

COMMISSIONER OF  
POLITICAL PRACTICES



COPY



STATE OF MONTANA

DENNIS UNSWORTH  
COMMISSIONER  
TELEPHONE (406) 444-2942  
FAX (406) 444-1643

1205 EIGHTH AVENUE  
PO BOX 202401  
HELENA, MONTANA 59620-2401  
www.politicalpractices.mt.gov

July 23, 2008

Bruce Hanson  
633 Collins Road  
Belgrade, MT 59714

Subject: Complaint received July 21, 2008; John Bohlinger

I have carefully reviewed the complaint you filed against John Bohlinger. Your complaint alleges that Mr. Bohlinger violated § 13-10-602, MCA, which provides that no candidate may use any word of the name of any other political party or organization other than that by which he is nominated. Your complaint also alleges that Mr. Bohlinger committed the criminal offense of false swearing, in violation of § 45-7-401, MCA, when he signed a declaration for nomination with Brian Schweitzer as the nominees of the Democratic Party for the offices of Governor and Lieutenant Governor. In addition, citing § 13-36-101 and 13-36-201, MCA, your complaint contests the right of Mr. Bohlinger to represent the Democratic Party as its nominated candidate for Lieutenant Governor in 2008.

To be valid, a complaint must describe in detail an alleged violation, and cite the specific statute or rule within my jurisdiction that is alleged to have been violated. (ARM 44.10.307(2).) Your complaint does not allege the violation of a statute or rule within my jurisdiction.

In the area of campaign finance and practices, my jurisdiction is limited to the provisions of Title 13, chapters 35 and 37, Montana Code Annotated. See § 13-37-111, MCA. I have no jurisdiction over § 13-10-602, MCA or the provisions of Title 13, chapter 36, MCA. I also have no authority to pursue a false swearing charge against an individual under § 45-7-401, MCA in the absence of an allegation of the violation of a specific statute within my jurisdiction that would authorize such a charge.

With respect to your allegation that Mr. Bohlinger "deceived the electorate" when he signed the declaration for nomination, you may wish to review *Matter of the Complaint Against the Schweitzer for Governor Campaign*, Summary of Facts and Statement of Findings (Nov. 29, 2004), in which similar allegations were addressed. A copy of the decision is enclosed with this letter.

For the reasons discussed above, I am dismissing the complaint based on ARM 44.10.307(3)(a), which provides:

. . . [N]o investigation shall be required 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.

I regret that I am not able to provide additional assistance.

Dennis Unsworth  
Commissioner of Political Practices

COMMISSIONER OF POLITICAL PRACTICES  
1205 Eighth Avenue  
Post Office Box 202401  
Helena, MT 59620-2401  
TELEPHONE: 406-444-2942  
FAX NUMBER: 406-444-1643

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### CAMPAIGN FINANCE AND PRACTICES

### COMPLAINT FORM (07/01)

TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM EXCEPT FOR VERIFICATION SIGNATURE

#### PERSON BRINGING COMPLAINT (COMPLAINANT):

COMPLETE NAME Bruce Hanson

COMPLETE MAILING ADDRESS 633 Collins Road

Belgrade, Montana 59714

TELEPHONE NUMBERS: WORK (406) 284-6808 HOME (406) 388-1367

#### PERSON OR ORGANIZATION AGAINST WHOM COMPLAINT IS BROUGHT (RESPONDENT):

COMPLETE NAME John Bohlinger

COMPLETE MAILING ADDRESS PO Box 5012

Helena, MT 59604

TELEPHONE NUMBERS: WORK (406) 443-0808 HOME \_\_\_\_\_

**PLEASE COMPLETE THE SECOND PAGE OF THIS FORM AND DESCRIBE IN  
DETAIL THE FACTS OF THE ALLEGED VIOLATION.**

#### VERIFICATION BY OATH OR AFFIRMATION

STATE OF MONTANA, COUNTY OF Gallatin

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

Bruce Hanson

Signature of Complainant

Subscribed and sworn to before me this 17 day of  
July, 2008.

