or through an intermediary.

(2) A candidate may not accept or receive a corporate or union contribution described in subsection (1).

(3) A political committee that is not a corporation or union may establish a fund to be used for making political contributions to candidates if the fund consists only of funds solicited from noncorporate and nonunion sources.

(4) A corporation or union may establish a separate, segregated fund to be used for making political contributions to candidates if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or member of the corporation or union.

(5) A person who violates this section is subject to the civil penalty provisions of 13-37-128.

**History:** En. Sec. 25, Init. Act, Nov. 1912; re-en. Sec. 10790, R.C.M. 1921; re-en. Sec. 10790, R.C.M. 1935; Sec. 94-1444, R.C.M. 1947; redes. 23-4744 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 1, Ch. 296, L. 1975; R.C.M. 1947, 23-4744; amd. Sec. 1, Ch. 404, L. 1979; amd. Sec. 1, I.M. No. 125, Nov. 5, 1996; amd. Sec. 1, Ch. 294, L. 1997

(voided by I.R. No. 114, Nov. 3, 1998); amd. Sec. 1, Ch. 59, L. 2003; amd. Sec. 4, Ch. 259, L. 2015.

**13-35-228. Prohibition of salary increase contribution.** A corporation may not increase the salary of any officer or employee or give an emolument to any officer, employee, or other person with the intention that the increase in salary, the emolument, or any part thereof be contributed to support or oppose a candidate or ballot issue.

**History:** En. 23-47-135 by Sec. 35, Ch. 334, L. 1977; R.C.M. 1947, 23-47-135.

**13-35-229. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-136 by Sec. 36, Ch. 334, L. 1977; R.C.M. 1947, 23-47-136.

**13-35-230. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-137 by Sec. 37, Ch. 334, L. 1977; R.C.M. 1947, 23-47-137.

**13-35-231. Unlawful for political party to contribute to judicial candidate.** A political party may not contribute to a judicial candidate.

**History:** En. 23-47-138 by Sec. 38, Ch. 334, L. 1977; R.C.M. 1947, 23-47-138; amd. Sec. 223, Ch. 571, L. 1979; amd. Sec. 2, Ch. 87, L. 2015.

**13-35-232. Repealed.** Sec. 407, Ch. 571, L. 1979.

**History:** En. 23-47-139 by Sec. 39, Ch. 334, L. 1977; R.C.M. 1947, 23-47-139.

**13-35-233. Repealed.** Sec. 2, Ch. 352, L. 1999.

**History:** En. Sec. 1, Ch. 539, L. 1979.

**13-35-234. Repealed.** Sec. 18, Ch. 401, L. 2001.

**History:** En. Sec. 2, Ch. 539, L. 1979; amd. Sec. 1, Ch. 545, L. 1983.

**13-35-235. Incorrect election procedures information.** (1) A person may not knowingly or purposely disseminate to any elector information about election procedures that is incorrect or misleading or gives the impression that the information has been officially disseminated by an election administrator.

(2) A person who violates this section is guilty of a misdemeanor.

**History:** En. Sec. 1, Ch. 397, L. 1989.

**13-35-236. Void.** I.R. No. 114, Nov. 3, 1998.

**History:** En. Sec. 2, Ch. 294, L. 1997; voided by I.R. No. 114, Nov. 3, 1998.

**13-35-237. Disclaimer on election materials funded by anonymous contributors.** If a political committee claims to be exempt from disclosing the name of a person making a contribution to the political committee, the committee shall clearly and conspicuously include in all communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising or issue advocacy the

following disclaimer: "This communication is funded by anonymous sources. The voter should determine the veracity of its content."

**History:** En. Sec. 1, Ch. 340, L. 2013.

**13-35-238 through 13-35-239 reserved.**

**13-35-240. Voluntary filing of broadcast campaign materials -- affidavit -- penalty.** (1) (a) A political committee not organized by or on behalf of a candidate may file with the commissioner of political practices a copy of a campaign script intended for broadcast advertising.

(b) The committee's authorized agent may sign an affidavit swearing that the content of the script is true and verifiable and may file supporting documentation.

(2) (a) Scripts and affidavits must be filed in the manner prescribed by the commissioner of political practices.

(b) The commissioner of political practices shall file the scripts, affidavits, and any documentation in a manner that allows for them to be readily inspected.

(3) (a) Any person who believes that the content of a script filed pursuant to this section is either untrue or unverifiable may bring the matter to the attention of the county attorney of the county in which the person is a resident.

(b) The county attorney may investigate the alleged falsification or unverifiability of the script and, if the county attorney determines that sufficient evidence exists to justify a criminal prosecution, shall file a cause of action.

(c) An allegation of violation of subsection (1) may not be filed with, investigated by, or prosecuted by the commissioner of political practices.

(4) A person filing an affidavit under this section is subject to the penalty for false swearing under 45-7-202, except that the fine may not exceed \$5,000.

**History:** En. Sec. 1, Ch. 407, L. 2007.

### **Title 13, Chapter 35, Part 3 Code of Fair Campaign Practices**

**13-35-301. Adoption of code of fair campaign practices.** The following code of fair campaign practices is adopted by Montana:

"There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues before the country. Therefore:

I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and my opponent's party that merit such criticism.

I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or my opposition's personal or family life.

I will not use campaign material of any sort that misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations that aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition.

I will not make any appeal to prejudice based on race, sex, creed, or national origin.

I will not undertake or condone any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections or that hampers or prevents the full and free expression of the will of the voters.

Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I have pledged not to use or condone."

**History:** En. Sec. 1, Ch. 475, L. 1979; amd. Sec. 101, Ch. 56, L. 2009.

**13-35-302. Candidates to be given opportunity to subscribe to campaign practices code.** (1) The commissioner of political practices shall prepare a form that sets forth the code of fair campaign practices provided for in 13-35-301 and a place for a candidate to sign the form and to indicate that the candidate endorses, subscribes to, and pledges to abide by the code.

(2) The commissioner shall send a copy of the form to each candidate required to file reports or other information with the commissioner. Signing the form is voluntary, and a failure or refusal to sign is not a violation of the election laws. A form must be sent for each election as soon as feasible. The signed form must be returned to the commissioner.

(3) Any candidate not required to file with the commissioner but wishing to subscribe to the code may obtain the form from the commissioner and may sign the form and deliver it to the commissioner.

**History:** En. Sec. 2, Ch. 475, L. 1979; amd. Sec. 1, Ch. 128, L. 1993.

### **Title 13, Chapter 35, Part 4 Clean Campaign Act**

**13-35-401. Short title.** This part may be referred to as the "Clean Campaign Act".

**History:** En. Sec. 1, Ch. 508, L. 2007.

**13-35-402. Fair notice period before election.** (1) A candidate or a political committee shall at the time specified in subsection (3) provide to candidates listed in subsection (2) any final copy of campaign advertising in print media, in printed material, or by broadcast media that is intended for public distribution in the 10 days prior to an election day unless:

(a) identical material was already published or broadcast; or

(b) the material does not identify or mention the opposing candidate.

(2) 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, except candidates mentioned in the context of endorsements.

(3) Final copies of material described in subsection (1) must be provided to the candidates listed in subsection (2) at the following times:

(a) at the time the material is published or broadcast or disseminated to the public;



(b) if the material is disseminated by direct mail, on the date of the postmark; or  
(c) if the material is prepared and disseminated by hand, on the day the material is first being made available to the general public.

(4) The copy of the material that must be provided to the candidates listed in subsection (2) must be provided by electronic mail, facsimile transmission, or hand delivery, with a copy provided by direct mail if the recipient does not have available either electronic mail or facsimile transmission. If the material is for broadcast media, the copy provided must be a written transcript of the broadcast.

**History:** En. Sec. 2, Ch. 508, L. 2007; amd. Sec. 5, Ch. 259, L. 2015.

**13-35-403. Penalties.** A person who violates 13-35-402 is liable in a civil action pursuant to 13-37-128.

**History:** En. Sec. 3, Ch. 508, L. 2007.

### **Title 13, Chapter 35, Part 5**

#### **Prohibition on Corporate Contributions and Expenditures**

**13-35-503. Policy.** (1) It is policy of the state of Montana that each elected and appointed official in Montana, whether acting on a state or federal level, advance the philosophy that corporations are not human beings with constitutional rights and that each such elected and appointed official is charged to act to prohibit, whenever possible, corporations from making contributions to or expenditures on the campaigns of candidates or ballot issues. As part of this policy, each such elected and appointed official in Montana is charged to promote actions that accomplish a level playing field in election spending.

(2) When carrying out the policy under subsection (1), Montana's elected and appointed officials are generally directed as follows:

(a) that the people of Montana regard money as property, not speech;

(b) that the people of Montana regard the rights under the United States Constitution as rights of human beings, not rights of corporations;

(c) that the people of Montana regard the immense aggregation of wealth that is accumulated by corporations using advantages provided by the government to be corrosive and distorting when used to advance the political interests of corporations;

(d) that the people of Montana intend that there should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government; and

(e) that the people of Montana intend that a level playing field in campaign spending includes limits on overall campaign expenditures and limits on large contributions to or expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.

**History:** En. Sec. 3, I.M. No. 166, approved Nov. 6, 2012.

**13-35-504. Promotion of policy by elected or appointed officials.** (1) Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States constitution that accomplishes the following:

(a) overturns the U.S. Supreme Court's ruling in Citizens United v. Federal Election Commission;

(b) establishes that corporations are not human beings with constitutional rights;

(c) establishes that campaign contributions or expenditures by corporations, whether to candidates or ballot issues, may be prohibited by a political body at any level of government; and

(d) accomplishes the goals of Montanans in achieving a level playing field in election spending.

(2) Montana's congressional delegation is charged to work diligently to bring such a joint resolution to a vote and passage, including use of discharge petitions, cloture, and every other procedural method to secure a vote and passage.

(3) The members of the Montana legislature, if given the opportunity, are charged with ratifying any amendment to the United States constitution that is consistent with the policy of the state of Montana.

**History:** En. Sec. 4, I.M. No. 166, approved Nov. 6, 2012.

## CHAPTER 37

### CONTROL OF CAMPAIGN PRACTICES

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## **Title 13, Chapter 37, Part 1 Commissioner of Political Practices**

**13-37-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Commissioner" means the commissioner of political practices created by 13-37-102.

(2) "Public office" has the meaning provided in 13-1-101.

(3) "Recusal" means disqualification from a matter by reason of prejudice or conflict of interest.

(4) "Relative" means a family member who is within the second degree of consanguinity or affinity to the commissioner.

**History:** En. 23-4796 by Sec. 3, Ch. 365, L. 1977; R.C.M. 1947, 23-4796; amd. Sec. 19, I.M. No. 85, approved Nov. 4, 1980; amd. Sec. 4, Ch. 479, L. 2005.

**13-37-102. Creation of office -- nomination -- appointment -- removal.** (1) There is a commissioner of political practices who is appointed by the governor, subject to confirmation by a majority of the senate.

(2) (a) A four-member nomination committee composed of the speaker of the house, the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the nomination committee shall agree on each nomination.

(b) The governor shall appoint the commissioner from the list of nominees submitted by the nomination committee. However, if the nomination committee fails to submit names agreed to by the majority of the nomination committee members, the governor may appoint anyone who meets the qualifications set forth in 13-37-107.

(3) The individual selected to serve as commissioner may be removed by the governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review.

**History:** En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(1), (5); amd. Sec. 1, Ch. 483, L. 1979; amd. Sec. 19, I.M. No. 85, approved Nov. 4, 1980; amd. Sec. 5, Ch. 479, L. 2005; amd. Sec. 16, Ch. 4, Sp. L. May 2007; amd. Sec. 1, Ch. 71, L. 2015.

**13-37-103. Term of office.** Subject to the provisions of 13-37-104, the individual selected to serve as commissioner is appointed for a 6-year term and may not be reappointed to serve as commissioner.

**History:** En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(2); amd. Sec. 2, Ch. 483, L. 1979; amd. Sec. 6, Ch. 479, L. 2005.

**13-37-104. Vacancy.** (1) If for any reason a vacancy occurs in the position of commissioner, a successor must be appointed as provided in 13-37-102 within 30 days of the vacancy to serve out the unexpired term. The governor's appointee must be

confirmed by the senate, but an appointment made while the senate is not in session is effective as an appointment until the end of the next session.

(2) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served 3 years or more of an unexpired term is not eligible for reappointment.

(3) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served less than 3 years of an unexpired term may be reappointed for a 6-year term as provided in 13-37-102.

**History:** En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(3); amd. Sec. 4, Ch. 483, L. 1979; amd. Sec. 116, Ch. 56, L. 2009; amd. Sec. 2, Ch. 71, L. 2015.

**13-37-105. Impeachment and prosecution of commissioner.** The commissioner may be removed from office by impeachment as provided in Title 5, chapter 5, part 4. The commissioner may also be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.

**History:** En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(4); amd. Sec. 117, Ch. 56, L. 2009.

**13-37-106. Salary.** (1) The commissioner of political practices is entitled to receive a salary within the pay band, as defined in 2-18-101, determined by the department of administration as provided in subsection (4).

(2) The commissioner is also entitled to longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18.

(3) The salary of the commissioner may not be reduced during the term for which the commissioner is appointed.

(4) The department of administration shall determine the appropriate occupation and pay band for the commissioner of political practices in the same manner that it determines the occupation and pay band for employees in state government pursuant to Title 2, chapter 18.

(5) The governor shall set the salary of the commissioner of political practices within the pay band established by the department of administration.

(6) The commissioner of political practices must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304.

**History:** En. Sec. 3, Ch. 483, L. 1979; amd. Sec. 4, Ch. 605, L. 1981; amd. Sec. 3, Ch. 656, L. 1983; amd. Sec. 1, Ch. 236, L. 1985; amd. Sec. 4, Ch. 693, L. 1985; amd. Sec. 12, Ch. 660, L. 1989; amd. Sec. 14, Ch. 720, L. 1991; amd. Sec. 52, Ch. 42, L. 1997; amd. Sec. 16, Ch. 417, L. 1997; amd. Sec. 18, Ch. 81, L. 2007; amd. Sec. 7, Ch. 7, L. 2009.

**13-37-107. Commissioner of political practices -- qualifications.** The individual appointed to serve as commissioner:

(1) must be a citizen of the United States and a resident of Montana as provided in 13-1-112;

- (2) on the date of appointment, must be registered to vote in Montana;
- (3) in the 2 years immediately preceding the date of the appointment, may not have:
  - (a) served as a fundraiser for a candidate for public office;
  - (b) served as an officer in a political party or for a political committee; or
  - (c) participated in the management or conduct of a campaign by a candidate for public office;
- (4) must possess the following knowledge, skills, and abilities:
  - (a) a confirmable track record of highly ethical professional behavior;
  - (b) the demonstrable ability to be firm, fair, and unbiased in carrying out professional responsibilities;
  - (c) the ability to communicate effectively orally and in writing;
  - (d) the ability to interpret statutes, legal opinions, and regulations;
  - (e) the ability to supervise, organize, and motivate employees; and
  - (f) knowledge of the standards of evidence and due process rights that are applicable to judicial and quasi-judicial proceedings.

**History:** En. Sec. 1, Ch. 479, L. 2005; amd. Sec. 3, Ch. 71, L. 2015.

**13-37-108. Commissioner of political practices -- restrictions.** During the commissioner's term of office, the commissioner may not knowingly, as defined in 45-2-101:

- (1) hold another position of public trust or engage in any other occupation or business if the position of public trust or the other occupation or business interferes with or is inconsistent with the commissioner executing the duties of the commissioner's office;
- (2) engage in any other occupation or business during the business hours of the commissioner's office unless the commissioner is in a leave status from the office;
- (3) participate in any political activity or in a political campaign;
- (4) make a contribution to a candidate or political committee or for or against a ballot issue or engage in any activity that is primarily intended to support or oppose a candidate, political committee, or ballot issue;
- (5) attend an event that is held for the purpose of raising funds for or against a candidate, political committee, or ballot issue;
- (6) participate in a matter pertaining to the commissioner's office that:
  - (a) is a conflict of interest or results in the appearance of a conflict of interest between public duty and private interest pursuant to Title 2, chapter 2; or
  - (b) involves a relative of the commissioner.

**History:** En. Sec. 2, Ch. 479, L. 2005; amd. Sec. 2, Ch. 234, L. 2013.

**13-37-109 through 13-37-110 reserved.**

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

- (2) The commissioner may:

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

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

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

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

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

(5) (a) If a campaign finance or ethics complaint is filed in the office of the commissioner against the commissioner, a supervisor within the commissioner's office shall within 10 business days forward the complaint to the attorney general, who shall within 45 days appoint a deputy in the case of a finance complaint or a deputy and a hearings officer in the case of an ethics complaint to make a determination in the matter of the complaint. The attorney general shall, to the extent practicable, ensure that there is no conflict of interest in the appointment of the deputy or hearings officer or in the provision of any legal advice to the office of the commissioner.

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

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

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

(b) The deputy:

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

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

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



absent the recusal; and

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

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

(b) If a deputy is appointed pursuant to subsection (5), the appointment of the deputy is effectuated by a contract between the supervisor who forwarded the complaint to the attorney general and the deputy or the deputy and the hearings officer, but the contract is construed to be with the office of the commissioner.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(1), (13), (17), (21); amd. Sec. 230, Ch. 571, L. 1979; amd. Sec. 4, Ch. 401, L. 2001; amd. Sec. 7, Ch. 479, L. 2005; amd. Sec. 2, Ch. 407, L. 2007; amd. Sec. 3, Ch. 234, L. 2013.

**13-37-112. Personnel and budget.** (1) The commissioner shall select an appropriate staff to enforce the provisions of chapter 35 of this title and this chapter, and may hire and fire all personnel under the commissioner's supervision.

(2) The commissioner is responsible for preparing, administering, and allocating the budget for the office.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(2), (16); amd. Sec. 231, Ch. 571, L. 1979; amd. Sec. 5, Ch. 401, L. 2001.

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

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

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

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

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

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

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(3); amd. Sec. 232, Ch. 571, L. 1979; amd. Sec. 6, Ch. 401, L. 2001; amd. Sec. 3, Ch. 407, L. 2007.

**13-37-114. Rules.** (1) The commissioner shall adopt rules to carry out the provisions of chapter 35 of this title and this chapter in conformance with the Montana Administrative Procedure Act.

(2) The rules must:

(a) include the criteria and process used to determine the primary purpose of an incidental committee; and

(b) define what constitutes de minimis acts, contributions, or expenditures.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(14); amd. Sec. 233, Ch. 571, L. 1979; amd. Sec. 7, Ch. 401, L. 2001; amd. Sec. 6, Ch. 259, L. 2015.

**13-37-115. Orders of noncompliance.** The commissioner may issue orders of noncompliance as prescribed by 13-37-121.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(18).

**13-37-116. Exercise of powers.** The commissioner may exercise all of the powers conferred upon the commissioner by law in any jurisdiction or political subdivision of the state.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(19); amd. Sec. 118, Ch. 56, L. 2009.

**13-37-117. Commissioner to provide forms, manuals, and election laws.** (1) The commissioner shall prescribe forms for reports and other information required to be filed pursuant to chapter 35 and this chapter and provide forms and appropriate information to persons required to file reports and other information.

(2) The commissioner shall prepare and publish a manual prescribing a uniform system for accounts for use by persons required to file reports pursuant to chapter 35 or this chapter.

(3) The commissioner shall provide copies of the election laws relating to penalties, campaign practices, campaign finances, and contested elections to candidates and to any other persons required to file reports or other information pursuant to chapter 35 or this chapter.

(4) The commissioner shall provide copies of forms, manuals, and election laws referred to in this section electronically. Upon request, the commissioner shall provide paper copies.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(4), (5), (7); amd. Sec. 234, Ch. 571, L. 1979; amd. Sec. 2, Ch. 113, L. 1993; amd. Sec. 8, Ch. 401, L. 2001; amd. Sec. 1, Ch. 109, L. 2003.

**13-37-118. Information voluntarily supplied.** The commissioner shall accept and file any information voluntarily supplied that exceeds the requirements of chapter 35 of this title or this chapter.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(6); amd. Sec. 235, Ch. 571, L. 1979; amd. Sec. 9, Ch. 401, L. 2001.

**13-37-119. Availability of information.** (1) The commissioner shall make statements and other information filed with the commissioner's office available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed the actual cost.