Roberta J Paul

Notary Public



My Commission Expires \_\_\_\_\_

Roberta J Paul  
Notary Public for the State of Montana  
Residing at Manhattan, Montana  
My Commission Expires July 15, 2011

**CAMPAIGN FINANCE AND PRACTICES  
COMPLAINT FORM**

**STATEMENT OF FACTS:**

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

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

*See attached complaint and petition*

**TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM EXCEPT FOR  
VERIFICATION SIGNATURE**

**COMPLAINTS MUST BE:**

- **SIGNED**
- **NOTARIZED**
- **DELIVERED IN PERSON OR BY CERTIFIED MAIL**

## **Complaint and Petition against candidate for Lieutenant Governor John Bohlinger**

Candidate John Bohlinger has completely disregarded Montana Code Annotated statute 13-10-602 as a first time candidate for Lieutenant Governor, and in his bid for reelection. The said statute specifies that: No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated. The code also specifies that: Every political party and its regularly nominated candidates, members, and officers have sole and exclusive right to the use of the party name. The code also specifies that independent or nonpartisan candidates: Shall not use any word of the name of any existing political party or organization in his candidacy. The code does not make a distinction for bi-partisan candidates because it accounts for all candidates, by specifying all inclusively, no candidate.

Candidate John Bohlinger has been nominated by the Democrat Party in a primary election to be its candidate for the office of Lieutenant Governor, in the 2008 election cycle. Candidate John Bohlinger was required to file in the primary election held June 3, 2008 for said office by completing: DECLARATION FOR NOMINATION Governor and Lieutenant Governor 13-10-201, MCA. The document requires the signature of a Notary Public for the State of Montana.

The document 13-10-201, MCA specifies that said candidate Brian Schweitzer, and said candidate John Bohlinger are candidates for the Democrat Party.

It is my contention that candidate John Bohlinger swore that he was a candidate to be nominated by the Democrat Party, for the office of Lieutenant Governor in the State of Montana. It is my contention that in so doing he would have to abide by the law that: Political parties have the sole and exclusive right to the use of their respective party names as described in MCA 13-10-602. It is my contention that MCA 13-10-602 specifies that: No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

I contend that candidate John Bohlinger, an official of the State of Montana has committed the offense of false swearing as described in MCA 45-7-202 in making his declaration for nomination when he filed 13-10-201, MCA.

- (a) I contend that candidate John Bohlinger's disregard of MCA 13-10-602 led him to commit the offense of false swearing, when he swore to be a candidate for the Democrat Party, in the presence of a Montana Notary Public.
- (b) I contend that candidate John Bohlinger purposely misled a Montana Notary Public when he swore to be a candidate for the Democrat Party. His disregard of MCA 13-10-602 allowed him to deceive the electorate, and the Notary, by ignoring the clause in MCA 13-10-602 that specifies that: No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

- (c) I contend that candidate John Bohlinger gave up all rights to use the Republican Party name, in his candidacy, when he swore before a Montana Notary that he was a candidate for the nomination of the Democrat Party. MCA 13-10-602 specifies that: Every political party and its regularly nominated candidates, members, and officers have the exclusive right to the use of the party name.
- (d) I contend that candidate John Bohlinger was nominated by the Democrat Party on June 3, 2008 to represent said party in the general election. Because John Bohlinger was nominated to represent the Democrat Party he must adhere to the clause in MCA 13-10-602 that specifies that: No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated. The code does not make a distinction for bi-partisan candidates because it accounts for all candidates, by specifying all inclusively, no candidate.
- (e) I contend that MCA 13-10-602 (2) does not make a distinction between primary and general election rules, and that the rules apply to all candidates. The code specifies that: An independent or nonpartisan candidate shall not use any word of the name of any existing political party or organization in his candidacy.

I contend that, in his disregard of 13-10-602, Candidate John Bohlinger, an official of the State of Montana, has committed the offense described in MCA 45-7-401.

- (a) Candidate John Bohlinger purposely used the name of another political party in his campaign, and violated the law by doing so.
- (b) Candidate John Bohlinger knowingly misrepresented himself to a Montana Notary and to the Montana electorate, and violated the law by doing so.
- (c) Candidate John Bohlinger set out to hoodwink the electorate to obtain advantage for him and others, by claiming to be Republican, while representing the Democrat Party, in his campaign for Lieutenant Governor of the State of Montana, in the 2008 election cycle.
- (d) Candidate John Bohlinger solicits campaign contributions from both political parties, while misleading the public as to his party affiliation.

### **Petition**

I Bruce Hanson, an active elector as described in MCA 13-1-101 (1), contest and petition, as described in MCA 13-36-201, the right of John Bohlinger to represent the Democrat Party as its nominated candidate for Lieutenant Governor in the 2008 election cycle. As specified in MCA 13-36-101: An elector may contest the right of any person to any nomination for the following causes:

- (1) On the grounds of deliberate, serious, and material violations of any provisions of the law relating to nominations.

I contend that MCA 13-36-102

(2) Allows for an elector to contest the right of a candidate to be elected within one year after the day of election at which time such offense was committed.

I contend that it is immeasurable how many times the offense has been committed. Attached dated documentary evidence substantiates my contention that the offence has been committed since candidate John Bohlinger signed the document 13-10-201, MCA in the 2008 election cycle.

I contend that candidate John Bohlinger's disregard of MCA 13-10-602 has seriously misled the Montana electorate, and the Montana media. I believe that this violation of Montana code, in the nomination process, has been for competitive advantage. Candidate John Bohlinger has confused the electorate about what party ticket he is on. Montana law provides for forming a new political party described in: MCA 13-10-601. MCA 13-10-602 does not allow for John Bohlinger's ruse. MCA 13-10-602 specifies that: No candidate for office may use the name of any other political party or organization other than that by which he is nominated.

It is my contention that candidate John Bohlinger has, is, and will continue to trespass on the exclusive rights of the Montana Republican Party as described in MCA 13-10-602.

I contend that he will continue to do so until he is advised that he is infringing upon the exclusive rights of the Montana Republican Party.

I contend that Montana's legislature had the wisdom and vision to recognize that allowing a candidate to trespass on the property of an opposing party would have a negative effect on the political process. It is my contention that candidate John Bohlinger has tarnished the reputation of the Montana Republican Party, and that he has prospered from ill gotten gains; that his disregard of the law has created party disharmony in the Montana Republican Party; that he has thrown poison into the well of public perception of the Montana Republican Party, and that he has had a negative effect upon the fund raising efforts of the party.

I contend that the intention of the legislature when constructing the statute MCA 13-10-602 is unmistakable. I believe that their intention should be pursued as described in MCA 1-2-102. The clause in MCA 13-10-602: No candidate for office may use the name of any other political party or organization other than that by which he is nominated -- is crystal clear.

I contend that the words in MCA 13-10-602 are not technical as described in MCA 1-2-106.

I contend that the words: No candidate for office may use the name of any other political party or organization other than that by which he is nominated -- do not require additional definition as described in MCA 1-2-107.

Reference definitions:

MCA 13-1-101 (6) (a) (b) (7) (a) (i) (10) (22)

Documentary evidence:

Item One: Majority backs Bohlinger

This document illustrates how the trespass of candidate John Bohlinger has caused injury to property of the Montana Republican Party, that property being its reputation.

Item Two: If You're a Democrat, and You're a Republican . . . Then I'm an idiot

This document illustrates how candidate John Bohlinger uses the Republican name in his promotional material.

Item Three: Bohlinger and GOP clash again

This item illustrates how candidate John Bohlinger uses the name of the Republican Party. It confirms that the Montana Secretary of State said that John Bohlinger ran as a Democrat, in the last election cycle, and that Republican Party spokesman Bowen Greenwood acknowledges that the records indicate that John Bohlinger is recorded as a Democrat. It also indicates that the Montana Republican Party said that John Bohlinger was elected as a Democrat, not a Republican.

Item 4: Ridiculous to bar Bohlinger from voting –

This item illustrates how confused the Montana media is about MCA 13-10-602. The document showcases the absurdity of allowing a candidate to trespass on the property of another party.

Item 5: Montana GOP snubs Bohlinger

This item illustrates that candidate John Bohlinger has rebelliously ignored MCA 13-10-602 and persistently provokes the Montana Republican Party.

Item 6: GOP wants Bohlinger in debate

This item demonstrates how candidate John Bohlinger is ready to “Crash the Party,” or trespass on the property of the Montana Republican Party, in the most provocative way.