(2) The commissioner shall preserve statements and other information filed with the commissioner's office for a period of 10 years from the date of receipt.

(3) The commissioner shall prepare and publish summaries of the statements received and other reports that the commissioner considers appropriate.

(4) The commissioner shall provide for wide public dissemination of summaries and reports.

**History:** (1) thru (4)En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; Sec. 23-4786, R.C.M. 1947; (Former (5))En. 23-4789 by Sec. 14, Ch. 480, L. 1975; Sec. 23-4789, R.C.M. 1947; R.C.M. 1947, 23-4786(8) through (12), 23-4789; amd. Sec. 236, Ch. 571, L. 1979; amd. Sec. 119, Ch. 56, L. 2009.

**13-37-120. Reports.** The commissioner may report as necessary on the matters within the commissioner's jurisdiction that the legislature may prescribe and shall also make recommendations for further legislation that may appear desirable.

**History:** En. 23-4786 by Sec. 11, Ch. 480, L. 1975; amd. Sec. 63, Ch. 365, L. 1977; R.C.M. 1947, 23-4786(15), (20); amd. Sec. 237, Ch. 571, L. 1979; amd. Sec. 17, Ch. 349, L. 1993.

**13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance.** (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within 20 days after the statement or report is filed. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this chapter or that a person has failed to file a

statement or report required by law.

(3) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) If an order of noncompliance is issued during any period other than that described in subsection (3), a candidate or political committee shall submit the necessary information within 10 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) After a complaint is filed with the commissioner pursuant to 13-37-111, the procedure described in this section regarding the provision of notice and issuance of orders of noncompliance is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

**History:** En. 23-4787 by Sec. 12, Ch. 480, L. 1975; amd. Sec. 64, Ch. 365, L. 1977; R.C.M. 1947, 23-4787(1) thru (3); amd. Sec. 238, Ch. 571, L. 1979; amd. Sec. 1, Ch. 410, L. 1995; amd. Sec. 10, Ch. 401, L. 2001.

**13-37-122. Judicial review of orders of noncompliance.** A candidate or political treasurer who is the subject of an order of noncompliance may seek judicial review in the district court of the county in which the candidate resides or the county in which the political committee has its headquarters. All petitions for judicial review filed pursuant to this section must be expeditiously reviewed by the appropriate district court.

**History:** En. 23-4787 by Sec. 12, Ch. 480, L. 1975; amd. Sec. 64, Ch. 365, L. 1977; R.C.M. 1947, 23-4787(4); amd. Sec. 120, Ch. 56, L. 2009.

**13-37-123. Examination of reports after election.** Within 120 days after the date of each election, the commissioner shall examine and compare each statement or report filed with the commissioner pursuant to the provisions of this chapter to determine whether the statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the commissioner pursuant to the requirements of this chapter. The commissioner may investigate the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to this chapter or the alleged failure to report any contribution or expenditure required to be reported pursuant to this chapter.

**History:** En. 23-4787 by Sec. 12, Ch. 480, L. 1975; amd. Sec. 64, Ch. 365, L. 1977; R.C.M. 1947, 23-4787(5); amd. Sec. 239, Ch. 571, L. 1979.

**13-37-124. Consultation and cooperation with county attorney.** (1) Except as provided in 13-35-240, whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all

information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

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

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

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

**History:** En. 23-4788 by Sec. 13, Ch. 480, L. 1975; amd. Sec. 46, Ch. 334, L. 1977; amd. Sec. 65, Ch. 365, L. 1977; R.C.M. 1947, 23-4788(1) thru (4); amd. Sec. 240, Ch. 571, L. 1979; amd. Sec. 7, Ch. 557, L. 1987; amd. Sec. 11, Ch. 401, L. 2001; amd. Sec. 4, Ch. 407, L. 2007.

**13-37-125. Powers of county attorney to investigate.** (1) Nothing in chapter 35 of this title or this chapter prevents a county attorney from inspecting any records, accounts, or books that must be kept pursuant to the provisions of chapter 35 of this title or this chapter that are held by a political committee or candidate involved in an election to be held within the county. However, the inspections must be conducted during reasonable office hours.

(2) A county attorney may:

- (a) administer oaths and affirmations;
- (b) subpoena witnesses and compel their attendance;
- (c) take evidence; and

(d) require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records that are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapter 35 of this title or this chapter.

**History:** En. 23-4788 by Sec. 13, Ch. 480, L. 1975; amd. Sec. 46, Ch. 334, L. 1977; amd. Sec. 65, Ch. 365, L. 1977; R.C.M. 1947, 23-4788(5), (6); amd. Sec. 241, Ch. 571, L. 1979; amd. Sec. 12, Ch. 401, L. 2001; amd. Sec. 121, Ch. 56, L. 2009.

**13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by 2-2-106 or this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the same candidate.

(3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state and the election administrator conducting an election when a candidate or a candidate's treasurer has not complied with 2-2-106 or the provisions of this chapter and that the candidate's name may not appear on the

official ballot.

(b) The commissioner shall provide the notification:

(i) 2 calendar days before the certification deadline provided in 13-10-208 for statewide primary elections and 20-20-401 for school district elections; and

(ii) 7 days before the certification deadline provided in 13-12-201 for general elections.

**History:** En. 23-4791 by Sec. 16, Ch. 480, L. 1975; R.C.M. 1947, 23-4791; amd. Sec. 242, Ch. 571, L. 1979; amd. Sec. 1, Ch. 25, L. 1997; amd. Sec. 13, Ch. 401, L. 2001; amd. Sec. 86, Ch. 414, L. 2003; amd. Sec. 15, Ch. 292, L. 2009; amd. Sec. 1, Ch. 147, L. 2013; amd. Sec. 60, Ch. 336, L. 2013; amd. Sec. 192, Ch. 49, L. 2015.

**13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election may not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and statements that must be filed pursuant to the provisions of this chapter. A candidate for an elective office may not assume the powers and duties of that office until the candidate has received a certificate of election as provided by law. A certificate of election may only be issued by the public official responsible for issuing a certificate or commission of election.

(2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate or the candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and that a certificate of nomination or election may be issued.

**History:** En. 23-4792 by Sec. 17, Ch. 480, L. 1975; R.C.M. 1947, 23-4792; amd. Sec. 243, Ch. 571, L. 1979; amd. Sec. 14, Ch. 401, L. 2001.

**13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

**History:** En. Sec. 244, Ch. 571, L. 1979; amd. Sec. 53, Ch. 42, L. 1997; amd. Sec. 15, Ch. 401, L. 2001; amd. Sec. 4, Ch. 508, L. 2007.

**13-37-129. Liability and disposition of fines.** In determining the amount of liability under 13-37-128, the court may take into account the seriousness of a violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought by a county attorney in a court other than a justice's court, the county shall receive 50% of the amount recovered. The remaining 50% shall be deposited in the general fund of the state. In an action brought by the commissioner

in a court other than a justice's court, the entire amount recovered shall be paid to the general fund of the state.

**History:** En. Sec. 245, Ch. 571, L. 1979; amd. Sec. 8, Ch. 557, L. 1987.

**13-37-130. Limitation of action.** An action may not be brought under 13-37-128 and 13-37-129 more than 4 years after the occurrence of the facts that give rise to the action. No more than one judgment against a particular defendant may be had on a single state of facts. The civil action created in 13-37-128 and 13-37-129 is the exclusive remedy for violation of the contribution, expenditure, and reporting provisions of this chapter. These provisions are not subject to the misdemeanor penalties of 13-35-103 but may be a ground for contest of election or removal from office as provided in 13-35-106(3) and Title 13, chapter 36.

**History:** En. Sec. 246, Ch. 571, L. 1979; amd. Sec. 54, Ch. 42, L. 1997.

**13-37-131. Misrepresentation of voting record.** (1) It is unlawful for a person to misrepresent a candidate's public voting record with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

(2) It is unlawful for a person to misrepresent to a candidate another candidate's public voting record with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

(3) For the purposes of this section, the public voting record of a candidate who was previously a member of the legislature includes a vote of that candidate recorded in committee minutes or in journals of the senate or the house of representatives. Failure of a person to verify a public voting record is evidence of the person's reckless disregard if the statement made by the person or the information provided to the candidate is false.

(4) A person violating subsection (1) or (2) is liable in a civil action brought by the commissioner or county attorney pursuant to 13-37-124 for an amount up to \$1,000. An action pursuant to this section is subject to the provisions of 13-37-129 and 13-37-130.

**History:** En. Sec. 1, Ch. 483, L. 1995; amd. Sec. 1, Ch. 352, L. 1999; amd. Sec. 2, Ch. 367, L. 2013.

## **Title 13, Chapter 37, Part 2 Campaign Finance**

**13-37-201. Campaign treasurer.** (1) Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section.

(2) (a) A candidate shall file the certification within 5 days after becoming a candidate.

(b) Except as provided in subsection (2)(c), a political committee shall file the certification, which must include an organizational statement and the name and address of all officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first.

(c) A political committee that is seeking to place a ballot issue before the electors shall file the certification, including the information required in subsection (2)(b), within 5

days after the issue becomes a ballot issue, as defined in 13-1-101(6)(b).

(3) The certification of a candidate or political committee must be filed with the commissioner.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(1); amd. Sec. 247, Ch. 571, L. 1979; amd. Sec. 23, Ch. 591, L. 1991; amd. Sec. 122, Ch. 56, L. 2009; amd. Sec. 1, Ch. 167, L. 2015; amd. Sec. 7, Ch. 259, L. 2015.

**13-37-202. Deputy campaign treasurers.** (1) A campaign treasurer may appoint deputy campaign treasurers, but not more than one in each county in which the campaign is conducted. Each candidate and political committee shall certify the full name and complete address of the campaign treasurer and all deputy campaign treasurers with the office with whom the candidate or the political committee is required to file reports.

(2) Deputy campaign treasurers may exercise any of the powers and duties of a campaign treasurer as set forth in this chapter when specifically authorized in writing to do so by the campaign treasurer and the candidate, in the case of a candidate, or the campaign treasurer and the presiding officer of the political committee, in the case of a political committee. The written authorization must be maintained as a part of the records required to be kept by the treasurer, as specified in 13-37-208.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(2), (4); amd. Sec. 248, Ch. 571, L. 1979; amd. Sec. 123, Ch. 56, L. 2009.

**13-37-203. Qualifications of campaign and deputy campaign treasurers.** Any campaign or deputy campaign treasurer appointed pursuant to 13-37-201 and 13-37-202 must be a registered voter in this state. An individual may be appointed and serve as a campaign treasurer of a candidate and a political committee or two or more candidates and political committees. A candidate may serve as the candidate's own campaign or deputy campaign treasurer. An individual may not serve as a campaign or deputy campaign treasurer or perform any duty required of a campaign or deputy campaign treasurer of a candidate or political committee until the individual has been designated and the individual's name certified by the candidate or political committee.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(3); amd. Sec. 124, Ch. 56, L. 2009.

**13-37-204. Removal of campaign and deputy campaign treasurers.** A candidate or political committee may remove the candidate's or committee's campaign or deputy campaign treasurer. The removal of any treasurer or deputy treasurer must immediately be reported to the officer with whom the name of the campaign treasurer was originally filed. In case of death, resignation, or removal of the candidate's or committee's campaign treasurer before compliance with any obligation of a campaign treasurer under this chapter, the candidate or political committee shall appoint a successor and certify the name and address of the successor as specified in 13-37-201.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(5); amd. Sec. 125, Ch. 56, L. 2009.



**13-37-205. Campaign depositories.** Except as provided in 13-37-206, each candidate and each political committee shall designate one primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or political committee. The candidate or political committee may also designate one secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and expenditures from secondary depositories when authorized to do so as provided in 13-37-202(2). Only a bank, credit union, savings and loan association, or building and loan association authorized to transact business in Montana may be designated as a campaign depository. The candidate or political committee shall file the name and address of each designated primary and secondary depository at the same time and with the same officer with whom the candidate or committee files the name of the candidate's or committee's campaign treasurer pursuant to 13-37-201. This section does not prevent a political committee or candidate from having more than one campaign account in the same depository, but a candidate may not utilize the candidate's regular or personal account in the depository as a campaign account.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(6); amd. Sec. 249, Ch. 571, L. 1979; amd. Sec. 1, Ch. 98, L. 1981; amd. Sec. 126, Ch. 56, L. 2009.

**13-37-206. Exception for certain school districts and certain special districts.**

(1) The provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate for the office of trustee of a school district, the candidate's political campaign, or a political committee organized to support or oppose a school district issue or a candidate when the school district is:

- (a) a first-class district located in a county having a population of less than 15,000;
- (b) a second- or third-class district; or
- (c) a county high school district having a student enrollment of less than 2,000.

(2) The provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate, the candidate's political campaign, or a political committee organized to support or oppose an issue or a candidate if the candidate is running for or the committee's issue involves a unit of local government authorized by law to perform a single function or a limited number of functions, including but 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, a water district, any other special purpose district, or any entity formed by interlocal agreement.

**History:** En. 23-4781 by Sec. 6, Ch. 480, L. 1975; amd. Sec. 2, Ch. 23, L. 1977; R.C.M. 1947, 23-4781(7); amd. Sec. 250, Ch. 571, L. 1979; amd. Sec. 1, Ch. 361, L. 1991; amd. Sec. 1, Ch. 191, L. 2003; amd. Sec. 127, Ch. 56, L. 2009; amd. Sec. 1, Ch. 202, L. 2013; amd. Sec. 193, Ch. 49, L. 2015.

**13-37-207. Deposit of contributions -- statement of campaign treasurer.** (1) All funds received by the campaign treasurer or any deputy campaign treasurer of any

candidate or political committee must be deposited prior to the end of the fifth business day following their receipt, Sundays and holidays excluded, in a checking account, share draft account, share checking account, or negotiable order of withdrawal account in a campaign depository designated pursuant to 13-37-205.

(2) A statement showing the amount received from or provided by each person and the account in which the funds are deposited must be prepared by the campaign treasurer at the time the deposit is made. This statement along with the receipt form for cash contributions deposited at the same time and a deposit slip for the deposit must be kept by the treasurer as a part of the treasurer's records.

**History:** En. 23-4782 by Sec. 7, Ch. 480, L. 1975; R.C.M. 1947, 23-4782; amd. Sec. 2, Ch. 98, L. 1981; amd. Sec. 128, Ch. 56, L. 2009.

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

(b) The accounts described in subsection (1)(a) must be current as of the 5th day before the date of filing of a report as specified in 13-37-226.

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

(3) Accounts kept by a campaign treasurer of a candidate or political committee must be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.

**History:** En. 23-4783 by Sec. 8, Ch. 480, L. 1975; R.C.M. 1947, 23-4783(1), (3); amd. Sec 251, Ch. 571, L. 1979; amd. Sec. 129, Ch. 56, L. 2009.

**13-37-209. Inspection of records.** Accounts kept by the campaign treasurer of a candidate or political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by the campaign treasurer of any opposing candidate or political committee in the same electoral district. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. The campaign treasurers of political committees supporting a candidate may be joined with the campaign treasurer of the candidate as respondents in such a proceeding.

**History:** En. 23-4783 by Sec. 8, Ch. 480, L. 1975; R.C.M. 1947, 23-4783(2).

**13-37-210. Naming and labeling of political committees.** (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the

employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128.

**History:** En. Sec. 1, Ch. 225, L. 1985; amd. Sec. 24, Ch. 481, L. 2007.

**13-37-211 through 13-37-214 reserved.**

**13-37-215. Petty cash funds allowed.** (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) for all statewide candidates and political committees filing reports pursuant to 13-37-226(1), \$100 per week; and

(b) for all other candidates and political committees, \$25 per week.

(2) The petty cash fund may be spent for office supplies, transportation expenses, postage stamps, and other necessities in an amount of less than \$25. Petty cash may not be used for the purchase of time, space, or services from any communications medium.

**History:** En. 23-4784 by Sec. 9, Ch. 480, L. 1975; R.C.M. 1947, 23-4784; amd. Sec. 252, Ch. 571, L. 1979; amd. Sec. 1, Ch. 21, L. 1987; amd. Sec. 130, Ch. 56, L. 2009.

**13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

(i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

(ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$250;

(iii) for a candidate for any other public office, not to exceed \$130.

(b) A contribution to a candidate includes contributions made to any political committee organized on the candidate's behalf. A political committee that is not independent of the candidate is considered to be organized on the candidate's behalf.

(2) All political committees except those of political party organizations are subject to the provisions of subsection (1). Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all political party committees:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$6,500;

(c) for a candidate for public service commissioner, not to exceed \$2,600;

(d) for a candidate for the state senate, not to exceed \$1,050;

(e) for a candidate for any other public office, not to exceed \$650.

(3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2002.

(b) The resulting figure must be rounded up or down to the nearest:

(i) \$10 increment for the limits established in subsection (1); and

(ii) \$50 increment for the limits established in subsection (2).

(c) The commissioner shall publish the revised limitations as a rule.

(4) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits in this section.

(5) For purposes of this section, "election" means 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.

**History:** En. 23-4795 by Sec. 1, Ch. 481, L. 1975; amd. Sec. 67, Ch. 365, L. 1977; R.C.M. 1947, 23-4795; amd. Sec. 253, Ch. 571, L. 1979; amd. Sec. 1, I.M. No. 118, approved Nov. 8, 1994; amd. Sec. 1, Ch. 462, L. 2003; amd. Sec. 1, Ch. 328, L. 2007; amd. Sec. 1, Ch. 94, L. 2009; amd. Sec. 2, Ch. 330, L. 2013; amd. Sec. 8, Ch. 259, L. 2015.

**13-37-217. Contributions in name of undisclosed principal.** A person may not make a contribution of the person's own money or of another person's money to any other person in connection with any election in any other name than that of the person who in truth supplies the money. A person may not knowingly receive a contribution or enter or cause the contribution to be entered in the person's accounts or records in another name than that of the person by whom it was actually furnished.

**History:** En. Sec. 18, Init. Act, Nov. 1912; re-en. Sec. 10783, R.C.M. 1921; re-en. Sec. 10783, R.C.M. 1935; Sec. 94-1437, R.C.M. 1947; redes. 23-4737 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 54, Ch. 365, L. 1977; R.C.M. 1947, 23-4737; amd. Sec. 254, Ch. 571, L. 1979; amd. Sec. 131, Ch. 56, L. 2009.

**13-37-218. Limitations on receipts from political committees.** A candidate for the state senate may receive no more than \$2,150 in total combined monetary contributions from all political committees contributing to the candidate's campaign, and a candidate for the state house of representatives may receive no more than \$1,300 in total combined monetary contributions from all political committees contributing to the candidate's campaign. The limitations in this section must be multiplied by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2003. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule. In-kind contributions must be included in computing these limitation totals. The limitation provided in this

section does not apply to contributions made by a political party eligible for a primary election under 13-10-601.

**History:** En. Sec. 1, Ch. 529, L. 1983; amd. Sec. 19, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 2, I.M. No. 118, approved Nov. 8, 1994; amd. Sec. 1, Ch. 143, L. 2001; amd. Sec. 2, Ch. 462, L. 2003.

**13-37-219. Limitations on contributions to candidate when office sought is not known.** A candidate, as defined in 13-1-101(8)(b), who has not determined the office to which the individual will seek nomination or election is subject to the lowest contribution limitation of the offices the candidate is considering seeking.

**History:** En. Sec. 1, Ch. 330, L. 2013; amd. Sec. 9, Ch. 259, L. 2015.

**13-37-220 through 13-37-224 reserved.**

**13-37-225. Reports of contributions and expenditures required.** (1) Except as provided in 13-37-206, each candidate and political committee shall file with the commissioner periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee.

(2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law.

(3) A person who makes an election communication, electioneering communication, or independent expenditure is subject to reporting and disclosure requirements as provided in chapters 35 and 37 of this title.

**History:** En. 23-4778 by Sec. 3, Ch. 480, L. 1975; amd. Sec. 1, Ch. 23, L. 1977; R.C.M. 1947, 23-4778(1), (2); amd. Sec. 255, Ch. 571, L. 1979; amd. Sec. 24, Ch. 591, L. 1991; amd. Sec. 132, Ch. 56, L. 2009; amd. Sec. 1, Ch. 6, L. 2011; amd. Sec. 2, Ch. 167, L. 2015; amd. Sec. 10, Ch. 259, L. 2015.