Item 7: Radio advertisement that can be e-mailed upon request. The advertisement, paid for and produced by the Democrat Party, describes Candidate John Bohlinger as a Republican.

Bruce Hanson

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633 Collins Road  
Belgrade, Montana 59714

Item 1

## Majority backs Bohlinger

*By Independent Record - 02/11/08*

Last week's Question of the Week asked whether Lt. Gov. John Bohlinger should have been allowed to vote in the Republican caucus.

Two-thirds of respondents said yes.

Among 1,011 voters in this unscientific poll, just 332 agreed with party leaders who said Bohlinger was disqualified from voting according to party rules, while 679 said he should have been permitted to vote.

We received four comments on the question, all with a similar point of view:

- Yes. It is an affront to all reasonable people that Lt. Gov. Bohlinger, a "confessed" Republican, was not allowed to participate in the Republican caucus. It is just such a narrow-minded definition of what it means to be a Republican that is negatively impacting the party, our state, and the country as a whole. There needs to be room at the table for all voices. If not, you're left with a small group of fundamentalists who want to define and dictate policy and politics for all.
- Yes. Since when do the high priests of the Republican Party dictate who is and who is not a Republican? Their treatment of Bohlinger is absolutely unbelievable. Anyone else probably would have said "Heck with that" and turned their back on the GOP. That Bohlinger has not shows the depth of his commitment to Republican principles. He certainly has my respect.
- Yes. The Bible thumpers that took over the party in Montana will see a huge loss in November. Bohlinger will be avenged.
- Montana Republicans' snub of Bohlinger may rally the party's "true believers," but it clearly demonstrates to independent voters just how small-minded the "EX-clusive" our state's Republican Party has become. Instead, we really need the kind of bipartisanship Bohlinger represents if we are to solve the many problems facing our state and nation. Substituting Burns for Bohlinger in McCain's campaign will certainly turn off independent voters in the general election, just as Burns did.

Item 2

E-mail the Scoop at [scoopmontana@gmail.com](mailto:scoopmontana@gmail.com)

WET SCOPES, A SERVICE OF SCOPES

## If You're a Democrat, and You're a Republican... Then I'm an Idiot

Wow...I had *forgotten entirely* about Lt. Governor John Bohlinger until I came across this old campaign piece from the last gubernatorial election. Where do they keep this guy when the Governor doesn't need a Republican prop for his photo-op?



*A Democrat  
and a  
Republican,  
working  
together for  
Montana*

I have a lot of respect for Bohlinger. He is a well intentioned man, but lost his way a few years ago, as did a number of Montanans. I actually feel sorry for the guy, being third in line for the governorship behind a border collie.

Anyways, remember how Schweitzer & Bohlinger ran on a non-partisan ticket to change Helena? I knew it was silly at the time, but now it seems totally ludicrous.

By the way, where was this "I'm a Democrat and I'm a Republican" two-step during the last legislative session? If you had been the governor, wouldn't you have at least sent Bohlinger over to the House during budget negotiations to reach out to his fellow Republican brothers-in-arms? Maybe he could have helped craft a compromise?

Well, had you been in the state at the time, maybe you would have. But, I think we all know it would not have worked since this bi-partisan platitude was empty rhetoric from the start.

I firmly believe that once Schweitzer figured out he had two of the three centers of government during the last session, he had no intentions for seeking compromise. What took Schweitzer five minutes to determine after the polls closed took the Republican leadership all session to figure out: they had no power. Zippo.

And, as we enter yet another special session, and the lines are drawn in the sand, let's pay close attention to our *bipartisan duo*.

I wonder if they will ever find their super powers? I wonder if the

## Bohlinger and GOP clash again

By Matt Gouras - 01/29/2008

HELENA — Lt. Gov. John Bohlinger and the Montana Republican Party are clashing again, this time over whether he will be allowed to vote in the Feb. 5 presidential caucus.

Bohlinger said Tuesday that he plans to vote and make a speech beforehand in support of John McCain.

“And why not?” Bohlinger asked. “I’m an elected official in this state, elected by the people and I’m a Republican.” Bohlinger briefly served as McCain’s Montana campaign chairman before he was replaced this weekend by former U.S. Sen. Conrad Burns.

The Montana Republican Party said that Bohlinger is not eligible to vote under their rules, which give caucus votes to those who hold a position in the party, from statewide elected officials to congressman to volunteer precinct captains. The party said Bohlinger was elected as a Democrat not a Republican.

Chris Wilcox, state party executive director, said the door is open to Bohlinger at GOP headquarters. He said Bohlinger should have asked about voting earlier, and they could have helped him get a precinct spot.

“The rules as they are do not provide for an elected Democrat to vote,” Wilcox said. “If this was a priority for him, I wish he would have addressed it before now.” Bohlinger said Montana has no system for registering voters by party. He said he believes he is eligible to vote in the caucus by virtue of the office he holds and his long-standing affiliation to the Republican Party when he was a legislator for years.

But the GOP says that statewide elected officials must run under the Republican Party banner to be eligible. Bohlinger did not, they said, because he ran on the same ticket with Democratic Gov. Brian Schweitzer.

The lieutenant governor in Montana is elected as the running mate of the governor.

The Secretary of State’s office, which runs elections in Montana but is not involved in the GOP caucus, said that the ticket Bohlinger ran on with Schweitzer in 2004 only lists one party: Democrat. There is no place on the form for a second party, said spokesman Bowen Greenwood.

“As lieutenant governor, he would be in those records as a Democrat,” Greenwood said.

The Montana Republicans are holding the Feb. 5 caucus for the first time this year. It is open to fewer than 3,000 party insiders and the winner takes all 25 of the state’s delegates to the Republican nominating convention this summer.

Item 3

Item 4

Archived Story missoulian.com

## **Ridiculous to bar Bohlinger from voting - Monday, Feb. 4, 2008**

**SUMMARY:** What does it take to qualify as a "true" Republican with the Montana GOP?

Lt. Gov. John Bohlinger is one of Montana's most powerful and influential Republicans. He has a reputation for standing by his convictions without regard to party lines, and indeed, he was elected to his present office on a bipartisan ticket with Gov. Brian Schweitzer, a Democrat, in 2004.

He's voted with both Republicans and Democrats numerous times throughout his career in the state House and Senate, but he never abandoned the Montana Republican Party. It seems to us that his party's leaders wish he would.

The state's Republican Party leadership insists on calling Bohlinger a Democrat, despite the fact that Bohlinger identifies himself as a Republican. A native of Bozeman, Bohlinger was first elected to the Montana House in 1992 - as a Republican. He served three terms in the house and two more in the Senate - as a Republican.

Even so, he's been alienated by his party ever since he answered Schweitzer's call for a running mate. The two ran on a bipartisan ticket, and Bohlinger made no secret of his Republican affiliation during the campaign.

However, in 1972 the Montana Constitution was amended to require Montana's governor and lieutenant governor to run on the same ticket. In order to run together as candidates, Schweitzer and Bohlinger had to file a single form, and that form has only one space to list party affiliation. They listed Schweitzer's party.

Aha!

That makes Bohlinger a Democrat, say Montana's Republican leaders. And that means he can't vote in the party's caucus tomorrow.

This is the first year Montana Republicans have held a caucus to select a presidential candidate. Nearly 2,000 Republicans signed up for positions within the party in order to qualify for a seat in the caucus, which will ultimately determine who gets all 25 of Montana's delegate votes at the Republican's national convention.

It's simply ridiculous that a Republican who holds one of the highest political positions in the state is being barred from voting in this caucus. All because a few Republican leaders insist that he's a Democrat.

Unfortunately, we've heard them say this before.

Last year, Bohlinger requested dinner tickets to the state Republican convention and was told tickets were no longer available. Not only that, he was told he's no longer welcome at party events - because he's no longer a Republican.

Strangely, he was invited to attend the Republican Party's Winter Kickoff in Billings last month - but his invitation included a provision that he submit to a barrage of questions about his Republican qualifications from fellow party members. Bohlinger, who recently married, opted to go on his honeymoon in China instead. We don't blame him a bit.

Bohlinger has said he intends to show up at the caucus and vote anyway. He has publicly stated his support for presidential candidate John McCain, and in fact, Bohlinger served as chairman of McCain's Montana campaign for about four weeks until he was replaced by former U.S. Sen. Conrad Burns.