**13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the electors of Montana, statewide ballot issue committees, and political committees that receive a contribution or make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file reports electronically as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which:

(i) funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot; or

(ii) an issue becomes a ballot issue, as defined in 13-1-101(6)(b);

(b) on the 1st day of each month from March through November during a year in which an election is held;

(c) on the 15th day preceding the date on which an election is held;

(d) within 2 business days after receiving a contribution of \$200 or more if received between the 20th day before the election and the day of the election;

(e) not more than 20 days after the date of the election; and

(f) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that receive contributions or make expenditures to support or oppose a particular state district candidate or issue, unless the political committee is already reporting under the provisions of subsection (1), shall file reports as follows:

(a) on the 35th and 12th days preceding the date on which an election is held;

(b) within 2 business days after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for any other public office and political committees that receive contributions or make expenditures to support or oppose a particular local issue shall file the reports specified in subsection (2) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(4) Independent and political party committees not required to report under subsection (1) or (2) shall file:

(a) a report on the 90th, 35th, and 12th days preceding the date of an election in which they participate by making an expenditure;

(b) a report within 2 business days of receiving a contribution of \$500 or more if received between the 17th day before the election and the day of the election;

(c) a report within 2 business days of making an expenditure of \$500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;

(d) a report not more than 20 days after the date of the election in which they participate by making an expenditure; and

(e) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(5) An incidental committee not required to report under subsection (1) or (2) shall file a report:

(a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making an expenditure;

(b) within 2 business days of receiving a contribution as provided in 13-37-232(1) of \$500 or more if received between the 17th day before an election and the day of the election;

(c) within 2 business days of making an expenditure of \$500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;

(d) not more than 20 days after the date of the election in which it participated; and

(e) on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner shall post on the commissioner's website:

(a) all reports filed under this section within 7 business days of filing; and  
(b) for each election the calendar dates that correspond with the filing requirements of subsections (1), (2), (4), and (5).

(7) The commissioner may require reports filed under this section to be submitted electronically.

(8) Except as provided in subsections (1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), all reports required by this section must be complete as of the 5th day before the date of filing as specified in 13-37-228(2) and this section.

(9) A political committee may file a closing report prior to the date prescribed by rule or set in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle.

**History:** En. 23-4778 by Sec. 3, Ch. 480, L. 1975; amd. Sec. 1, Ch. 23, L. 1977; R.C.M. 1947, 23-4778(3) thru (6); amd. Sec. 256, Ch. 571, L. 1979; amd. Sec. 2, Ch. 339, L. 1989; amd. Sec. 1, Ch. 75, L. 1991; amd. Sec. 20, Ch. 10, L. 1993; amd. Sec. 1, Ch. 208, L. 1993; amd. Sec. 9, Ch. 18, L. 1995; amd. Sec. 1, Ch. 86, L. 1995; amd. Sec. 16, Ch. 401, L. 2001; amd. Sec. 25, Ch. 481, L. 2007; amd. Sec. 1, Ch. 252, L. 2009; amd. Sec. 1, Ch. 274, L. 2009; amd. Sec. 53, Ch. 297, L. 2009; amd. Sec. 2, Ch. 6, L. 2011; amd. Sec. 1, Ch. 295, L. 2013; amd. Sec. 11, Ch. 259, L. 2015.

**13-37-227. Comprehensive report when several candidates or issues involved.**

The commissioner shall adopt rules that will permit political committees, including political parties, to file copies of a single comprehensive report when they support or oppose more than one candidate or issue. The commissioner shall adopt rules under which committees filing periodic reports with the federal election commission and committees headquartered outside the state of Montana shall report in accordance with this title.

**History:** En. 23-4778 by Sec. 3, Ch. 480, L. 1975; amd. Sec. 1, Ch. 23, L. 1977; R.C.M. 1947, 23-4778(7); amd. Sec. 257, Ch. 571, L. 1979.

**13-37-228. Time periods covered by reports.** Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee, as defined in 13-1-101, until the 5th day before the date of filing of the appropriate initial report pursuant to 13-37-226(1) through (5). Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by transmission of the petition to the proponent of the ballot issue or referral by the secretary of state even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5). For the purposes of this subsection, the reports required under 13-37-226(1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c) are not periodic reports and must be filed as required by 13-37-226(1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), as

applicable.

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are satisfied and further contributions or expenditures will not be received or made that relate to the campaign unless the election is a primary election and the candidate or political committee will participate in the general election.

**History:** En. 23-4778 by Sec. 3, Ch. 480, L. 1975; amd. Sec. 1, Ch. 23, L. 1977; R.C.M. 1947, 23-4778(8); amd. Sec. 258, Ch. 571, L. 1979; amd. Sec. 2, Ch. 75, L. 1991; amd. Sec. 17, Ch. 401, L. 2001; amd. Sec. 26, Ch. 481, L. 2007; amd. Sec. 133, Ch. 56, L. 2009; amd. Sec. 2, Ch. 252, L. 2009; amd. Sec. 12, Ch. 259, L. 2015.

**13-37-229. Disclosure requirements for candidates, ballot issue committees, political party committees, and independent committees.** (1) The reports required under 13-37-225 through 13-37-227 from candidates, ballot issue committees, political party committees, and independent committees must disclose the following information concerning contributions received:

- (a) the amount of cash on hand at the beginning of the reporting period;
- (b) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions, other than loans, of \$35 or more to a candidate or political committee, including the purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar fundraising events;
- (c) for each person identified under subsection (1)(b), the aggregate amount of contributions made by that person within the reporting period and the total amount of contributions made by that person for all reporting periods;
- (d) the total sum of individual contributions made to or for a political committee or candidate and not reported under subsections (1)(b) and (1)(c);
- (e) the name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds, together with the amount and dates of all transfers;
- (f) each loan from any person during the reporting period, together with the full names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of each loan;
- (g) the amount and nature of debts and obligations owed to a political committee or candidate, in the form prescribed by the commissioner;
- (h) an itemized account of proceeds that total less than \$35 from a person from mass collections made at fundraising events;
- (i) each contribution, rebate, refund, or other receipt not otherwise listed under subsections (1)(b) through (1)(h) during the reporting period;
- (j) the total sum of all receipts received by or for the committee or candidate during the reporting period; and
- (k) other information that may be required by the commissioner to fully disclose the sources of funds used to support or oppose candidates or issues.

(2) (a) Except as provided in subsection (2)(c), the reports required under 13-37-225 through 13-37-227 from candidates, ballot issue committees, political party committees,



and independent committees must disclose the following information concerning expenditures made:

(i) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made by the committee or candidate during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(ii) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses has been made, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(iii) the total sum of expenditures made by a political committee or candidate during the reporting period;

(iv) the name and address of each political committee or candidate to which the reporting committee or candidate made any transfer of funds, together with the amount and dates of all transfers;

(v) the name of any person to whom a loan was made during the reporting period, including the full name, mailing address, occupation, and principal place of business, if any, of that person and the full names, mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

(vi) the amount and nature of debts and obligations owed by a political committee or candidate in the form prescribed by the commissioner; and

(vii) other information that may be required by the commissioner to fully disclose the disposition of funds used to support or oppose candidates or issues.

(b) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of a candidate or political committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

(c) A candidate is required to report the information specified in this subsection (2) only if the transactions involved were undertaken for the purpose of supporting or opposing a candidate.

**History:** En. 23-4779 by Sec. 4, Ch. 480, L. 1975; R.C.M. 1947, 23-4779(1) through (9), (part (16)); amd. Sec. 1, Ch. 36, L. 1987; amd. Sec. 3, Ch. 75, L. 1991; amd. Sec. 3, Ch. 462, L. 2003; amd. Sec. 13, Ch. 259, L. 2015.

**13-37-230. Repealed.** Sec. 18, Ch. 259, L. 2015.

**History:** En. 23-4779 by Sec. 4, Ch. 480, L. 1975; R.C.M. 1947, 23-4779(10) through (16); amd. Sec. 1, Ch. 162, L. 2009.

**13-37-231. Reports to be certified as true, complete, and correct.** (1) A report required by this chapter to be filed by a candidate or political committee must be verified as true, complete, and correct by the oath or affirmation of the individual filing the report. The individual filing the report must be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner.

(2) A copy of a report or statement filed by a candidate or political committee must

be preserved by the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.

**History:** En. 23-4780 by Sec. 5, Ch. 480, L. 1975; R.C.M. 1947, 23-4780; amd. Sec. 260, Ch. 571, L. 1979; amd. Sec. 134, Ch. 56, L. 2009; amd. Sec. 15, Ch. 259, L. 2015.

**13-37-232. Disclosure requirements for incidental committees.** (1) The reports required under 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning contributions to the committee that are designated by the contributor for a specified candidate, ballot issue, or petition for nomination or that are made by the contributor in response to an appeal by the incidental committee for contributions to support incidental committee election activity, including in-kind expenditures, independent expenditures, election communications, or electioneering communications:

(a) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions during the reporting period for a specified candidate, ballot issue, or petition for nomination of \$35 or more;

(b) for each person identified under subsection (1)(a), the aggregate amount of contributions made by that person for all reporting periods;

(c) each loan received from any person during the reporting period for a specified candidate, ballot issue, or petition for nomination, together with the full names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of each loan;

(d) the amount and nature of debts and obligations owed to an incidental committee for a specified candidate, ballot issue, or petition for nomination in the form prescribed by the commissioner;

(e) an account of proceeds that total less than \$35 per person from mass collections made at fundraising events sponsored by the incidental committee for a specified candidate, ballot issue, or petition for nomination; and

(f) the total sum of all contributions received by or designated for the incidental committee for a specified candidate, ballot issue, or petition for nomination during the reporting period.

(2) The reports required under 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning expenditures made:

(a) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(b) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses has been made during the reporting period, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(c) the total sum of expenditures made during the reporting period;

(d) the name and address of each political committee or candidate to which the reporting committee made any transfer of funds together with the amount and dates of all transfers;

(e) the name of any person to whom a loan was made during the reporting period, including the full name, mailing address, occupation, and principal place of business, if any, of that person, and the full names, mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

(f) the amount and nature of debts and obligations owed by a political committee in the form prescribed by the commissioner; and

(g) other information that may be required by the commissioner to fully disclose the disposition of funds used to make expenditures.

(3) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of an incidental committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

(4) An incidental committee that does not receive contributions for a specified candidate, ballot issue, or petition for nomination and that does not solicit contributions for incidental committee election activity, including in-kind expenditures, independent expenditures, election communications, or electioneering communications, is required to report only its expenditures.

**History:** En. Sec. 14, Ch. 259, L. 2015.

**13-37-233. Reports to be filed regardless of tax status.** A person that makes an election communication, an electioneering communication, or an independent expenditure shall file reports required by this chapter regardless of the person's tax status under state or federal law.

**History:** En. Sec. 16, Ch. 259, L. 2015.

**13-37-234 through 13-37-239 reserved.**

**13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide elected or legislative office or for public service commissioner may establish a constituent services account as provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family.

**History:** En. Sec. 3, I.M. No. 118, approved Nov. 8, 1994; amd. Sec. 3, Ch. 487, L. 2007.

**13-37-241 through 13-37-249 reserved.**

**13-37-250. Voluntary spending limits.** (1) (a) The following statement may be used in printed matter and in broadcast advertisements and may appear in the voter information pamphlet prepared by the secretary of state: "According to the Office of the Commissioner of Political Practices, \_\_\_\_\_ is in compliance with the voluntary expenditure limits established under Montana law."

(b) The treasurer of each political committee, as defined in 13-1-101, who files a certification on a ballot issue pursuant to 13-37-201 may also file with the commissioner a sworn statement that the committee will not exceed the voluntary expenditure limits of this section. If a sworn statement is made, it must be filed with the commissioner within 30 days of the certification of the political committee.

(c) A political committee that has not filed a sworn statement with the commissioner may not distribute any printed matter or pay for any broadcast claiming to be in compliance with the voluntary expenditure limits of this section.

(d) A political committee may not use evidence of compliance with the voluntary expenditure limits of this section to imply to the public that the committee has received endorsement or approval by the state of Montana.

(2) For the purposes of this section, the expenditures made by a political committee consist of the aggregate total of the following during the calendar year:

(a) all committee loans or expenditures made by check or cash; and

(b) the dollar value of all in-kind contributions made or received by the committee.

(3) In order to be identified as a political committee in compliance with the voluntary expenditure limits of this section, the committee's expenditures, as described in subsection (2), may not exceed \$195,000.

(4) A political committee that files with the commissioner a sworn statement to abide by the voluntary expenditure limits of this section but that exceeds those limits shall pay a fine of \$6,500 to the commissioner. This money must be deposited in a separate fund to be used to support the enforcement programs of the office of the commissioner.

(5) After July 1, 2004, all limits on voluntary spending in this section must be multiplied by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which the general election is held by the consumer price index for June 2003. The resulting figure must be rounded up or down to the nearest \$50 increment.

**History:** En. Sec. 2, I.M. No. 125, Nov. 5, 1996; amd. Sec. 3, Ch. 294, L. 1997 (voided by I.R. No. 114, Nov. 3, 1998); amd. Sec. 24, Ch. 51, L. 1999; amd. Sec. 87, Ch. 414, L. 2003; amd. Sec. 4, Ch. 462, L. 2003; amd. Sec. 43, Ch. 475, L. 2003.

**Title 13, Chapter 37, Part 3 Public Campaign Finance (Repealed)**  
**Repealed.** Sec. 8, Ch. 581, L. 1993.

#### **Title 13, Chapter 37, Part 4 Miscellaneous Provisions**

**13-37-401. Definitions.** As used in 13-37-402 and this section, the following definitions apply:

(1) "Constituent services" means travel, mailing, and other expenses incurred to represent and serve constituents and authorized in rules adopted by the commissioner

to implement the provisions of 13-37-402 and this section.

(2) "Personal benefit" has the meaning provided in 13-37-240.

**History:** En. Sec. 1, Ch. 487, L. 2007.

**13-37-402. Constituent accounts -- reports.** (1) A constituent services account may be established to pay for constituent services by a successful candidate required to report under 13-37-229. A constituent services account may be established by filing an appropriate form with the commissioner.

(2) (a) A successful candidate may deposit only surplus campaign funds in a constituent services account.

(b) The money in the account may be used only for constituent services. The money in the account may not be used for personal benefit. Expenditures from a constituent services account may not be made when the holder of the constituent services account also has an open campaign account.

(3) A person described in subsection (1) may not establish any account related to the public official's office other than a constituent services account. This subsection does not prohibit a person from establishing a campaign account.

(4) The holder of a constituent services account shall file a quarterly report with the commissioner, by a date established by the commissioner by rule. The report must disclose the source of all money deposited in the account and enumerate expenditures from the account. The report must include the same information as required for a candidate required to report under 13-37-229. The report must be certified as provided in 13-37-231.

(5) The holder of a constituent services account shall close the account within 120 days after the account holder leaves public office.

**History:** En. Sec. 2, Ch. 487, L. 2007; amd. Sec. 1, Ch. 347, L. 2009; amd. Sec. 17, Ch. 259, L. 2015.

**13-37-403. Constituent services account -- prior contributions -- donation to charity.** A person who established a constituent services account prior to May 14, 2007, shall donate any money remaining in the account on April 24, 2009, to charity by July 1, 2009, or deposit the money by July 1, 2009, into a constituent services account established after May 14, 2007, and shall close the old account. The holder of a constituent services account subject to this section shall file a report with the commissioner describing the disposition of the money subject to this section.

**History:** En. Sec. 2, Ch. 347, L. 2009.

**CAMPAIGN FINANCE AND PRACTICES  
ADMINISTRATIVE RULES  
of the  
COMMISSIONER OF POLITICAL PRACTICES**

**Title 44, Chapter 11**

**Subchapter 1, Organizational Rule, Procedural Rule and General Policy**

**44.11.101 ORGANIZATIONAL RULE**

(1) Organization of the Office of the Commissioner of Political Practices (COPP).

(a) History. The position of the Commissioner of Political Practices (commissioner) was created by the Legislature in 1975.

(b) Administrative Attachment The Office of the Commissioner of Political Practices is attached to the Office of the Secretary of State for the administrative purposes set forth in 2-15-121 and 2-15-411 , MCA.

(c) Commissioner. The commissioner is appointed for a term of six years and may be removed pursuant to 13-37-102 and 13-37-105, MCA.

(2) Functions of the commissioner:

(a) the commissioner is to establish clear and consistent requirements for the full disclosure and reporting of the sources and disposition of funds used in Montana elections regarding candidates, political committees, or issues, and in conjunction with the county attorneys, to enforce the election and campaign finance laws as specified in Title 13, chapters 35 and 37, MCA. The powers and duties of the commissioner are provided in Title 13, chapter 37, part 1, MCA.

(b) The Commissioner also has enforcement responsibilities related to the Code of Ethics for government officers and employees in Title 2, chapter 2, part 1, MCA.

(c) In addition the Commissioner administers and enforces the provisions of the Montana Lobbyist Disclosure Act, Title 5, chapter 7, MCA.

(3) Personnel Roster. Commissioner of Political Practices, P.O. Box 202401, Helena, Montana 59620-2401, <http://www.politicalpractices.mt.gov/default.mcp>.

(4) All forms referenced in these rules are available for download on the COPP's web site.

History: 2-4-201, 13-37-114, MCA; IMP, 2-4-201, MCA; EMERG, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, Eff. 6/30/82; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.101, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.102 ADVISORY OPINIONS AND SELECTED INCORPORATION OF CERTAIN ATTORNEY GENERAL RULES, REGARDING DECLARATORY RULINGS AND RULEMAKING**

(1) In cases when a formal declaratory ruling proceeding is requested by a person through the filing of a petition as prescribed in ARM 1.3.226, the commissioner adopts and incorporates by reference the Attorney General's Organizational and Procedural Rules ARM 1.3.227 through 1.3.229 effective August 15, 2008, and are available online from the secretary of state at <http://www.mtrules.org/>.

(2) In all other cases, the commissioner will issue "advisory opinions" under the following procedure:

(a) A person desiring an interpretation to determine the applicability of a rule or statute administered by the commissioner to the person's activity or proposed activity may request an advisory opinion. All requests for an advisory opinion shall be in writing and shall contain:

- (i) The identity, address, and signature of the person requesting the opinion.
- (ii) A complete statement of the facts and circumstances upon which the commissioner is to base an opinion.
- (iii) The rule or statute for which the person seeks an opinion.
- (iv) The specific question presented for decision by the commissioner.

(b) The commissioner may request a memorandum of authority containing basic research and points of law bearing on the request. The memorandum should include the requesting party's own conclusion on the question presented.

(c) Within a reasonable time after the receipt of a request for an advisory opinion, the commissioner shall consider the request and, based upon the facts presented in the request, prepare an opinion in writing, except as provided in (i). The commissioner may seek public comment prior to issuing an advisory opinion, depending on the particular question presented for an opinion.

(i) The commissioner will not issue an advisory opinion, but will notify the inquirer of the determination, when:

- (A) The issue is the subject of pending litigation.
- (B) A prior opinion has been rendered that addresses the fact and question presented in a subsequent request.
- (C) The facts are inadequate for a determination, or the request requires resolution of a factual dispute.
- (D) The issue involves wholly abstract or hypothetical factual situations.

(d) An advisory opinion will be rendered upon the facts submitted in the request and over the signature of the commissioner. A copy of the opinion will be mailed to the inquirer and published in a manner which will provide wide public dissemination. The commissioner will maintain an index of all opinions and will make an opinion available upon request.

(e) An advisory opinion rendered in accordance with this rule is binding between the commissioner and the inquirer on the statement of facts alleged in the written request. An advisory opinion is not subject to judicial review. A person desiring judicial review of an advisory opinion shall file a formal petition for declaratory ruling, pursuant to 2-4-501, MCA, and this rule.

(f) A later advisory opinion or declaratory ruling overrules an earlier advisory opinion or declaratory ruling with which it is necessarily in conflict.

(g) A request for a declaratory ruling or an advisory opinion shall have no effect on the commissioner's investigation of and disposition of a formal complaint on the same issue or a related dispute filed pursuant to ARM 44.11.106.

(3) In cases when the COPP engages in agency rulemaking, the commissioner adopts and incorporates by reference the Attorney General's Organizational and Procedural Rules ARM 1.3.201, 1.3.202, and 1.3.304 through 1.3.313 effective August 15, 2008, and are available online from the secretary of state at <http://www.mtrules.org/>.