When Bohlinger comes knocking, we sincerely hope the Montana Republican Party lets him in. They should be grateful they've got such a powerful person yearning to be included in their camp.

Meanwhile, we'd like to ask them a few questions of our own: What does it take to be a "true" Republican? Is there some sort of test? Do you have to toe the party line? Refuse to associate with Democrats? How about Independents? Are they off-limits?

If the Montana Republican Party wants to operate like some sort of exclusive club, they should at least be clear about their requirements. Otherwise, self-professed Republicans across the state are sure to start wondering: Am I a Democrat, too?

Item 5

# Montana GOP snubs Bohlinger, longtime party member

By CHARLES S. JOHNSON - State Bureau - 06/20/07

HELENA — Guess who's not coming to dinner at the state Republican Party convention Friday night?

Not welcome at the dinner is Lt. Gov. John Bohlinger, who still calls himself a Republican, despite being elected on the 2004 ticket headed by Democratic Gov. Brian Schweitzer.

Bohlinger was snubbed by GOP officials Tuesday when his executive assistant, Jackie Williams, called the state headquarters to buy two dinner tickets for him.

Chris Wilcox, the Republican Party's executive director, called back to tell Williams that tickets to the event were no longer available. He also told the aide that Bohlinger would not be invited to the convention, or welcome, because he's no longer a Republican, the lieutenant governor said.

"I was almost too angry to speak," Bohlinger said in an interview. "It was all kind of puzzling, and it was a little hurtful."

Bohlinger, a former Billings businessman, was elected to three terms in the Montana House and two in the Senate as a Republican.

He said he has gone door-to-door for a Republican legislative candidate in Billings, Shirley McDermott, and given money to a couple of GOP candidates. However, his donations to Democrats far exceed those to Republicans in numbers and amounts.

In a later interview, Wilcox said Bohlinger's assistant called about tickets Tuesday, past the June 11 registration deadline, even though the event had been advertised on the party's Web site for two months.

"To me, it's pretty cut and dried," Wilcox said. "He filed for office as part of a Democratic ticket. This is about Republican candidates and values and promoting our candidates."

Bohlinger attending the GOP convention would be like Republicans also inviting Democratic U.S. Sen. Max Baucus to their convention, he said.

Bohlinger said he wanted to attend the dinner for a couple of reasons and was ready to pay the full \$45 price for each of the two dinner tickets.

“I think it’s very important that I certify my Republican credentials,” he said. “I thought there would be no better opportunity to reconnect with my old colleagues and friends from the House and Senate.”

Bohlinger said he is still a Republican, but ran on the Democratic ticket headed by Schweitzer only because Montana law doesn’t accommodate a ticket of a governor and lieutenant governor from different parties.

Since taking office as lieutenant governor, Bohlinger said he’s spoken at Republican Pachyderm clubs in several cities and met with some Republican lawmakers during legislative sessions.

“I think it would be important for me to go to the Republican convention to show that ours really is a bipartisan ticket,” Bohlinger said. “The thing that really drew Brian (Schweitzer) and me together is we share common values, the same faith and the same hope for Montana’s future.

“We believe it’s important that a bridge be built that will span the gaps between the parties. We feel we are Montanans first and members of a political party second.”

Karen Phaehler, co-chairwoman of the Montana Republican Party, said the convention had been well-publicized, with the registration deadline last week, but this is the first time that Bohlinger expressed any interest in attending.

Bohlinger was elected on the Democratic ticket and is a Democratic state officeholder, she said.

“If he wants to resign that post and rejoin the Republican Party, we’d welcome him to do so,” she said. “Right now, he’s serving as a Democrat, so I would encourage him to attend his current party’s convention.”

Bohlinger insisted he’s still a Republican.

“I’ve not left the Republican Party,” he said. “There are people within the party that would like to exclude me.”

He said the Republican Party in Montana no longer has a place at the table for moderates.

“We were the party of the big tent to accommodate elephants,” Bohlinger said. “Now it’s a pup tent.”