History: 13-37-114, MCA; IMP, 2-4-201, MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.201, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.103 INTRODUCTION AND DEFINITIONS**

(1) All statutory references in these rules refer to the Montana Code Annotated, unless otherwise indicated.

(2) Terms used in these rules shall be construed, unless the meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the intent of the law, to mean the following:

- (a) election definitions as set forth in Title 13, MCA;
- (b) ethics definitions as set forth in Title 2, MCA;
- (c) lobbying definitions as set forth in Title 5, MCA; and
- (d) the definitions as set forth in these rules.

(3) "Attribution" is described in 13-35-225, MCA, and is further explained by ARM 44.11.601.

(4) "Ballot Committee" is a political committee specifically organized to support or oppose a ballot issue as defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(5) "Campaign Account" is as referred to in 13-37-205, MCA, and further defined in ARM 44.11.409.

(6) "Candidate" is as defined in 13-1-101, MCA, and as applied to contribution limits in 13-37-216 and 13-37-218, MCA.

(7) "Commissioner" means the Commissioner of Political Practices as created under 2-15-411 and 13-37-102, MCA.



- (8) "Complainant" means any person that files a complaint with the commissioner alleging a violation of the statutes or rules within the commissioner's jurisdiction.
- (9) "Contested Primary" is defined in ARM 44.11.222.
- (10) "Contribution" is defined in 13-1-101, MCA, and further defined in ARM 44.11.401.
- (11) "Coordinated" is defined in 13-1-101, MCA, and further defined in ARM 44.11.602.
- (12) "De Minimis" is defined in 13-1-101, MCA, and further defined in ARM 44.11.603.
- (13) "Earmarked Contribution" is as defined in ARM 44.11.404.
- (14) "Election" is defined in 13-1-101, MCA.
- (15) "Election Activity" means any activity that may constitute reportable election activity under Title 13, MCA.
- (16) "Election Communication" is defined in 13-1-101, MCA, and further defined in ARM 44.11.604.
- (17) "Electioneering" is defined in 13-1-101, MCA, and further defined in ARM 44.11.606.
- (18) "Electioneering Communication" is defined in 13-1-101, MCA, and further defined in ARM 44.11.605.
- (19) "Ethics Code" means the code of ethics, Title 2, chapter 2, part 1, MCA.
- (20) "Expenditure" is defined in 13-1-101, MCA, and further defined in ARM 44.11.501.
- (21) "Fair market value" means the retail price of such services, property, or rights in the market from which it ordinarily would have been either purchased by the expendeo at the time of its expenditure, or purchased or sold by the contributor at the time of its contribution.
- (22) "Immediate Family" as described in 2-2-302, MCA, and further defined in ARM 44.11.608 and 44.11.703.
- (23) "Incidental Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.
- (24) "Independent Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.
- (25) "Independent Expenditure" is defined in 13-1-101, MCA.
- (26) "In-kind" is defined in ARM 44.11.403, 44.11.503, and 44.11.701.
- (27) "Media" includes three subtypes which are subject to all restrictions, definitions, requirements, and limitations on communications found in these rules:
- (a) print media includes physical editions of newspapers, magazines, journals, periodicals, newsletters, books, flyers, brochures, posters, direct mail pieces, letters, postcards, billboards, and other similar media;

(b) broadcast media includes television, radio, cable, satellite, and other similar media; and

(c) digital media includes content on the internet, electronic files, including digital versions of print media and broadcast media, and other similar media.

(28) "Periodical publication" is one that publishes at regular daily, weekly, monthly, or quarterly intervals year round.

(29) "Political Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(30) "Political Party Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(31) "Reportable Election Activity" includes but is not limited to accepting a contribution, a contribution in response to an appeal, or a designated contribution, or making an expenditure, a contribution, a coordinated expenditure, an independent expenditure, or an in-kind contribution or expenditure, or making an election communication or electioneering communication.

(32) "Respondent" means any person against whom a complaint is filed with the commissioner.

(33) "Support or Oppose" is defined in 13-1-101, MCA.

History: 13-37-114, MCA; IMP, 13-1-101, Title 13, Ch. 35 and 37, 13-37-114 MCA; NEW, Eff. 2/6/76; TRANS and AMD from 44.10.301, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.104 CONSTRUCTION OF RULES**

(1) These rules shall be interpreted and applied to permit the commissioner to discharge the statutory functions of the office and to secure a just and speedy determination of all matters before the commissioner.

History: 13-37-114, MCA; IMP, Sec. 1, Ch. 480, Laws of 1975; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.303, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.105 PRACTICE REGARDING APPLICATION OF RULES**

(1) In any matter not specifically addressed by these rules, the commissioner shall exercise discretion so as to execute the purposes of the applicable law, without exceeding the statutory authority identified in ARM 44.11.101.

History: 13-37-114, MCA; IMP, Sec. 1, Ch. 480, Laws of 1975; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.305, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.106 COMPLAINTS OF VIOLATIONS**

(1) An individual who believes a violation of a provision of Title 13, chapters 35 or 37, MCA, or a rule or regulation implementing one or more of those statutory provisions has occurred may file a written complaint in person or by mail with the commissioner. A complaint may be filed on a form available from the COPP. Except as provided in this rule, within five business days after receipt of a complaint, the commissioner shall acknowledge its receipt and transmit a copy to the alleged violator.

(2) Whether submitted on the form available from the COPP or otherwise, a complaint shall:

- (a) be typewritten or legibly handwritten in ink; and
- (b) contain the following information:
  - (i) the complete name and mailing address of the complainant;
  - (ii) the complete name and mailing address of the alleged violator, if known or readily discoverable;
  - (iii) a detailed description of the alleged violation, including citation to each statute and/or rule that is alleged to have been violated;
  - (iv) any evidentiary material; and
- (c) be signed and verified by the oath or affirmation of the complainant, taken before any officer authorized to administer oaths.

(3) Except as provided in (4), upon receipt of a complaint, the commissioner shall investigate the alleged violation. The commissioner shall prepare a written summary of facts and statement of findings, upon completion of the investigation, which shall be sent to the complainant and the alleged violator. Following the issuance of a summary of facts and statement of findings, the commissioner may take other appropriate action.

(4) No investigation shall be required and a complaint may be dismissed if the complaint is frivolous on its face, illegible, too indefinite, does not identify the alleged violator, does not cite the statute or rule that is alleged to have been violated, is unsigned, or is not verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths or affirmations. In addition, no investigation shall be required and may be dismissed if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction. The commissioner may request additional information from the complainant or the alleged violator prior to making a determination whether to proceed with a full investigation and whether to dismiss a complaint under this rule.

(5) With the exception of any material that the commissioner determines is subject to protection from disclosure based on constitutional or statutory law, a filed complaint and the summary of facts and statement of findings shall be public record.

(6) All documents provided to and all communications with the COPP are public records as provided by 13-37-118 and 13-37-119, MCA. The Montana Constitution Article II, Sections 9 and 10 require the commissioner to balance the public's right to know with an individual's privacy rights on documents that are filed with the COPP office. The COPP has a detailed privacy policy available on the commissioner's web site.

History: 13-37-114, MCA; IMP, 13-37-111, MCA; NEW, Eff. 2/6/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.307, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.107 COPYING OF PUBLIC RECORDS**

(1) The commissioner shall charge an amount authorized by law for providing copies of public records. This charge is the amount necessary to reimburse the office for its actual costs incident to such copying.

History: 13-37-114, MCA; IMP, 13-37-119(1), MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS from 44.10.309, 2016 MAR p. 28, Eff. 1/9/16.

### **Subchapter 2, Political Committees and Candidates**

#### **44.11.201 STATEMENT OF ORGANIZATION - POLITICAL COMMITTEE, INFORMATION REQUIRED**

(1) A statement of organization required to be filed pursuant to 13-37-201 and 13-37-205, MCA, shall include, but not be limited to:

- (a) The complete name and address of a political committee.
- (b) The complete names and address of all related or affiliated political committees, and the nature of the relationship or affiliation.
- (c) The complete name and address of its campaign treasurer and campaign depository, and the complete name and address of its deputy campaign treasurer and secondary campaign depository, if any.
- (d) The complete names, addresses, and titles of its officers, if any.
- (e) A statement of whether a committee is incorporated.
- (f) The name, office sought, and party affiliation (if any) of each candidate on whom the committee makes a reportable election expenditure, or if a committee is supporting the entire ticket of any party, the name of the party.
- (g) Ballot issue or issues concerned, if any, and whether a committee is in favor of or opposes such issue or issues.

History: 13-37-114, MCA; IMP, 13-37-117, 13-37-201, 13-37-202, 13-37-205, MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS from 44.10.405, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.202 POLITICAL COMMITTEE, DEFINITION AND TYPES**

(1) A political committee has the meaning as defined in 13-1-101, MCA. A political committee exists under Title 13, chapters 35 and 37, MCA, and these rules by virtue of its receipt of one or more contributions or through making one or more expenditures. A political committee must register with the commissioner at the time and in the manner set out in these rules, see ARM 44.11.201 and 44.11.302.

(2) There are four types of political committees:

- (a) a ballot issue committee as defined in 13-1-101, MCA;
- (b) a political party committee as defined in 13-1-101, MCA;
- (c) an incidental committee as defined in 13-1-101, MCA; and
- (d) an independent committee as defined in 13-1-101, MCA.

(3) A political committee is not formed by the following:

- (a) by an individual who makes an independent expenditure solely with his or her own funds and by his or her own actions;
- (b) by a \$250 or less expenditure as defined by "political committee" in 13-1-101, MCA;
- (c) by a de minimis activity, as defined in these rules;
- (d) by an individual who is married making a contribution through his or her joint checking account; or
- (e) by a candidate and his or her campaign treasurer(s) making an expenditure or accepting a contribution in the candidate's campaign.

(4) A ballot issue committee is a political committee specifically organized to support or oppose a ballot issue. A "ballot issue" is defined by 13-1-101, MCA.

(5) A political party committee is a political committee formed by a political party organization. A political party organization is defined by 13-1-101, MCA. A political party committee includes a county central committee, city central committee, clubs, and any other political committee that was formed by a political party organization.

(6) An incidental committee is a political committee that does not have the primary purpose of supporting or opposing candidates or ballot issues. Incidental committee reportable election activity may consist of:

- (a) making one or more expenditures;
- (b) accepting one or more designated contributions; or
- (c) accepting one or more contributions in response to an appeal.

(7) An independent committee is a political committee that has the primary purpose of supporting or opposing candidates or ballot issues but is neither a ballot

issue nor a political party political committee. Independent committee reportable election activity may consist of:

- (a) making one or more expenditures;
- (b) accepting one or more contributions.

(8) Provided its reportable election activity is all within a single reporting period, a political committee may file a single report of its election expenditures or contributions, identifying the report as an opening and closing report.

(9) The primary purpose standard is defined in ARM 44.11.203.

(10) The commissioner may classify each political committee in the manner defined in these rules, see ARM 44.11.204.

(a) Subunits of a main political committee, such as county committees or other divisions, that have authority to receive contributions and make expenditures independent of a parent political committee are a separate political committee.

(b) Subunits within those entities defined under "person" in these rules that have authority to receive contributions and make expenditures independent of the corporation or other entity are a separate political committee.

History: 13-37-114, MCA; IMP, 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-231, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 1997 MAR p. 1828, Eff. 10/7/97; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.327, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.203 PRIMARY PURPOSE**

(1) The term "primary purpose" refers to the major, principal, or important goal, function, or reason for existence of a political committee.

(2) The commissioner may determine that the primary purpose of a political committee is to support or oppose candidates or ballot issues based upon any one or more of the following criteria:

- (a) allocation and source of budget;
  - (b) allocation of staff or members' activity, both during an election and otherwise;
- or
- (c) the statement of purpose, articles of incorporation, bylaws, or goals.

(3) The commissioner, in determining the primary purpose of a political committee, may also consider any one or more of the following criteria:

- (a) reportable election activity;
- (b) the history of the political committee and the number of elections in which it has participated or registered;
- (c) receipt of contributions in response to an appeal or that are designated for a specified candidate, ballot issue, petition, or reportable election activity;
- (d) the number and cost of reportable election expenditures made;
- (e) coordination with any candidates or other political committees;
- (f) ordinary business actually conducted;

(g) if a corporation, whether it was created and maintained as provided by law;  
or

(h) the date of founding, incorporation, or organization.

(4) If the commissioner finds, pursuant to ARM 44.11.204 and based on his or her analysis of the information provided on the political committee's statement of organization (Form C-2), or any other information known or provided to the commissioner's office, that an organization's primary purpose is to support or oppose a candidate or ballot issue, then that organization shall file and report as an independent committee, ballot issue committee, or political party committee, pursuant to these rules, and not as an incidental committee.

(5) The COPP's determination of the primary purpose of a political committee shall be based upon a preponderance of the evidence.

(6) Once notified of its classification by the COPP, a political committee may submit additional information and request to be reclassified pursuant to ARM 44.11.204.

History: 13-37-114, MCA; IMP, 13-1-101, 13-37-114, 13-37-226, 13-37-232, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.204 POLITICAL COMMITTEE, CLASSIFICATION**

(1) The commissioner shall classify a political committee upon the basis of information including the statement of organization as defined in these rules. The commissioner shall notify a political committee of its classification.

(2) The political committee shall be classified as one of the types of political committee specified in ARM 44.11.202.

(3) The commissioner may reclassify a political committee if the status of that committee should change.

(4) If the commissioner, based upon the information provided on the statement of organization, is unable to classify a political committee, additional information may be requested by the commissioner. If additional information is requested, a political committee shall provide the requested information within 10 business days after its receipt of the request.

(5) A political committee, after it has received notice of its classification, may supply additional information and request to be reclassified.

History: 13-37-114, MCA; IMP, 13-37-226, MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from ARM 44.10.329, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.220 STATEMENT OF CANDIDACY**

(1) "Candidate" is defined in 13-1-101, MCA.

(2) A candidate, whether or not the office for which the individual will seek nomination or election is known, shall file certification with the commissioner pursuant to

13-37-201, MCA, within five business days of becoming a candidate as defined by 13-1-101, MCA.

(3) A statement of candidacy shall include:

(a) the complete name, office sought, and party affiliation (if applicable) of the candidate; and

(b) the complete name and address of the candidate's campaign treasurer and campaign depository, and the complete name and address of his or her deputy campaign treasurer and secondary campaign depository, if any.

History: 13-37-114, MCA; IMP, 13-1-101, 13-37-201, 13-37-202, 13-37-205, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.221 BUSINESS DISCLOSURE**

(1) For purposes of this rule, "state officer" means elected officials, including candidates for statewide or state district offices, state district court candidates, Supreme Court candidates, department directors, or anyone appointed to fill any of these offices, 2-2-106, MCA.

(2) All state officers must file a business disclosure statement, as provided in 2-2-106, MCA.

(a) Each candidate for a statewide election or a state office elected from a district must file a business disclosure statement within five days of the time that the candidate files for office.

(3) For additional rule requirements, see ARM 44.10.621.

History: 2-2-136, MCA; IMP, 2-2-106, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.222 ELECTIONS TO WHICH AGGREGATE CONTRIBUTION LIMITS APPLY**

(1) The term "aggregate contributions" means the total of all of the following contributions made by or received from a person for each election in a campaign:

(a) all contributions, as defined in 13-1-101, MCA, and further defined in ARM 44.11.401;

(b) all earmarked contributions, as defined in ARM 44.11.404;

(c) all expenditures encouraged in order to avoid a contribution, as specified in ARM 44.11.504; and

(d) all contributions that are coordinated as defined in 13-1-101, MCA, and further explained in ARM 44.11.501 and 44.11.602.

(2) The term "contested primary," as used in 13-37-216, MCA, means a primary election in which two or more candidates compete for the same nomination.

An election is not contested when, due to the number of candidates, the candidate automatically advances to the general election or position. For example:



(a) in partisan primary elections, if two or more candidates compete for one party's nomination, it is a "contested primary," resulting in two elections to which the contribution limits in 13-37-216, MCA, apply. For the two candidates seeking Party A's nomination in the primary election for a public office, it is a contested primary with respect to Party A's nomination; or

(b) if only one candidate seeks Party B's nomination for the same public office, it is not a contested primary with respect to Party B's nomination, and there is only one election to which the contribution limits in 13-37-216, MCA, apply; or

(c) in judicial and other nonpartisan primary elections, if a nonpartisan candidate automatically advances from the primary election to the general election pursuant to 13-14-117, MCA, it is not a contested primary election; or

(d) when an incumbent judicial officer is the only candidate who files a declaration for nomination in the primary election, and subsequently faces a vote, pursuant to 13-14-212, MCA, for or against retention in the general election, there is no "contested primary," and there is only one election to which the contribution limits in 13-37-216, MCA, apply.

History: 13-37-114, MCA; IMP, 13-37-216, MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 1996 MAR p. 787, Eff. 3/22/96; TRANS and AMD from ARM 44.10.334, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.223 AGGREGATE CONTRIBUTION LIMITS FOR WRITE-IN CANDIDATES**

(1) A candidate who is unsuccessful in a contested primary election, but who complies with applicable statutes to qualify as a write-in candidate for the general election, must file a declaration of intent pursuant to 13-10-211, MCA.

(2) The write-in candidate must close his or her primary election account, and follow the procedures to dispose of the funds according to ARM 44.11.701 and 44.11.702.

(3) The write-in candidate shall not use any primary election funds for his or her general write-in election campaign.

(4) The write-in candidate shall file a new statement of candidate and, if required, a business disclosure statement, and comply with the aggregate contribution limits for the general election.

History: 13-37-114, MCA; IMP, 13-37-216, 13-37-218, 13-37-240, MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96; TRANS and AMD from ARM 44.10.337, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.224 DESIGNATION OF CONTRIBUTIONS FOR PRIMARY AND GENERAL ELECTIONS**

(1) Aggregate contributions for elections in a campaign are limited according to 13-37-216 and 13-37-218, MCA, and as explained by ARM 44.11.222. An "election" in a campaign is either a primary election or a general election.

(2) For purposes of applying aggregate contribution limits per election the following apply:

(a) aggregate contribution limits for each election, as set forth in 13-37-216, MCA, apply to a primary election and to a general election as defined in ARM 44.11.222;

(b) Time periods for filing reports of contributions and expenditures are set forth in 13-37-226 and 13-37-228 , MCA. As a general rule, contributions received by a candidate prior to and on the day of a primary election are designated for the primary election and are subject to the aggregate contribution limits for the primary election; however, a candidate in a contested primary may receive contributions designated for the general election during the primary election period (except for in-kind contributions) subject to the contribution limits for the general election;

(c) general election contributions received prior to the day of the primary election must be maintained in a separate account and shall not be used until after the day of the primary election;

(d) All contributions received by a candidate after the day of the primary election are designated as general election contributions and are subject to the aggregate contribution limit for the general election, except that a candidate may continue to receive contributions designated for the primary election subject to the limits after that election only for the purpose of paying primary election debts. General election contributions shall not be used to pay primary election debt;

(e) Leftover funds that were designated for the primary election may be used for general election purposes if all primary debt has been paid.

(3) If a candidate receives contributions designated for the general election prior to the primary, and does not proceed to the general election, the candidate must return the contributions to the donors. These funds are not "surplus campaign funds" as defined in ARM 44.11.702.

History: 13-37-114, MCA; IMP, 13-37-216, 13-37-218, MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from ARM 44.10.330, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.225 LIMITATIONS ON CONTRIBUTIONS FROM POLITICAL PARTY COMMITTEES**

(1) Political committees formed by "political party organizations," as that phrase is defined in 13-1-101, MCA, are subject to the aggregate contribution limits, which include in-kind contributions and expenditures, established in 13-37-216, MCA. Such committees are "political party committees," and include all county central committees, city central committees, clubs, and other committees, that fit within the definition of "political committee" in 13-1-101, MCA, and were formed by a political party organization.

(2) Candidates shall be responsible for monitoring contributions from political party committees to ensure that the contribution limits are not exceeded.

(3) For the purposes of determining compliance with political party contribution limits established pursuant to 13-37-216, MCA, a "contribution" does not include a coordinated expenditure made solely by a political party committee in the form of provision of personal services by paid staff of the political party that benefit the associational interest of the political party but also constitute reportable election activity benefitting a particular candidate of the same political party.

History: 13-37-114, MCA; IMP, 13-37-216, MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from ARM 44.10.333, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.226 LIMITS ON RECEIPTS FROM POLITICAL COMMITTEES**

(1) Based on the calculation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to candidates for the state legislature are as follows:

(a) a candidate for the state house of representatives may receive no more than \$1,700;

(b) a candidate for the state senate may receive no more than \$2,800.

(2) These limits apply to total combined receipts for the entire election cycle of 2016.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.

History: 13-37-114, 13-37-218, MCA; IMP, 13-37-218, MCA; NEW, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1988 MAR p. 595, Eff. 3/25/88; AMD, 1990 MAR p. 532, Eff. 3/16/90; AMD, 1992 MAR p. 1871, Eff. 8/28/92; AMD, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 1996 MAR p. 787, Eff. 3/22/96; AMD, 1998 MAR p. 186, Eff. 1/16/98; AMD, 1999 MAR p. 2934, Eff. 12/17/99; AMD, 2001 MAR p. 2001, Eff. 10/12/01; AMD, 2005 MAR p. 2094, Eff. 10/28/05; AMD, 2007 MAR p. 1684, Eff. 10/26/07; AMD, 2010 MAR p. 561,

Eff. 2/26/10; AMD, 2011 MAR p. 2544, Eff. 11/26/11; AMD MAR p. 2320, Eff. 12/13/13; TRANS and AMD from ARM 44.10.331, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.227 LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS TO A CANDIDATE**

(1) Pursuant to the calculation specified in 13-37-216, MCA, limits on total combined contributions by a political committee, other than a political party committee, or by an individuals to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than \$660;

(b) a candidate for other statewide office may receive no more than \$330;

(c) a candidate for all other public offices may receive no more than \$170.

(2) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from political party committees to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than \$23,850;

(b) a candidate for other statewide offices may receive no more than \$8,600;

(c) a candidate for Public Service Commission may receive no more than \$3,450;

(d) a candidate for senate may receive no more than \$1,400;

(e) a candidate for all other public offices may receive no more than \$850.

(3) Pursuant to 13-37-216 and 13-37-218, MCA, all contributions must be included in computing these limitation totals, except the personal services exemption found in ARM 44.11.401.

(4) A candidate may make unlimited contributions to his or her own campaign, but shall report and disclose each contribution and expenditure according to these rules.

History: 13-37-216, MCA; IMP, 13-37-216, 13-37-218, MCA; NEW, 2008 MAR p. 1034, Eff. 5/23/08; AMD, 2010 MAR p. 560, Eff. 2/26/10; AMD, 2011 MAR p. 2545, Eff. 11/26/11; AMD, 2013 MAR p. 2318, Eff. 12/13/13; TRANS and AMD from ARM 44.10.338, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.240 CONSEQUENCES FOR FAILURE TO FILE REQUIRED STATEMENTS, REPORTS, OR DISCLOSURES**

(1) The commissioner, following inspection of the candidate or committee's required statements, disclosures, or reports or lack thereof, may take actions, including any of the following:

(a) declare the statement, disclosure, or report to be incomplete or inadequate and require the preparation of a new statement, disclosure, or report, as provided in 13-37-121 and 13-37-123, MCA;

(b) require the production of a candidate or committee's campaign records, accounts, books, correspondence, memoranda, bank account statements, or any other information as provided in 13-37-111 and 13-37-123, MCA;

(c) reclassify a political committee as provided in ARM 44.11.204;

(d) issue an order of noncompliance as provided in 13-37-121, MCA;

(e) provide notice to the Secretary of State or other election administrator that a candidate's name should be withheld from a primary election ballot as provided in 13-37-126, MCA;

(f) provide notice to the Secretary of State or other election administrator that a certificate of nomination or election should be withheld following the general election as provided in 13-37-127, MCA;

(g) issue a finding of sufficient evidence of violation of Montana's Campaign Practice and Finance laws after an investigation authorized by 13-37-111 and 13-37-123, MCA;

(h) initiate a civil or criminal court action to enforce Montana's Campaign Practice and Finance laws as provided by 13-37-128, MCA;

(i) request the District Court to remove an elected official from office, if the official is found by the court to have violated the laws as provided in 13-35-106, MCA;

(j) request that the District Court void an election pursuant to 13-35-107, MCA;

or

(k) any other action allowed by statute to carry out the purposes of Montana's 1975 Campaign Finance and Candidate Disclosure Act as provided by sec. 1, Ch. 480, L. 1975.

(2) This rule is not intended to limit the powers of others to enforce the laws of Title 13, chapters 35 and 37, MCA, where allowed by law, nor to encompass all potential legal consequences for actions outside the jurisdiction of the commissioner.

History: 13-37-114, MCA; IMP, 13-35-106, 13-35-107, 13-37-111, 13-37-121, 13-37-123, 13-37-126, 13-37-127, 13-37-128, MCA and Sec. 1, Ch. 480, L. 1975, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

### **Subchapter 3, Filing**

#### **44.11.301 UNIFORM SYSTEM OF ACCOUNTS**

(1) Each person required to file reports pursuant to Title 13, chapter 37, MCA, and these rules, shall maintain a system of accounts as prescribed and published in manual form by the commissioner. The manual may be obtained without cost and upon request from the commissioner, P.O. Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942, or online at [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov).

(2) The uniform system of accounts provides, on a current basis, the detail and summary information necessary for preparing, directly from the accounting records, the reports required by Title 13, chapter 37, MCA, and these rules.

History: 13-37-114, MCA; IMP, 13-37-117, MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1988 MAR p. 595, Eff. 3/25/88; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS, and AMD from ARM 44.10.501, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.302 STATEMENTS AND REPORTS, FILING**

(1) Except as provided in this rule, each statement and report required by Title 13, chapters 35 and 37, MCA, and these rules shall be filed on forms prescribed by the commissioner. The forms may be obtained without cost and upon request from the commissioner, P.O. Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942. The forms may also be downloaded from the office's web site at <http://www.politicalpractices.mt.gov>.

(a) Pursuant to 13-37-226, MCA, candidates for a state office filled by a statewide vote of all the electors of Montana, incidental committees, independent committees, and ballot issue committees shall file all reports electronically.

(b) Political party committees that receive a contribution or make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file all reports electronically in accordance with the procedure described in this rule.

(c) Except as provided in (1)(d) and (2), the following candidates shall also file all reports electronically:

- (i) candidates for the legislature;
- (ii) candidates for the public service commission; and
- (iii) candidates for district court judge.

(d) Candidates listed in (c) shall file all reports electronically only if the total amount of contributions received or the total amount of expenditures made exceeds \$500, for all elections in a campaign, excluding the filing fee paid by an individual.

(2) As provided by 13-37-226, MCA, electronic filing is mandatory for those candidates listed in (1) except for those qualifying under (1)(d). Candidates listed in (1)(c) may submit a written request for a waiver from the requirement that reports be filed electronically. Electronic filing is mandatory for committees who are required to file electronically by statute. Committees who are required to file electronically by this rule, may apply for a waiver. The commissioner may provide a waiver if the candidate or committee establishes that they cannot file electronically for reasons such as they do not have reasonable access to the technology necessary to file electronically.

(3) A report is filed "electronically," as provided in 13-37-226, MCA, by providing the required information to the commissioner through the office's web site by using the "Campaign Electronic Reporting System (CERS)" link to electronically input the information. The commissioner's office will make training available for all users of the electronic filing system.

(4) All statements and reports required by Title 13, chapters 35 and 37, MCA, and these rules shall be filed with the commissioner, as specified in 13-37-225, MCA, and this rule.

(a) Except for reports filed electronically as provided in this rule, each statement and report filed shall be a legible copy bearing an original signature of the individual filing the statement or report.

(b) A statement or report is filed if it is submitted electronically or delivered to the commissioner before 5:00 p.m. on the prescribed filing date, or if it is deposited in an established U.S. post office, postage prepaid, no later than 5:00 p.m. three days before the prescribed filing date.

(c) If the candidate or committee faxes in a report and fails to file the original report with the COPP, the candidate or committee thereby acknowledges the signature on the fax has the same force and effect as the original signature on the report or statement.

(d) The commissioner's office shall acknowledge receipt of a delivered statement or report.

History: 13-37-114, MCA; IMP, 13-37-117, 13-37-225, 13-37-226, 13-37-231, MCA; NEW, Eff. 1/1/76; AMD, 1977 MAR p. 1241, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01; AMD, 2012 MAR p. 634, Eff. 3/23/12; TRANS and AMD from ARM 44.10.401, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.303 AMENDMENTS TO STATEMENTS AND REPORTS**

(1) Amendments correcting a report filed pursuant to 13-37-225 and 13-37-226, MCA, for a previous reporting period shall be filed as soon as possible following the date upon which the person filing the report became aware of the inaccuracy. The correction shall identify the date of the report and schedule containing the information to be corrected and the reason for the correction.

(2) Any material change in information previously submitted in a statement of candidate or statement of organization filed pursuant to 13-37-201 or 13-37-205, MCA, and ARM 44.11.201 and 44.11.220 shall be reported by filing an amended statement with the commissioner within five business days after the change.

(3) Candidates and committees who electronically file with the commissioner using the CERS system may use the "Update or Amend Report" button to immediately submit a correction to a previous report.

History: 13-37-114, MCA; IMP, 13-37-201, 13-37-205, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA; NEW, Eff. 2/6/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; TRANS and AMD from ARM 44.10.403, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.304 LOCAL CANDIDATES AND POLITICAL COMMITTEES RECEIVING OR EXPENDING LESS THAN \$500**

(1) If a local candidate or a political committee which is specifically organized to support or oppose a particular local candidate or local issue anticipates receiving contributions in a total amount of less than \$500 and anticipates making expenditures in a total amount of less than \$500 for all elections in a campaign, the candidate or an officer of the political committee shall file an affidavit of such intent at the same time the statement of candidate or statement of organization is filed as required by 13-37-201 and 13-37-205, MCA.

(2) If a local candidate or an officer of a local political committee files an affidavit pursuant to this rule and subsequently receives contributions in a total amount or makes expenditures in a total amount in excess of \$500 for all elections in a campaign, such candidate or officer shall, within five business days of the date when such expenditures or contributions exceed \$500, file an initial report disclosing all contributions and expenditures to that date and shall file all future reports required by 13-37-226, MCA.

History: 13-37-114, MCA; IMP, 13-37-226, MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; TRANS and AMD from ARM 44.10.407, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.305 NONRESIDENT AND FEDERALLY FILING COMMITTEES, REPORTS**

(1) As used in this rule, "federally filing committee" means any committee that files reports with the federal election commission on a monthly or quarterly basis pursuant to the Federal Election Campaign Act of 1971, as amended.

(a) If a federally filing committee's reports filed with the federal election commission fully disclose the source and disposition of all contributions and expenditures used in elections in Montana, the commissioner shall accept copies of such reports in lieu of the periodic reports prescribed by the Campaign Finances and Practices Act. Such reports need to be filed with the commissioner only for periods in which a federally filing committee receives contributions from Montana sources or makes expenditures in elections in Montana. A copy of a statement of organization (FEC Form 1) shall accompany the first report, and copies of any amendments thereto shall be filed with the commissioner.

(b) This rule does not affect the duty of any such committee under 52 USCS Sec. 30113 to file copies of reports with the Montana Secretary of State.

(c) If a federally filing committee cannot satisfy the requirements set forth in these rules, it shall file reports on the COPP's forms for the periods in which the committee makes expenditures and contributions in elections in Montana. Such reports shall contain the information required by 13-37-229 through 13-37-232, MCA, and these rules.



(2) Committees headquartered outside the state of Montana that are not federally filing committees and that make expenditures and contributions in elections in Montana may satisfy the requirements of the Montana Campaign Practices Act in one of two ways:

(a) if the committee files reports with a state officer in its home state, the commissioner may accept copies of such reports in satisfaction of the requirements of the Montana Campaign Finances and Practices Act if those reports fully disclose the source and disposition of all expenditures and contributions used in elections in Montana. Such reports need to be filed only for periods in which the committee makes expenditures and contributions in elections in Montana. A copy of a statement of organization or equivalent statement shall accompany the first such report, and copies of any amendments thereto shall be filed with the commissioner as they occur.

(b) if a nonresident committee cannot satisfy the requirements set forth in (a), it shall file reports on Montana forms for the periods in which the committee makes expenditures and contributions in elections in Montana. Such reports shall contain the information required by 13-37-229 through 13-37-232, MCA, and these rules.

History: 13-37-114, MCA; IMP, 13-37-227, MCA; NEW, 1979 MAR p. 655, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from ARM 44.10.413, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.306 COMMITTEE SEMIANNUAL AND CLOSING REPORTS**

(1) Except as provided in (2), independent, incidental, ballot issue, and political party committees that are not required to file semiannual reports in March and September shall file a year-end closing report pursuant to 13-37-226, MCA. The closing date of books for the report is December 31 and the report shall be filed with the commissioner no later than January 31.

(a) The report shall cover all contributions received and expenditures made since the closing date of books for the most recently filed report.

(b) The closing date of books for the report shall mark the cutoff date for the purpose of computing aggregate contributions and expenditures, and future reports shall use that date as a beginning point for the purpose of aggregation.

(2) No committee shall be required to file the report required by (1) if the committee was required to file a post-election report pursuant to 13-37-226, MCA, during the second half of a calendar year and no further contributions have been received or expenditures have been made by it between the closing date of books for the post-election report and December 31. The post-election report shall be considered as its closing report and the closing date of books for that report shall be used as the cutoff date for the purpose of aggregating contributions and expenditures for future reports.

(3) A committee that will not participate in future elections and that wishes to end its status as a committee may file a statement of termination with its closing report. Any further activity by a terminated committee will require a new statement of organization.

(4) A committee may file its closing report at any time prior to the date prescribed by statute once it has finished making contributions and expenditures during an election cycle.

History: 13-37-114, MCA; IMP, 13-37-226, 13-37-228, MCA; NEW, 1979 MAR p. 655, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from ARM 44.10.409, 2016 MAR p. 28, Eff. 1/9/16.

## **Subchapter 4, Reporting Contributions**

### **44.11.401 CONTRIBUTION – DEFINITION**

(1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "contribution" as defined in 13-1-101, MCA, includes:

(a) each contribution as described in 13-37-229 and 13-37-232, MCA;

(b) The purchase of tickets or admissions to, or advertisements in journals or programs for testimonial or fund raising events, including, but not limited to dinners, luncheons, cocktail parties, and rallies held to support or oppose a candidate, issue, or political committee;

(c) a candidate's own money used on behalf of his or her candidacy, except as provided in 13-1-101, MCA;

(d) an in-kind contribution, as defined in ARM 44.11.403 and 44.11.503; and

(e) a coordinated expenditure, as defined in ARM 44.11.501 and 44.11.602.

(2) For the purposes of determining compliance with political party contribution limits established pursuant to 13-37-216, MCA, a "contribution" does not include a coordinated expenditure made solely by a political party committee in the form of provision of personal services by paid staff of the political party that benefit the associational interest of the political party but also constitute reportable election activity benefitting a particular candidate of the same political party.

(3) For the purposes of determining compliance with contribution reporting required by 13-37-225 through 13-37-232, MCA, any coordinated expenditure not counted toward contribution limits pursuant to (2) must be reported as a contribution and shall be reported based upon the actual cost for such paid staff including, but not limited to, total compensation in the form of any salaries, wages, bonuses, benefits, expense reimbursement, or other supplemental payments, and a pro rata share of any taxes, fees, or assessments paid by the political party committee for each staff person.

(4) Whether or not the candidate has determined the office sought or the political committee has determined what reportable election activity it will participate in at the time the contribution is received has no effect on the responsibility to report the

contribution, and any such contribution shall be subject to the limitations of 13-37-219, MCA.

History: 13-37-114, MCA; IMP, 13-1-101, 13-37-219, 13-37-225, 13-37-229, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 1999 MAR p. 2287, Eff. 10/8/99; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.321, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.402 CONTRIBUTIONS, REPORTING**

(1) A contribution becomes a contribution on the date it is received; or, in the case of an in-kind contribution, on the date the consideration is received by the candidate or political committee.

(2) A contribution received by check drawn on a joint checking account shall be deemed and reported as a contribution from the person signing the check, unless otherwise specified in writing at the time the contribution is received.

(3) In the case of property held jointly by a candidate and another, a contribution therefrom will be presumed to be a contribution from the candidate so long as the property was owned jointly prior to the time that the candidate became a candidate as defined in 13-1-101(5) , MCA.

(4) A contribution shall be reported for the reporting period during which it is received.

(5) For the purposes of 13-37-226, MCA, the report required to be filed within two business days shall be filed as follows:

(a) it shall be electronically filed within two business days after the receipt thereof, to the commissioner's office; or

(b) if the candidate or committee faxes in a report and fails to file the original report with the COPP, the candidate or committee thereby acknowledges the signature on the fax has the same force and effect as the original signature on the report or statement.

(c) It shall be reported again on the post-election report.

History: 13-37-114, MCA; IMP, 13-37-226, 13-37-229, 13-37-232 , MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1977 MAR p. 1245, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.511, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.403 IN-KIND CONTRIBUTION, REPORTING AND VALUATION**

(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 calculated and recorded in writing. The written record is a campaign record as defined by 13-37-208, MCA. The calculation and written record shall show one of the following values for the in-kind contribution:

(a) the actual monetary cost, value or worth of the item of property, right or service contributed at the time of the in-kind contribution;

(b) if there is no actual cost or value as set out in (a), then the reasonable fair market value of the item of property, right or service based on an appropriate comparison made at the time of the in-kind contribution;

(c) in the event that the candidate or ballot committee paid for a portion of the value established by (b), then the difference between the amount paid and the value set by (b); or

(d) in the event that, due to extraordinary circumstances it is not appropriate or possible to determine the value set by (b), then a precise description must be made of the property, right or service received by the candidate or ballot committee.

(5) The value under (4) shall be reported and disclosed as a contribution as defined and required by ARM 44.11.502.

History: 13-37-114, MCA; IMP, 13-37-208, 13-37-209, 13-37-211, 13-37-229, MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1977 MAR p. 1246, Eff. 12/25/77; TRANS and AMD from 44.10.513, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.404 EARMARKED CONTRIBUTION, REPORTING**

(1) For the purposes of 13-37-217, 13-37-229, and 13-37-232, MCA, and these rules, an "earmarked contribution" is a contribution made with the express, implied, oral, written, direct, or indirect designation or instruction, that all or part of it be transferred to or expended on behalf of a specified candidate, ballot issue committee, political party committee, independent committee, or petition for nomination. An earmarked contribution is the same as a designated contribution.

(2) A contribution is not earmarked when it is to be used solely at the discretion of the initial recipient.

(3) An earmarked contribution shall be reported as follows:

(a) the intermediary candidate or political committee receiving an earmarked contribution shall report it pursuant to the provisions of ARM 44.11.402 and shall:

(i) report it as an "earmarked contribution"; and

(ii) report the name and address of the candidate or political committee for which the earmarked contribution is ultimately intended; and

(iii) inform the candidate or political committee ultimately receiving the transfer of the earmarked contribution of the full name and mailing address (and occupation and principal place of business, if any) of the original contributor.

(b) the candidate or political committee ultimately receiving an earmarked contribution shall report it pursuant to the provisions of ARM 44.11.402 and shall:

(i) report it as an "earmarked contribution"; and

(ii) report it as a contribution in the name of the original contributor, disclosing the full name, mailing address (and occupation and principal place of business, if any); and

(iii) Report the full name and mailing address of the intermediary candidate or political committee.

History: 13-37-114, MCA; IMP, 13-37-217, 13-37-229, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1240, Eff. 12/25/77; TRANS and AMD from 44.10.519, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.405 LOANS AS CONTRIBUTIONS, REPORTING**

(1) Loans to a candidate are subject to the same limits as contributions and are aggregated into a candidate's total contributions pursuant to 13-37-216 and 13-37-218, MCA; except limits do not apply to contributions or a loan made by a candidate to his or her own campaign.

(2) For the purposes of Title 13, chapter 37, MCA, and these rules, a loan shall be reported as follows:

(a) a candidate or political committee shall report a loan on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM 44.11.402, shall identify it as to its purpose.

(i) The terms and conditions of all loans, including an oral agreement to lend money, shall be reduced to writing and the terms and conditions of the loan included in the documents to be retained and made available for inspection.

(ii) Any loan agreement must be signed by the candidate or political committee and the person or entity making the loan at the time the loan is made, or, if the initial agreement is an oral agreement, within five business days thereafter.

(iii) A written loan agreement must be signed prior to any transfer of funds.

(b) A loan made to a candidate or political committee by a person, other than in the regular course of the lender's business, shall be deemed a contribution by that person.

(c) A loan made to a candidate or political committee by any person in the regular course of the lender's business shall be deemed a contribution by the obligor on the loan and by any other person endorsing the loan.

(3) A loan made to a candidate or political committee that is not repaid by the candidate or committee, including the forgiveness of any loan, becomes an in-kind contribution to the candidate or committee, see ARM 44.11.501.

History: 13-37-114, MCA; IMP, 13-37-111, 13-37-217, 13-37-229, 13-37-231, MCA; NEW, Eff. 1/1/76; TRANS and AMD from 44.10.515, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.406 MASS COLLECTIONS AT FUND-RAISING EVENTS, REPORTING**

(1) For the purposes of 13-37-229, MCA:

(a) "Mass collections" made at a fund-raising event include the proceeds received from passing the hat or from the sale of items such as campaign pins, flags, emblems, hats, banners, raffle tickets, auction items, refreshments, baked goods, admission tickets and similar items sold at a dinner, rally, auction, dance, bake sale, rummage sale or similar fund-raising event, provided that mass collections do not include the proceeds of purchases of \$35 or more for any candidate or political committee.

(b) "Itemized account of proceeds" means the date and approximate number of individuals in attendance at a fund-raising event, a description of the method utilized to gain the proceeds of a mass collection (i.e.; passing the hat, sale of raffle tickets, auction items, etc.) and the total amount received from each method utilized.

(2) For purposes of preparing the statement of deposit required by 13-37-207(2), MCA, a record identifying the name of and amount received from each person must be maintained for a purchase of \$35 or more at an event for any candidate or political committee. The proceeds of purchases of less than \$35 may be recorded and deposited in lump sum without identifying the name of the contributor.

History: 13-37-114, MCA; IMP, 13-37-207, 13-37-229, MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 653, Eff. 7/1/79; AMD, 1988 MAR p. 595, Eff. 3/25/88; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.521, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.407 CASH CONTRIBUTION, RECEIPT**

(1) No candidate or political committee shall receive a cash contribution in excess of \$25 unless the candidate or political committee prepares a receipt. Such receipt shall contain the following information:

(a) The full name and mailing address (occupation and principal place of business, if any) of the contributor.

(b) The date the contribution was received.

(c) The name of the person who received the contribution on behalf of the candidate or political committee.

(d) The exact amount of the contribution.

(2) The receipt is to be kept as a part of the treasurer's records as specified in 13-37-207, MCA.

History: 13-37-114, MCA; IMP, 13-37-207, MCA; NEW, Eff. 1/1/76. TRANS from 44.10.505, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.408 ELECTRONIC CONTRIBUTIONS, REPORTING**

(1) A candidate or political committee may accept electronic contributions from online payment service providers and payment gateways as contributions.

(a) A contribution made through a payment gateway, such as Bitcoin or other electronic peer-to-peer systems, shall be converted to U.S. dollars at the prevailing rate within twenty-four hours of receipt.

(b) A contribution made through an online service provider, such as Paypal or Google Wallet, shall be deposited in the campaign account.

(c) Any electronic contribution shall be deposited in the designated campaign account within five business days of actual receipt or conversion.

(2) All electronic contributions shall be reported according to the requirements for contributions set out in these rules.

(a) An electronic contribution shall be reported as received on the day the electronic contribution is made to the online service provider or payment gateway, regardless of whether the contribution has actually been received.

(b) The full value of the contribution shall be reported as received from the contributor, not the amount as received from the service.

(c) Each service charge or conversion fee incurred or discounted by the payment service provider shall be reported as a campaign expenditure in accordance with these rules.

(d) When receiving a payment by credit card:

(i) the candidate shall report the service charge as a campaign expenditure.

(ii) a committee shall report the service charge as a campaign expenditure if paid from the campaign account; or

(iii) as an in-kind contribution received from the committee's associated organization.

(3) Anonymous contributions shall never be accepted.

(4) If the electronic contribution amount exceeds the candidate contribution limit, the contributor must be issued a refund for the excess funds via check or through an online payment system from the campaign account. If it is not possible to return only a portion of the funds, the entire contribution must be returned.

(5) All candidates and political committees that receive electronic contributions are subject to the same limits, prohibitions, reporting, and disclosure requirements as monetary contributions, as outlined in these rules.

History: 13-37-114, MCA; IMP, 13-37-207, 13-37-229, 13-37-232, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.409 MONETARY DEPOSITS AND EXPENDITURES, ONLY THROUGH DEPOSITORY**

(1) Any candidate or agent of any candidate or political committee who receives a contribution on behalf of a candidate or political committee shall, before the end of the fifth business day, transfer it to the campaign treasurer with full disclosure of the source, as required by 13-37-229 and 13-37-232, MCA, and ARM 44.11.404 and 44.11.407.

(2) All funds received by the campaign treasurer shall be deposited as specified in 13-37-207, MCA, except that funds received prior to and on the fifth day before the date of filing of any report shall be deposited and reported on that report.

(3) All expenditures, except expenditures from the petty cash fund, shall be made by check drawn on the designated depository.

(4) Except as stated in (5), all expenditures shall be drawn on the designated campaign depository by check, debit card, wire transfer, or other electronic means that clearly identifies the person receiving the payment, and no check or other withdrawal shall be drawn payable to the order of cash.

(5) Expenditures from the petty cash fund shall be documented by a receipt voucher designating the date the monies were withdrawn, the exact amount of the withdrawal and by whom the monies were withdrawn, the name of the person or vendor to whom the monies were paid, and the purpose for which the monies were used. The receipt vouchers shall be attached to the cancelled check or other withdrawal receipt which provided the monies for the petty cash fund for the period and shall be maintained as a permanent record of the treasurer.

(6) All records shall be kept current and available for inspection as provided in 13-37-111, 13-37-208, and 13-37-209, MCA.

History: 13-37-114, MCA; IMP, 13-37-111, 13-37-205, 13-37-207, 13-37-208, 13-37-209, 13-37-215, 13-37-226, 13-37-229, 13-37-231, 13-37-232, MCA; NEW, Eff. 1/1/76; TRANS and AMD from 44.10.503, 2016 MAR p. 28, Eff. 1/9/16.

**Subchapter 5, Reporting Obligations and Expenditures**

**44.11.501 EXPENDITURE – DEFINITION**

(1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "expenditure" as defined in 13-1-101, MCA, includes:

- (a) each expenditure as described in 13-37-229 and 13-37-232, MCA;
- (b) expenses incurred by a candidate or political committee with respect to polls, surveys, and the solicitation of funds for reportable election activity;



(c) expenses incurred in the drafting, printing, distribution, and collection of signatures for any petition for nomination or a ballot issue;

(d) a candidate's own expense, except as provided in 13-1-101, MCA, and as further explained in (4);

(e) payment of interest on a loan or other credit received;

(f) an in-kind expenditure, as defined in (2);

(g) an independent expenditure, as defined in (3); and

(h) a coordinated expenditure, as defined in (4).

(2) The term "in-kind expenditure" means a third party reportable election activity expenditure, such as payment for goods or services, that does not go through the campaign depository. In the event that the third party election activity involves the furnishing of services, property, or rights without charge or at a charge that is less than fair market value in a manner that creates a reportable election expense, then the difference between the amount charged and the fair market value must be reported as an in-kind expenditure. An "in-kind expenditure" includes, but is not limited to, the forgiveness of any loan or debt owed by a candidate or political committee.

(3) The term "independent expenditure" has the meaning set out in 13-1-101, MCA.

(4) The term "coordinated expenditure" is an expenditure that is "coordinated" as defined in 13-1-101, MCA, or involves "coordination" as defined in ARM 44.11.602.

(a) A campaign expense paid personally by an individual in his or her own campaign is always coordinated with and is a campaign expense under (1)(d) that must be reported and disclosed with the same information as an expense by the campaign in the same manner as an expense paid through the campaign depository account.

(b) The candidate must balance his or her campaign finance report by reporting the amount of the expense as an in-kind contribution and/or loan by the candidate sufficient to balance the total amount of campaign expenses personally paid by the candidate.

(i) Any such candidate personal expenditure repaid by the candidate's campaign shall be disclosed and reported both as a campaign expenditure and as a repaid loan, even if both events take place in a single reporting period.

(ii) Any such candidate personal expenditure that is not repaid by the candidate's campaign shall be disclosed and reported both as a candidate contribution and as a campaign expenditure.

(5) An expenditure does not include reportable election activity carried out solely by one individual that is not coordinated with any candidate, ballot issue, or political committee.

History: 13-37-114, MCA; IMP, 13-1-101, 13-37-229, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1240, Eff. 12/25/77; AMD, 1979 MAR p.

652, Eff. 7/1/79; AMD, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1999 MAR p. 2287, Eff. 10/8/99; TRANS and AMD from 44.10.323, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.502 EXPENDITURES, REPORTING**

(1) A campaign expense paid personally by an individual in his or her own campaign is always coordinated with, and is a campaign expense of, the campaign that must be reported and disclosed as an expense by the campaign in the same manner as an expense paid through the campaign depository account.

(2) An obligation to pay for a campaign expenditure is incurred on the date the obligation is made, and shall be reported as a debt of the campaign until the campaign pays the obligation by making an expenditure.

(3) An expenditure is made on the date payment is made, or in the case of an in-kind expenditure, on the date the consideration is given.

(4) The date of each expenditure shall be reported in the reporting period during which it is made.

(5) Expenditures made from the petty cash fund need not be reported, except that an accounting shall be maintained pursuant to ARM 44.11.409.

(6) 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, an itemized basis for the payments made, and other pertinent information.

(7) For purposes of the disclosure requirements of 13-37-229 and 13-37-232, MCA, the "purpose" of each expenditure as reported on the commissioner's campaign finance reporting forms shall specifically describe the purpose, quantity, subject matter, as appropriate to each expenditure, and must be detailed enough to distinguish among expenditures for similar purposes. For example, two expenditures for direct mail advertisements should not both be reported as "Flyers."

(8) Reporting independent expenditures:

(a) shall be reported in accordance with the procedures for reporting other expenditures;

(b) a person making an independent expenditure shall report the name of the candidate or committee the independent expenditure was intended to benefit, and the fact that the expenditure was independent; and

(c) the candidate or political committee benefiting from the independent expenditure does not have to report the expenditure.

(9) For the purposes of 13-37-226, MCA:

(a) the reports required to be filed within two business days shall be filed electronically, pursuant to ARM 44.11.302; and

(b) all expenditures and contributions reported under (a) shall also be included on the post-election report.

History: 13-37-114, MCA; IMP, 13-37-225, 13-37-226, 13-37-228, 13-37-229, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, 1977 MAR p. 1247, Eff. 12/25/77; AMD, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1999 MAR p. 2287, Eff. 10/8/99; TRANS and AMD from 44.10.531, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.503 IN-KIND EXPENDITURE, REPORTING AND VALUATION**

(1) A candidate or political committee shall report an in-kind expenditure on the appropriate reporting schedule and shall describe what was made consistent with the reporting requirements specified in ARM 44.11.502.

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

(3) The value of an in-kind expenditure shall be determined as follows:

(a) it shall be reported as its fair market value at the time of the expenditure; or  
(b) it shall be reported as the difference between the fair market value at the time of the expenditure and the amount charged the expende; or

(c) it shall be reported as the actual monetary value or worth at the time of the expenditure; 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 expenditure as made.

(4) The value of an in-kind expense shall be calculated and recorded in writing. Because an in-kind expense becomes a contribution to the receiving candidate or ballot committee, this regulation works in tandem with ARM 44.11.403 and the record keeping requirements of that regulation apply. The calculation and written record shall show one of the following values for the in-kind expense:

(a) the actual monetary cost, value or worth of the item of property, right or service at the time of the in-kind expense;

(b) if there is no actual cost or value as set out in (a) then the reasonable fair market value of the item of property, right or service based on an appropriate comparison made at the time of the in-kind expense;

(c) in the event that the candidate or ballot committee paid for a portion of the value established by (b), then the difference between the amount paid and the value set by (b); or

(d) in the event that, due to extraordinary circumstances, it is not appropriate or possible to determine the value established by (b), then a precise description must be made of the property, right or service expended.

(5) The value under (4) shall be reported and disclosed as a contribution as defined and required by ARM 44.11.502.

History: 13-37-114, MCA; IMP, 13-37-208, 13-37-209, 13-37-211, 13-37-229, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; TRANS and AMD from 44.10.533, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.504 EXPENDITURE ENCOURAGED TO AVOID CONTRIBUTION, REPORTING**

(1) If a candidate or political committee, or member thereof, advises, counsels, or otherwise knowingly encourages any person to make an expenditure for the purpose of avoiding direct contributions, or for any other reason, the expenditure shall be considered a contribution by that person to the candidate or political committee encouraging the expenditure..

(2) Such contributions shall be reported pursuant to the provisions of ARM 44.11.403.

History: 13-37-114, MCA; IMP, 13-37-229, MCA; NEW, Eff. 1/1/76; TRANS and AMD from 44.10.517, 2016 MAR p. 28, Eff. 1/9/16.

**44.11.505 DEBTS AND OBLIGATIONS OWED TO A CANDIDATE OR POLITICAL COMMITTEE, REPORTING**

(1) Pursuant to 13-37-229 and 13-37-232, MCA, each report required by 13-37-226, MCA, shall disclose all debts and obligations owed to a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A candidate or political committee shall report the full name and mailing address (and occupation and principal place of business, if any) of each person who owes a debt or obligation to the candidate or political committee at the end of a reporting period, including the amount, date contracted, and purpose of each debt and obligation owed by each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported, and the basis for the estimated amount shall be reduced to writing and retained for inspection.

(3) All invoices or billing statements must be maintained and available for inspection.

(4) If the debt or obligation 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 for inspection.

History: 13-37-114, MCA; IMP, 13-37-229, 13-37-231, 13-37-232, MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD from 44.10.525, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.506 DEBTS AND OBLIGATIONS OWED BY A CANDIDATE OR POLITICAL COMMITTEE, REPORTING**

(1) Pursuant to 13-37-229 and 13-37-232, MCA, each report required by 13-37-226, MCA, shall disclose all debts and obligations owed by a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A candidate or political committee shall report the full name and mailing address (and occupation and principal place of business, if any) of each person to whom a debt or obligation is owed at the end of a reporting period, including the amount, date contracted, and purpose of each debt and obligation owed to each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported, and the basis for the estimated amount shall be reduced to writing and retained for inspection.

(3) All invoices or billing statements must be maintained and available for inspection.

(4) If the debt or obligation 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 for inspection.

(5) A loan made to a candidate or political committee that is not repaid by the candidate or committee, including the forgiveness of any loan, becomes an in-kind contribution to the candidate or committee, see ARM 44.11.401.

History: 13-37-114, MCA; IMP, 13-37-229, 13-37-231, 13-37-232, MCA; NEW, Eff. 1/1/76; TRANS and AMD from 44.10.535, 2016 MAR p. 28, Eff. 1/9/16.

### **Subchapter 6, Campaign Practices**

#### **44.11.601 ATTRIBUTION ON ELECTION MATERIAL**

(1) Pursuant to 13-35-225, MCA, election communications, electioneering communications, and independent expenditures (referred to collectively herein as "election materials") must disclose the person who paid for the election materials, by including the appropriate attribution language set out in (2).

(2) All attributions must include the words "paid for by" followed by the appropriate identifying information. For election materials financed by:

- (a) a candidate or a candidate's campaign, the attribution must include either:
  - (i) the name and address of the candidate; or
  - (ii) the name and address of the candidate's campaign.

(A) An attribution using the name of the candidate's campaign must include the first and last name of the candidate if the name of the campaign does not include at least the candidate's last name.

(B) Additional information, such as the name of the campaign treasurer, may be included within the attribution language, but it is not required.

(iii) Examples of an appropriate attribution for a candidate are:

Paid for by John Smith  
P.O. Box 10000  
Helena, MT 59605

or

Paid for by Smith for Senate  
P.O. Box 20000  
Helena, MT 59605

(b) a political committee, the attribution must include:

(i) the name of the committee, the name of the committee treasurer, and the address of either the committee or its treasurer.

(ii) An example of an appropriate attribution for a political committee is:

Paid for by Support Our Schools  
Sarah Jones, Treasurer  
P.O. Box 30000  
Helena, MT 59605

(c) a political committee that is a corporation or union, the attribution must include:

(i) the name of the corporation or union, its chief executive officer or equivalent, and the physical address of the corporation or union's principal place of business.

(ii) Examples of an appropriate attribution 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

(d) For election materials funded or facilitated solely by an individual acting on his or her own behalf, the attribution must include the name and address of the individual who paid for the materials.

(3) All election materials are required by 13-35-225, MCA, to clearly and conspicuously include the appropriate attribution language. To ensure compliance with this statutory directive, the commissioner establishes the following requirements and specifications:

(a) for written election materials, including but not limited to those published, broadcast, or otherwise disseminated through print media or digital media, as defined in these rules:

(i) the reader or observer should have no difficulty locating and reading the attribution language;

(ii) the attribution language should be of sufficient type size to be clearly readable by the recipient or reader of the communication;

(iii) the language should be contained in a printed area or segment set apart from the other contents of the election materials;

(iv) the language should be printed with a reasonable degree of color contrast between the background and the printed statement; and

(v) 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.

(b) for broadcast election materials, including but not limited to those published, broadcast, or otherwise disseminated through broadcast media or digital media, as defined by these rules:

(i) the attribution language for broadcast election communications containing audio content shall be spoken in the communication;

(ii) the attribution language for broadcast election materials containing visual content shall be displayed in the communication. The language may simultaneously be spoken, but it is not required.

(4) In partisan candidate elections, election communications and electioneering communications financed by a candidate or a political committee organized on the candidate's behalf must state either the candidate's party affiliation or include the candidate's party symbol.

(a) To meet the party affiliation disclosure requirement, election materials should state the name or a reasonable and comprehensible abbreviation of the name of one of the qualified political parties in Montana: "Democrat," "Libertarian," or "Republican."

(b) To meet the party symbol disclosure requirement, election materials should include either the symbol for one of the qualified political parties in Montana or the capitalized first letter of one of the parties. Acceptable symbol designations are:

- (i) Democrat: the donkey symbol or "D";
- (ii) Libertarian: the Statue of Liberty symbol or "L"; or
- (iii) Republican: the elephant symbol or "R."

(c) The commissioner may determine that other language or a symbol included within a particular election material complies with the statutory directive, as long as there is some objective basis for the use of the language or symbol and the identity of the party is readily discernable.

(d) The party affiliation or symbol may appear with the attribution language, or within the body of the message content in the election materials.

(5) Printed election material that contains information about another candidate's voting record must include all the information specified in 13-35-225, MCA. The signed statement referred to in the statute may consist of a facsimile of an actual hand signature or an electronic signature. An acceptable electronic signature will be in the following format: "/s/ John Smith." An electronic signature that appears on written election materials shall have the same effect as an actual hand signature or a facsimile of a hand signature.

(6) Election materials consisting of documents or other articles of campaign advertising that are too small for the inclusion of the attribution language and other information required by 13-35-225, MCA, need not include the information; however, 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 of its public distribution. For purposes of this rule, "at the time" means at or before the earliest date and time the election material is scheduled to be published, broadcast, or disseminated to the public.

(7) If information required by 13-35-225, MCA, is omitted from election materials, or if information required by (6) is not filed with the commissioner, the person who is responsible for or who financed the material shall, upon discovering the deficiency:

- (a) file notification of the deficiency with the commissioner within two business days of discovery;
- (b) bring the election material into compliance or file the information required by (6); and
- (c) withdraw any noncompliant material from circulation as soon as possible.

(8) If notification required by (7)(a) is not provided and the commissioner becomes aware of the existence of election material that does not comply with 13-35-



225, MCA, whether by complaint or otherwise, the commissioner will contact the person who is responsible for or financed the material and provide notice of the deficiency.

(a) The notice will require that the material be brought into compliance within the time limits provided in 13-35-225, MCA.

(b) The notice will state that failure to bring the material into compliance will subject the person who financed the election materials to a civil penalty action pursuant to 13-37-128, MCA.

(c) The noncompliant election material must not be disseminated or broadcast until it has been corrected and brought into compliance.

(9) The office of the commissioner, when notified, will work informally with candidates, political committees, and others to ensure compliance with the requirements of 13-35-225, MCA, and to promptly bring deficient election materials into compliance.

History: 13-7-114, MCA; IMP, 13-35-225, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.602 COORDINATION**

(1) A "coordinated expenditure" means any election communication, electioneering communication, or reportable election activity that is made by a person in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or an agent of the candidate. The coordination of an expenditure need not require agreement, cooperation, consultation, request, or consent on every term necessary for the particular coordinated expenditure, but only requires proof of one element, such as content, price, or timing, to be met as a fact of a coordinated expenditure.

(2) When determining whether a communication or reportable election activity is coordinated the following may be considered, whether:

(a) it is based on information that is provided by the candidate or agent of the candidate directly or indirectly to the person funding or facilitating the communication or activity, or any person involved in creating, producing, or disseminating it.

(b) it was made by or through any candidate's agent in the course of the agent's involvement in the current campaign.

(c) the person funding or facilitating the communication or reportable election activity retains the paid services of a person or individual who:

(i) currently, or during the six months immediately preceding the election in which the candidate's name will appear on the ballot, received compensation from the candidate or the candidate's agent; and

(ii) the person or individual is involved in creating, producing, or disseminating the communication or reportable election activity.

(d) the communication or reportable election activity replicates, reproduces, republishes or disseminates, in whole or in substantial part, any material designed, produced and paid for, or distributed by the candidate, except as set forth in (3)(e).

(e) the candidate or the candidate's agent has made or participated in any discussion or in making any decision regarding the content, timing, location, media, intended audience, volume of distribution, or frequency of placement of the communication or activity.

(f) the person funding or facilitating the communication or reportable election activity has:

(i) established a written firewall policy designed to prevent the flow of information about the candidate's campaign plans, projects, activities, or needs from the persons providing services to the candidate to persons involved in the creation, production, or dissemination of the communication or activity; and

(ii) prior to the preparation or distribution of any communication or reportable election activity has distributed the firewall policy to all relevant employees, consultants, and clients affected by the policy; and

(iii) filed the firewall policy with the COPP.

(3) A "coordinated expenditure" does not mean any election communication, electioneering communication, or reportable election activity consisting of:

(a) an uncoordinated expenditure or an independent reportable election activity funded or facilitated by a person;

(b) services, food, or lodging provided in a manner that they are not contributions by a person within the meaning of contribution as defined by 13-1-101, MCA, or these rules;

(c) the cost funded or facilitated by a person for any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical of general circulation;

(d) activity by an individual acting solely on his or her own behalf independently of any candidate or the candidate's agent; or

(e) the independent use of statements, images, or other information that is appropriated from a public source.

(4) A "coordinated expenditure" does not exist solely because:

(a) of personal or professional relationships between a candidate and other persons;

(b) the person funding or facilitating the communication or reportable election activity has previously made a contribution to the candidate;

(c) after publication or distribution, the person funding or facilitating the communication or reportable election activity informs the candidate or an agent of the candidate that the person has made an expenditure or funded the activity, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure or funding the activity; or

(d) the funding or facilitating of the communication or reportable election activity is made at the request or suggestion of a candidate or an agent of a candidate for the benefit of another candidate or political committee where the other potentially benefitted candidate or political committee has no involvement.

(5) A "coordinated expenditure" shall be treated and reported as an in-kind contribution from and expenditure by the person funding, facilitating, or engaging in the election communication, electioneering communication, or reportable election activity.

Both the candidate and the committee shall report the coordinated expenditure and/or in-kind contribution as the case may be.

History: 13-7-114, MCA; IMP, 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.603 DE MINIMIS**

(1) A "de minimis act" is defined in 13-1-101, MCA. The commissioner may consider the following factors in determining whether specific acts, contributions, or expenditures are de minimis and therefore do not trigger registration, reporting, attribution, or disclosure requirements, or warrant enforcement as a campaign practices violation:

(a) whether the act, contribution, or expenditure has an ascertainable fair market value, and if so the amount of that value;

(b) in the case of an act that results in the provision of services, whether the act results in either a detriment to the provider of the services, such as an out-of-pocket expense or the preclusion of other activities;

(c) whether the act, contribution, or expenditure at issue is a single, one-time event or occurrence or multiple events or occurrences;

(d) the extent to which a particular campaign practices violation deprives the public of disclosure;

(e) other factors and circumstances similarly showing limited value or minimal harm.

(2) Acts, contributions, or expenditures that may, depending on the circumstances, be considered de minimis include:

(a) the creation of electronic or written communications or digital photos or video, on a voluntary (unpaid) basis by an individual, including the creation and outgoing content development and delivery of social media on the internet or by telephone;

(b) the provision by an individual or political committee of personal property, food, or services with a cumulative fair market value of less than \$35 in the aggregate for any single election;

(c) the location value of the display of lawn or yard signs on real property, but only if the property owner does not normally and does not in fact charge a fee for display of signs;

(d) any value attributable to the display of campaign bumper stickers or signs on a vehicle, but only if the vehicle owner does not normally and does not in fact charge a fee for display of bumper stickers or signs;

(e) typographical errors or incomplete or erroneous information on a campaign finance report that is determined not to be misleading or that does not substantially affect disclosure;

(f) any failure to comply with the attribution requirements of 13-35-225, MCA, that is determined to nevertheless provide sufficient disclosure regarding who made or financed the communication;

(g) expenses associated with volunteer services or efforts, including the cost of gas, parking, and meals.

(3) Fair market value will be determined according to the description of the term in ARM 44.11.403 and 44.11.503.

History: 13-7-114, MCA; IMP, 13-1-101, 13-37-114, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.604 ELECTION COMMUNICATION**

(1) An election communication is a communication, made in media as defined in these rules, that is made to support or oppose a candidate or ballot issue, as those terms are defined in 13-1-101, MCA.

(2) An election communication means:

(a) a paid advertisement broadcast over radio, television, cable, or satellite;

(b) paid placement of content on the internet or other electronic communication network;

(c) a paid advertisement published in a newspaper or periodical or on a billboard;

(d) a mailing; or

(e) printed materials.

(3) An election communication does not mean any communication that is excluded from the definition of the term in 13-1-101, MCA.

(4) A person who makes an election communication is subject to the reporting and disclosure requirements of Title 13, chapters 35 and 37, MCA, and these rules.

History: 13-7-114, MCA; IMP, 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.605 ELECTIONEERING COMMUNICATION**

(1) An electioneering communication is a paid communication that:

(a) is publicly distributed by one or more of the modes of communication listed in the statute;

(b) is made within 60 days of the initiation of voting in an election;

(c) does not support or oppose a candidate or ballot issue, as "support or oppose" is defined in 13-1-101, MCA;

(d) can be received by more than 100 recipients in the district voting on the candidate or ballot issue;

(e) 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 candidates in the election; or  
(iii) refers to a political party, ballot issue, or other question submitted to the voters in the election.

(2) In (1)(b) the phrase "made within 60 days of the initiation of voting in an election" shall mean the following:

(a) in the case of mail ballot elections, the initiation of voting occurs when official ballot packets are mailed to qualified electors pursuant to 13-19-206, MCA;

(b) in other elections the initiation of voting occurs when absentee ballot packets are mailed to or otherwise delivered to qualified electors pursuant to 13-13-214, MCA.

(3) An electioneering communication does not mean any communication that is excluded from the definition of the term in 13-1-101, MCA. In addition, an electioneering communication does not mean:

(a) a communication that refers to or depicts the name, image, likeness, or voice of one or more clearly identified candidates, but that is susceptible to no reasonable interpretation other than as unrelated to the candidacy or the election;

(b) a communication that refers to a political party, ballot issue, or other question submitted to the voters at an election, but that is susceptible to no reasonable interpretation other than as unrelated to the issue or the election;

(c) the voter information pamphlet prepared and distributed by the Secretary of State; or

(d) any other regular or normal communication by a local government or a state agency that includes information about a candidate, ballot issue, or election. A communication concerning a bond issue by local government or a state agency is not regular and normal communication and is subject to reporting and disclosure as an electioneering communication. For purposes of this rule the terms local government and state agency shall have the same meaning as the definitions of the terms in 2-2-102, MCA.

(4) An electioneering communication may also be an independent expenditure.

(5) The determination whether a particular communication is an electioneering communication or is excluded from the definition of the term will be based on the purpose, timing, and distribution of the communication.

(6) Upon request, the commissioner may issue a letter to a group or person reporting the cost of electioneering communications under these rules. The letter may state that the reporting and disclosure required for an electioneering communication does not mean or imply that an express advocacy determination was made as to the communication that is covered by the cost reported.

(7) A person who makes an electioneering communication is subject to the reporting and disclosure requirements of Title 13, chapters 35 and 37, MCA, and these rules.

(8) The COPP shall maintain a form which will allow a political committee to report an electioneering communication without designating the expenditure as in support of or in opposition to candidate(s) or issue(s).

History: 13-7-114, MCA; IMP, 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.606 ELECTIONEERING - INTERPRETIVE RULE**

(1) As used in 13-35-211, MCA, "electioneering" means the solicitation of support or opposition to a candidate or issue to be voted upon at the election or polling place in question, by means of:

(a) Personal persuasion, electronic amplification of the human voice, or the display or distribution of campaign materials.

(b) Offering or distribution of food, drink, or any other material benefit in a manner calculated to encourage recognition, support, or opposition to a candidate or issue.

(c) "Electioneering" does not include the display of ordinary bumper stickers on automobiles.

History: 13-7-114, MCA; IMP, 13-35-211, MCA; NEW, 1977 MAR p. 1236, Eff. 12/25/77; TRANS from 44.10.311, 2016 MAR p. , AMD 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.607 FAIR NOTICE PERIOD BEFORE ELECTION**

(1) For purposes of this rule, "campaign advertising" refers to "reportable election activity", as defined in ARM 44.11.103.

(2) The "fair notice requirement" is described in 13-35-402, MCA. For the purpose of that section, the date used to determine the date "intended for public distribution" for material distributed by:

(a) print media is the date of the postmark.

(i) If no postmark is provided on the mailing, the date the mailing is mailed or "dropped," as reported by the mail distributor, is the equivalent of the postmark date.

(b) broadcast media, digital media, or published material is "at the time" the material is published or broadcast or disseminated to the public.

(i) "At the time" means at or before the earliest date and time the message is scheduled to be published, broadcast, or disseminated to the public.

(c) hand dissemination, see 13-35-402, MCA.

History: 13-7-114, MCA; IMP, 13-35-402, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.608 PERSONAL USE OF CAMPAIGN FUNDS**

(1) Except as provided in (4), no goods, services, funds, property, or other contributions received by a candidate or political committee may be used for the personal use or expense of any candidate, immediate family of a candidate, or staff of a candidate's campaign.

(2) Expenditures for personal use are those that have no direct connection with, or effect upon, expenditures to support or oppose candidates or issues, and those that would exist irrespective of a candidate's campaign or an individual's involvement in a candidate's campaign. Campaign expenditures are those that serve to support or oppose a candidate or issue. An expenditure for personal use or expense occurs when, for example, the expenditure:

(a) covers normal living needs of the candidate, the candidate's immediate family, or any other individual;

(b) covers food or clothing that are not specially required by or related to a campaign activity;

(c) covers the cost of travel, lodging, food, and registration, including attendance at any conference or event, that does not serve a campaign interest.

(3) A candidate or candidate's campaign may purchase goods or services and lease personal and real property that provide a mixed benefit to the candidate provided:

(a) the amount attributed to an individual's personal use or expense shall be determined in writing and reimbursed by the individual to the campaign, unless the personal benefit is de minimis;

(b) a mixed benefit to the candidate means use of goods, services, or property for personal use or expense as well as to support or oppose candidates or issues; or

(c) the personal benefit is de minimis as determined according to ARM 44.11.603.

(4) The prohibition of this rule is not applicable to:

(a) reimbursements to a candidate, or staff or volunteers of a candidate's campaign, for goods and services purchased for campaign expenditures;

(b) gifts or bonuses of less than \$250 in a calendar year to campaign staff; or

(c) expenditures expressly authorized elsewhere in these rules.

(5) Prior to filing a closing report of a candidate's campaign:

(a) any personal and real property purchased with campaign funds that has a residual fair market value of \$50 or more may be disposed of by one of the following methods:

(i) sale of the property at fair market value, in which case the proceeds shall be treated the same as other campaign funds and disposed of according to ARM 44.11.702 regarding surplus campaign funds. If campaign property is sold to the candidate, a member of the candidate's immediate family, or paid campaign staff, the

campaign must receive at least 75 percent of the original purchase price or value of the in-kind contribution as determined per ARM 44.11.403; or

(ii) donation of the property under one of the options set out in ARM 44.11.702 pertaining to disposal of surplus campaign funds.

(b) the disposition of all campaign property under this rule must be reported on the closing report required by ARM 44.11.306, including the method of disposition (sale or donation), the complete date of the disposition, the name and address of the purchaser or donee, and a description of the property. If the property is sold, the information shall include the sale price received; if the property is donated, the information shall include the fair market value of the property at the time of the transfer.

(c) for purposes of this rule, the "residual" fair market value is based upon the value of the property at the time it is sold or donated, accounting for items of similar description, age, and condition. The sale of property through an online commercial auction shall be considered as a favorable factor in determining that the sale price received was the fair market value of the property sold.

(d) any personal or real property purchased with campaign funds that is not disposed of under this rule, shall be disposed of according to ARM 44.11.702.

(6) Whether an expenditure of campaign funds is to be considered a personal use or expense, and therefore prohibited, is a factual determination to be made by the commissioner.

History: 13-7-114, MCA; IMP, 13-1-101, 13-37-229, 13-37-240, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.

## **Subchapter 7, Campaign Surplus and Constituent Accounts**

### **44.11.701 DEFINITIONS**

For the purposes of Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and this subchapter:

(1) "Compensation" includes all direct or indirect payments of salaries, fees, wages, and benefits to an individual or a person to provide constituent services. The term includes all payments made to an individual or a person to provide constituent services on behalf of an eligible elected official, including but not limited to, payments for overtime, compensatory time, retirement, health insurance, membership fees for social, civic, and professional organizations, life insurance, professional liability insurance, unemployment or worker's compensation insurance, personal use of a vehicle, rental car payments, disability insurance, travel, meal, and lodging reimbursement, and other benefits.

(2) "Constituent" means an individual who resides in, is employed in, provides goods or services in, attends school in, or has an ownership interest in property or a business in the district or geographic area represented by an eligible elected official.



(3) "Constituent services" has the meaning generally defined in 13-37-401, MCA, and more specifically defined in ARM 44.11.707.

(4) "Constituent services account" means an account established under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter.

(5) "Eligible elected official" means an individual elected or appointed to a statewide office, the Public Service Commission, or the Legislature.

(6) "In-kind donation" means the furnishing of services, property, equipment, supplies, rights, or anything of value without charge or at a charge which is less than fair market value to an eligible elected official for the purpose of providing constituent services.

(7) "Leaves public office" means that an eligible elected official ceases to occupy the public office for which a constituent services account has been established. The term does not include an eligible elected official who is re-elected to the same public office.

(8) "Pre-existing account" means an account related to a public official's office that existed before May 14, 2007 (the effective date of 13-37-401 and 13-37-402, MCA).

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.10.536, 2015 MAR p. , AMD 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.702 DISPOSAL OF SURPLUS CAMPAIGN FUNDS AND PROPERTY**

(1) Candidates shall dispose of surplus campaign funds within 120 days of filing the closing campaign report required by 13-37-228, MCA.

(a) The candidate's closing report shall be filed whenever all debts and obligations are extinguished, the provisions of ARM 44.11.608 are followed, and no further contributions or expenditures will be received or made which relate to the campaign.

(b) No closing report needs to be filed following a primary election campaign if the candidate will advance to the general election.

(2) "Surplus campaign funds" are those campaign funds remaining when all debts and other obligations of the campaign have been paid or settled, pursuant to ARM 44.11.608, no further campaign contributions will be received, and no further campaign expenditures will be made.

(3) Surplus campaign funds will be considered to have been "disposed of" on the date payment or donation of the item of property is made by the candidate or the candidate's committee to a permissible person, entity, or account.

(4) The candidate shall be responsible for obtaining a receipt containing the requisite information from all recipients of any surplus campaign funds or property. Payment of surplus campaign funds or property shall be evidenced by a receipt from the recipient containing the following information:

- (a) the full name and mailing address of the recipient;
  - (b) the date the funds or property were received;
  - (c) the full name of the candidate from whose campaign the funds or property were received; and
  - (d) the exact amount of funds or fair market value of the property received.
- (5) Those candidates with surplus campaign funds shall file a supplement to the closing campaign report, on a form prescribed by the commissioner, showing the disposition of surplus campaign funds or property. The report shall be accompanied by copies of all receipts required by (4). The supplement shall be filed within 135 days after the closing report is filed.

(6) A candidate or eligible elected official shall abide by the prohibitions on the use of surplus campaign funds specified in 13-37-240, and 13-37-402, MCA, ARM 44.11.703, the provisions of this rule, and the rules in this chapter.

(a) For purposes of the restrictions on the disposal of surplus campaign funds and personal or real property set forth in 13-37-240, MCA, "personal benefit" is defined in 13-37-240, MCA. For the purposes of this definition, a candidate's or an eligible elected official's "immediate family" includes any individual related or connected to a candidate or an eligible elected official as specified in 2-2-303, MCA.

(b) For purposes of the restrictions on the disposal of surplus campaign funds and personal or real property set forth in 13-37-240, MCA, "campaign" means any effort to support or oppose the nomination or election of a candidate for public office, or to support or oppose passage of a ballot issue.

(c) Surplus campaign funds, including surplus campaign funds deposited in a constituent services account and any interest accrued as provided in ARM 44.11.710, may only be disbursed as follows:

(i) return the funds to the contributors, so long as the refund to contributors will not violate the personal benefit or campaign contribution provisions of 13-37-240 and 13-37-402, MCA, ARM 44.11.703, or the rules in this chapter;

(ii) donate the funds and personal or real property to any organization or entity, so long as the use of the funds and personal or real property will not violate the personal benefit or campaign contribution provisions of 13-37-240 and 13-37-402, MCA, ARM 44.11.703, or the rules in this chapter;

(iii) An elected official other than an eligible elected official may transfer the funds to an account to serve a public purpose related to the officeholder's public duties, so long as the funds will not result in personal benefit or a contribution to a campaign;

(iv) an eligible elected official may transfer the funds to a constituent services account provided for in Title 13, chapter 37, part 4, MCA, and the rules in this chapter;

(v) an eligible elected official may retain the personal or real property of the campaign to serve constituents as provided in Title 13, chapter 37, part 4, MCA, and the rules in this chapter.

(7) A candidate or an eligible elected official shall not contribute surplus campaign funds to a political committee. However, nothing in this section shall be construed as prohibiting the contribution of surplus campaign funds to a political party or a political party committee, so long as the funds are not earmarked for a specific campaign.

(8) Upon a determination that a candidate made a prohibited disposal of surplus campaign funds, the commissioner may employ any enforcement measures within his or her jurisdiction.

History: 13-37-114, MCA; IMP, 13-37-240, MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 2001 MAR p. 2049, Eff. 10/12/01; AMD, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.10.355, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.703 PERSONAL BENEFIT**

(1) Pursuant to 13-37-240, MCA, the term "direct or indirect benefit" means the distribution of all or any portion of surplus campaign funds, including surplus campaign funds deposited in a constituent services account, that benefit a candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family, except as specifically authorized by this rule or the rules in this chapter.

(2) Surplus campaign funds or constituent services account funds may be donated to a group of individuals or an organization to which the candidate or an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family belongs or is a member, as long as:

(a) the candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family do not control how the group or organization spends the surplus campaign funds or constituent services account funds received by the group or organization;

(b) the candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family abstains from voting on or taking any action to approve or disapprove a decision by the group or organization to spend the surplus campaign funds or constituent services account funds received by the organization; and

(c) The candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family receive a benefit that is only incidental to their membership or participation within the group or organization. A benefit is "incidental" if a benefit bestowed on or available to a candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family is the same as a benefit bestowed on or available to the public or other members of the group or organization.

(3) Surplus campaign funds or constituent services account funds may be donated to a government entity under ARM 44.11.702, even if the candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family is an employee of the government entity or serves on the government entity's policy making or advisory board, as long as:

(a) The candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family does not control how the government entity spends the surplus campaign funds or constituent services account funds received;

(b) the candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family abstains from voting on or taking any action to approve or disapprove a decision by the government entity to spend the surplus campaign funds or constituent services account funds received; and

(c) The candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family receives a benefit that is only incidental to their employment by or participation as a board member. A benefit is "incidental" if a benefit bestowed on or available to a candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family is the same as a benefit bestowed on or available to the government entity's other employees or board members.

History: 13-37-114, MCA; IMP, 13-37-240, MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96; AMD, 2008 MAR p. 2009, Eff. 9/12/08. TRANS and AMD from 44.10.336, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.704 APPLICABILITY OF RULES**

(1) All of the rules in this chapter apply to a constituent services account established by an eligible elected official under Title 13, chapter 37, part 4, MCA, and 13-37-240, MCA, on or after May 14, 2007.

(2) The rules in this chapter do not apply to the constituent services stipend and reimbursement provided by the state of Montana to a legislator, starting July 1, 2017, pursuant to 5-2-204, MCA, which is administered by Legislative Services.

(3) Only the personal benefit and campaign contribution prohibitions in 13-37-240 and 13-37-402, MCA, and ARM 44.11.702, 44.11.703, and 44.11.706 apply to:

(a) a pre-existing account in which surplus campaign funds have been deposited;

(b) an account related to an elected official's office if the elected official has been elected to any public office other than the public offices listed in ARM 44.11.705 and surplus campaign funds have been deposited in the account; or

(c) the expenditure of surplus campaign funds by a candidate or an elected official.

(4) The following provisions of Montana law may also apply to the use or expenditure of surplus campaign funds, constituent account funds, or other funds deposited in or expended from accounts related to an elected official's public office:

(a) the Montana Code of Ethics, 2-2-101, et seq., MCA, including the provisions governing the receipt of gifts of substantial value and the receipt of fees or compensation other than the official compensation provided by law;

(b) the provisions of Title 13, chapter 35, part 2, MCA, concerning the improper influence of voters before and after an election and the prohibition against corporate and union contributions to candidates;

(c) the provisions of Title 13, chapter 37, part 2, MCA; and

(d) the provisions of Title 5, chapter 7, MCA.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.10.537, AMD 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.705 ELIGIBLE ELECTED OFFICIALS**

(1) An individual elected to any of the following public offices may transfer surplus campaign funds to a constituent services account created under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter:

(a) Governor;

(b) Lieutenant Governor;

(c) Attorney General;

(d) Secretary of State;

(e) State Auditor;

(f) Superintendent of Public Instruction;

(g) Chief Justice or Justice of the Supreme Court;

(h) Clerk of the Supreme Court;

(i) Public Service Commission; or

(j) The Montana House of Representatives or Senate.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.44.10.538, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.706 PROHIBITIONS**

(1) The following prohibitions apply to a constituent services account established under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, ARM 44.11.702 and 44.11.703, and the rules in this chapter:

(a) An eligible elected official may not establish any other account related to the eligible elected official's public office after May 14, 2007, except for a campaign account.

(b) Only surplus campaign funds as defined in ARM 44.11.702 may be deposited in a constituent services account established under Title 13, chapter 37, part 4, MCA, and the rules in this chapter, except for the payment of interest as provided in ARM 44.11.710. An eligible elected official may not:

(i) deposit funds from a pre-existing account or any other account related to the eligible elected official's public office into a constituent services account established under Title 13, chapter 37, part 4, MCA;

(ii) solicit or receive cash or anything of monetary value for deposit in a constituent services account or to provide constituent services; or

(iii) solicit or receive an in-kind donation to provide constituent services.

(c) A constituent services account established under Title 13, chapter 37, part 4, MCA, may only be used to provide constituent services.

(d) Constituent services account funds may not be used for personal benefit as specified in 13-37-240 and 13-37-402, MCA, ARM 44.11.702, and 44.11.703, and the rules in this chapter. Constituent services account funds may not be used to pay compensation to an eligible elected official or a member of an eligible elected official's immediate family except as expressly provided in the rules in this chapter.

(e) Expenditures cannot be made from a constituent services account if the eligible elected official has an open campaign account for any elective office, including an elective office other than the office currently held. However, constituent services account funds may be used to pay for constituent services provided or expenses incurred to provide constituent services before the date upon which a campaign account was opened if payments for such services or expenses are supported by written documentation as provided in ARM 44.11.709.

(f) Constituent services account funds may not be contributed to another ballot issue or candidate campaign, including the eligible elected official's own future campaign.

(2) Subsections (1)(d) and (1)(f) apply to:

(a) a pre-existing account in which surplus campaign funds have been deposited; or

(b) the expenditure of surplus campaign funds by any elected official described in ARM 44.11.704.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.10.539, 2015 MAR p. , AMD 22016 MAR p. 28, Eff. 1/9/16.

#### **44.11.707 AUTHORIZED EXPENDITURES**

(1) A constituent services account established under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter, may be used to pay for the following expenses incurred to provide constituent services:

(a) communications with constituents or on behalf of constituents, including but not limited to, printing, postage, paper, internet, facsimile, delivery, or other costs incurred to communicate with or on behalf of constituents. Communication costs do not include payment for public advertisements or public announcements of any kind unless such public advertisements or announcements are limited to publicly announcing the date, time, place, and general purpose of a meeting in an eligible elected official's district at which the public will be allowed to participate in a public discussion of matters of interest to an eligible elected official's constituents;

(b) travel, meal, and lodging expenses as provided in (2);

(c) equipment and supplies as provided in (3) and (4);

(d) office expenses related to the lease or purchase of office space as provided in (3) and (4);

(e) utility costs associated with the use of equipment, supplies, and office space to provide constituent services;

(f) compensation paid to an individual, other than an eligible elected official or a member of an eligible elected official's immediate family; and

(g) expenses related to education, workshops, and conference participation that are incurred to represent and serve constituents; and

(h) any other expenses incurred to provide constituent services subject to the requirements and prohibitions of the rules in this chapter.

(2) Constituent services account funds may be used to pay travel, meal, and lodging expenses subject to the following:

(a) An eligible elected official may be reimbursed for travel, meal, and lodging expenses incurred to provide constituent services at the rates and reimbursement levels specified in Title 2, chapter 18, part 5, MCA, and applicable rules adopted by the Department of Administration.

(b) An individual, other than a member of an eligible elected official's immediate family, may be reimbursed for travel, meal, and lodging expenses incurred under a written agreement with an eligible elected official to provide constituent services if such reimbursement does not exceed the rates and reimbursement levels specified in Title 2, chapter 18, part 5, MCA, and applicable rules adopted by the Department of Administration.

(c) A member of an eligible elected official's immediate family may not be reimbursed for travel, meal, and lodging expenses incurred to provide constituent services.

(3) If constituent services account funds are used to purchase office space, equipment, or supplies, the office space, equipment, or supplies purchased with constituent account funds must be used exclusively to provide constituent services. When an eligible elected official leaves public office, any office space, equipment, or

unused supplies purchased with constituent account funds must be disbursed as provided in ARM 44.11.702.

(4) If constituent services account funds are used to reimburse an eligible elected official or a person, other than a member of an eligible elected official's immediate family, for office space, equipment, or supplies used, in whole or in part, to provide constituent services, all reimbursement payments and the basis for such payments must be documented in writing as provided in ARM 44.11.709. Any reimbursement for office space, equipment, or supplies must be based on the fair market value of the office space, equipment, and supplies used to provide constituent services.

(5) Nothing in this rule authorizes constituent services account funds to be used or expended in violation of the prohibitions in ARM 44.11.702, 44.11.703, and 44.11.706, 13-37-240, MCA, or Title 13, chapter 37, part 4, MCA.

(6) Constituent services account funds may not be used to pay:

(a) compensation to an eligible elected official for time spent or services rendered to provide constituent services, except as expressly provided in the rules in this chapter;

(b) compensation or any other payment to a member of an eligible elected official's immediate family for time spent or services rendered to provide constituent services;

(c) the cost of polls or public opinion surveys designed or intended to determine the attitudes and opinions of constituents or the public. However, nothing in this subsection prohibits an eligible elected official from encouraging a constituent to express an opinion about matters of interest to the constituent or matters that may be the subject of official action by the eligible elected official;

(d) the cost of all or any portion of an event, meeting, fundraiser, or gathering at which contributions as defined in 13-1-101, MCA, will be solicited or received by any person, including but not limited to, a political party, political party committee, candidate, or person or political committee supporting or opposing a candidate or ballot issue;

(e) any direct or indirect travel, lodging, meals, entertainment, or other expenses related to the sponsorship of, attendance at, or participation in an event, meeting, fundraiser, or gathering at which contributions as defined in 13-1-101, MCA, will be solicited or received by any person, including but not limited to, a political party, political party committee, candidate, or a person or political committee supporting or opposing a candidate or ballot issue;

(f) any direct or indirect expenditure to support or oppose a candidate or ballot issue;

(g) the cost of entertaining constituents or any other individual or person. However, nothing in this subsection prohibits an eligible elected official from using constituent services account funds to pay for food or drink provided at a publicly announced or publicly advertised meeting held for the general purpose of allowing



constituents to participate in a public discussion of matters of interest to the constituents or an eligible elected official. The expenditures for food and drink at such a meeting must not be lavish or extravagant; and

(h) travel, meals, or lodging expenses incurred by a constituent or any individual other than an individual who has a written agreement to provide constituent services on behalf of an eligible elected official.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS and AMD from 44.10.540, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.708 OPENING AN ACCOUNT**

(1) An eligible elected official may establish a constituent services account under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter, by filing a completed constituent services account form provided by the commissioner. The form shall require an eligible elected official to disclose and provide, as a minimum, the following:

(a) the name and elective office held by the eligible elected official establishing the constituent services account;

(b) the district or geographic area represented by the eligible elected official;

(c) the full name, mailing address, and telephone number that appears on the constituent services account;

(d) the full name and mailing address of any individual other than the eligible elected official who is authorized to make expenditures from the account (the eligible elected official establishing the account must be one of the signatories on the account);

(e) the full name, mailing address, and telephone number that appears on the campaign account from which surplus campaign funds are being transferred for deposit in the constituent services account;

(f) the full name, mailing address, and telephone number of the financial institution at which the constituent services account has been established;

(g) a copy of the closing report for the campaign account from which surplus campaign funds are being transferred for deposit in the constituent services account;

(h) the amount of surplus campaign funds being deposited in the constituent services account;

(i) if all of the surplus campaign funds in the closed campaign account will not be deposited in the eligible elected official's constituent services account, the full name and mailing address of each contributor or entity receiving any portion of the surplus campaign funds pursuant to ARM 44.11.702; and

(j) for each payment of surplus campaign funds to a contributor or entity under the preceding subsection, the date on which the payment was made.

(2) The form must be signed by the eligible elected official and verified as required by 13-37-231, MCA.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS and AMD from 44.10.541, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.709 RECORDS AND REPORTING**

(1) An eligible elected official who establishes a constituent services account under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter, must file quarterly reports with the commissioner's office after an account is opened. Reports must be filed on or before April 10, July 10, October 10, and January 10 in each calendar year until the account is closed as provided in ARM 44.11.711. A report must be filed even if no expenditures have been made during the reporting period. The reports must include all expenditures made and interest accrued through the end of the calendar quarter on which the quarterly report is due.

(2) Each report must contain, as a minimum, the following:

(a) the amount of money in the account at the beginning of the reporting period;  
(b) the amount and rate of interest paid on money in the account during the reporting period pursuant to ARM 44.11.710;

(c) for each expenditure made during the reporting period:

(i) the full name, mailing address, occupation, and principal place of business (if any) of each person to whom expenditures were made; and

(ii) the amount, date, and general statement describing the constituent services that were the basis for each expenditure; and

(iii) the total amount of expenditures made to each person; and

(iv) the amount of money in the account at the end of the reporting period.

(3) Each report must be signed by the eligible elected official and verified as written by 13-37-231, MCA.

(4) An eligible elected official must maintain the following additional written documentation for each expenditure from a constituent services account:

(a) The basis for any fair market value determination to be made under the rules in this chapter.

(b) A written log or other documents identifying the date on which constituent services were provided, the street address and city at which the constituent services were provided, a statement describing the constituent services provided, and the full name and mailing address of at least one constituent on whose behalf the constituent services were provided.

(c) If the expenditure involves payments to a person other than the eligible elected official, a written receipt or invoice from the payee.

(d) If the expenditure involves reimbursement for travel, meal, or lodging expenses, it must be supported by receipts or other written documentation that satisfies applicable requirements of Title 2, chapter 18, part 5, MCA, and rules adopted by the Montana Department of Administration.

(e) If the expenditure involves costs incurred to communicate with constituents, it must be supported by receipts or other written documentation itemizing the basis for the communication expenditure.

(5) An eligible elected official may establish only one constituent services account and no secondary depositories or subaccounts may be established. An eligible elected official may only have one constituent services account open at a time, and while a campaign account is open no expenditures shall be made from the constituent services account established pursuant to 13-37-401 and 13-37-402, MCA.

(6) All records and reports that must be filed or maintained under the rules in this chapter must be retained by the eligible elected official for a period of four years after the constituent services account is closed.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS and AMD from 44.10.542, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.710 INTEREST PAID ON ACCOUNTS**

(1) Interest paid on a constituent services account established under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter, may be received and used to provide constituent services if:

(a) the interest is deposited directly into the constituent services account;

(b) the interest is paid by a bank, savings and loan, credit union, brokerage firm, or other financial or investment entity subject to regulation by the state of Montana or an agency of the United States government; and

(c) the interest paid is the entity's prevailing money market, savings, or certificate of deposit rate paid to other investors or depositors with similar interest bearing accounts.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08. TRANS from 44.10.543, 2016 MAR p. 28, Eff. 1/9/16.

#### **44.11.711 CLOSING AN ACCOUNT—DISBURSEMENT OF SURPLUS ACCOUNT FUNDS**

(1) An eligible elected official must close a constituent services account within 120 days after leaving public office as defined in ARM 44.11.701. The closing report must be filed on a form to be provided by the commissioner.

(2) A closing report must disclose the full name and mailing address of each contributor or entity receiving all or any portion of the funds in a constituent services

account pursuant to ARM 44.11.702. The closing report must also disclose the date on which the payment was made to each contributor or entity.

History: 13-37-114, MCA; IMP, 13-37-401, 13-37-402, MCA; NEW, 2008 MAR p. 2009, Eff. 9/12/08; TRANS from 44.10.543, 2016 MAR p. 28, Eff. 1/9/16.

<b>Chapter 11</b>			
<b>Office of Commissioner of Political Practices</b>			
<b>Sub-Chapter 1</b>			
<b>COPP Organizational Rule, Procedural Rule and General Policy</b>			
<b>Old #</b>		<b>New #</b>	<b>Action Taken</b>
44.10.101	Organizational Rule	44.11.101	TRANS and AMD
44.10.201	Incorporation of Model Rules	44.11.102	TRANS and AMD
44.10.301	Introduction and Definitions	44.11.103	TRANS and AMD
44.10.303	Construction of Rules	44.11.104	TRANS and AMD
44.10.305	Practice Regarding Application of Rules	44.11.105	TRANS and AMD
44.10.307	Complaints of Violations	44.11.106	TRANS and AMD
44.10.309	Copying of Public Records	44.11.107	TRANS
<b>Subchapter 2</b>			
<b>Political Committees and Candidates</b>			
<b>Political Committees</b>			
44.10.405	Political Committee - Statement of Organization	44.11.201	TRANS and AMD
44.10.327	Political Committee - Definition and Types	44.11.202	TRANS and AMD
	Primary Purpose	44.11.203	ADOPT
44.10.329	Political Committee Classification	44.11.204	TRANS and AMD
<b>Candidates</b>			
	Statement of Candidate	44.11.220	ADOPT
	Business Interest Disclosure	44.11.221	ADOPT
44.10.334	Elections to Which Aggregate Contribution Limits Apply	44.11.222	TRANS and AMD
44.10.337	Aggregate Contribution Limits for Write-in Candidates	44.11.223	TRANS and AMD
44.10.330	Designation of Contributions Primary-General	44.11.224	TRANS and AMD
44.10.333	Limits on Contributions from Parties	44.11.225	TRANS and AMD
44.10.331	Limits on Contributions from Political Committees	44.11.226	TRANS and AMD
44.10.338	Limitations on Individual and Political Party Contributions	44.11.227	TRANS and AMD
	Consequences for Failure to File Required Reports and Disclosures	44.11.240	ADOPT
<b>Subchapter 3</b>			
<b>Filing</b>			
44.10.501	Uniform System of Accounts	44.11.301	TRANS and AMD
44.10.401	Statements, Reports, and Electronic Filing	44.11.302	TRANS and AMD
44.10.403	Amending Statements and Reports	44.11.303	TRANS and AMD

44.10.407	Local Candidates And Committees, Receiving or Expending Less Than \$500	44.11.304	TRANS and AMD
44.10.413	Nonresident and Federally Filing Committees	44.11.305	TRANS and AMD
44.10.409	Committee Semiannual and Closing Reports	44.11.306	TRANS and AMD
<b>Subchapter 4 Reporting Contributions</b>			
44.10.321	Contribution - Definition	44.11.401	TRANS and AMD
44.10.511	Reporting Contributions	44.11.402	TRANS and AMD
44.10.513	In-Kind Contribution, Reporting and Valuation	44.11.403	TRANS and AMD
44.10.519	Earmarked Contribution	44.11.404	TRANS and AMD
44.10.515	Loans as Contributions	44.11.405	TRANS and AMD
44.10.521	Mass Collections at Fundraisers	44.11.406	TRANS and AMD
44.10.505	Cash Contributions	44.11.407	TRANS
	Electronic Contributions	44.11.408	ADOPT
44.10.503	Deposits and Expenditures Campaign Account	44.11.409	TRANS and AMD
<b>Subchapter 5 Reporting Obligations and Expenditures</b>			
44.10.323	Expenditure - Definition	44.11.501	TRANS and AMD
44.10.531	Reporting Expenditures	44.11.502	TRANS and AMD
44.10.533	In-Kind Expenditures, Reporting and Valuation	44.11.503	TRANS and AMD
44.10.517	Expenditure to Avoid Direct Contribution	44.11.504	TRANS and AMD
44.10.525	Debts Owed By Candidate or Committee	44.11.505	TRANS and AMD
44.10.535	Debts Owed To a Candidate or Committee	44.11.506	TRANS and AMD
<b>Subchapter 6 Campaign Practices</b>			
	Attribution on Election Material	44.11.601	ADOPT
	Coordination	44.11.602	ADOPT
	De Minimis	44.11.603	ADOPT
	Election Communication	44.11.604	ADOPT
	Electioneering Communication	44.11.605	ADOPT
44.10.311	Electioneering	44.11.606	TRANS
	Fair Notice Period	44.11.607	ADOPT
	Personal Use of Campaign Funds	44.11.608	ADOPT

<b>Subchapter 7 Surplus and Constituent Accounts</b>			
44.10.536	Definitions	44.11.701	TRANS and AMD
44.10.335	Disposal of Surplus Campaign Funds	44.11.702	TRANS and AMD
44.10.336	Personal Benefit	44.11.703	TRANS and AMD
44.10.537	Applicability of Rules	44.11.704	TRANS and AMD
44.10.538	Eligible Elected Officials	44.11.705	TRANS
44.10.539	Prohibitions	44.11.706	TRANS and AMD
44.10.540	Authorized Expenditures	44.11.707	TRANS and AMD
44.10.541	Opening a Constituent Account	44.11.708	TRANS and AMD
44.10.542	Records and Reporting	44.11.709	TRANS and AMD
44.10.543	Interest Paid on Accounts	44.11.710	TRANS
44.10.544	Closing a Constituent Account	44.11.711	TRANS and AMD

<b>REPEALED</b>		
44.10.325	Political Committee – Definition (incorporated in 44.11.201)	REP
44.10.332	Leadership Political Committees	REP
44.10.411	Incidental Political Committee, Filing Schedule, Reports	REP
44.10.507	Transfer of Contribution to Campaign Treasurer (incorporated into 44.11.409)	REP
44.10.523	Aggregate Contribution (incorporated in 44.11.222)	REP