Story available at <http://www.billingsgazette.net/articles/2008/06/10/news/state/27-debate.txt>

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Last modified on 6/10/2008 at 1:42 am

## **GOP wants Bohlinger in debate**

**By CHARLES S. JOHNSON**  
**Gazette State Bureau**

HELENA - The Montana Republican Party on Monday invited Lt. Gov. John Bohlinger to debate his GOP opponent at its state convention later this month, but Bohlinger, through a spokesman, declined, preferring a neutral setting.

State Republican Chairman Erik Iverson sent a letter to Bohlinger, a former Republican legislator from Billings, who has appeared on the 2004 and 2008 ballots as a Democrat with Gov. Brian Schweitzer.

Iverson asked Bohlinger to participate in a 60-minute debate against Steve Daines, the Republican nominee for lieutenant governor, during the party's convention in Missoula June 19-21. Daines is the running mate of state Sen. Roy Brown, the Republican gubernatorial nominee.

"Although you have not attended a Republican convention since 2002, and despite the fact that you filed and ran as a Democrat for lieutenant governor in 2004 and 2008, you've stated on numerous occasions that you still consider yourself to be a Republican," Iverson wrote Bohlinger. "Therefore, Montana Republicans would welcome the opportunity to hear directly from you regarding your candidacy for lieutenant governor."

Bohlinger could not be reached for comment. However, Harper Lawson, manager of the Schweitzer-Bohlinger campaign, said Bohlinger has no plans to attend this year's GOP convention after being snubbed by Republicans when he tried to buy tickets for the 2007 convention banquet.

Lawson said he's confident Bohlinger will debate Daines at a neutral site, just as he did in 2004 with state Sen. Dave Lewis, the Republican nominee for lieutenant governor.

"I'm sure that our two campaigns will find an acceptable time, and a neutral setting, for both men to sit down and discuss the issues later in the year," Lawson said.

Bohlinger was a Republican legislator from Billings from 1993 until he took office with Schweitzer in 2005. Because of election laws, the names of both Schweitzer and Bohlinger are listed as Democrats on the ballot.

Relations between the Republican Party and Bohlinger have been strained, at best, and frosty, at worst, since he filed with Schweitzer in 2004. A few weeks later, Bohlinger stopped

by to visit his former Republican Senate colleagues at a party caucus. Some told Bohlinger he had betrayed them.

In June 2007, a Bohlinger aide tried to buy tickets for four days before the convention dinner, but was told by a party official that the event was sold out and Bohlinger was not welcome because he was no longer a Republican.

Bohlinger responded by saying he was "almost too angry to speak."

In December 2007, Iverson invited Bohlinger to appear at the GOP's "winter kickoff" in Billings in January 2008 to field questions about his Republican credentials for 90 minutes.

Bohlinger said he was pleased to get the invitation, but had to decline because he was going to be on his honeymoon.

Earlier this year, Bohlinger served as Montana chairman of Republican U.S. Sen. John McCain's presidential campaign, but was replaced by former U.S. Sen. Conrad Burns.

Bohlinger wanted to vote at the party's Feb. 5 presidential caucus, but Republican officials said he was ineligible because he is officially listed as a Democrat. They said Bohlinger was welcome to speak at a GOP caucus on McCain's behalf, which he did.

"I was prepared to crash the party and speak whether I was invited or not," Bohlinger said.

## DECLARATION FOR NOMINATION Governor and Lieutenant Governor 13-10-201, MCA

To the Honorable Secretary of State of the State of Montana, and to the Members of Said Party and to the Electors of the State of Montana: We, the undersigned citizens of the United States of America and residents of the State of Montana, declare pursuant to Section 13-10-201, Montana Code Annotated, that we are candidates for nomination by the \_\_\_\_\_ Party for the offices of Governor and Lieutenant Governor in the State of Montana at the primary nominating election to be held in said state on June 3, 2008 and for such purpose do affirm that we possess the qualifications prescribed by the Constitution and laws of the State of Montana for the offices herein named, and that:

1. My full name as it is to appear on the ballot for GOVERNOR is: \_\_\_\_\_
2. My mailing address is: \_\_\_\_\_
3. City, State and Zip Code \_\_\_\_\_ Phone: Home \_\_\_\_\_ Work \_\_\_\_\_
4. My e-mail address is: \_\_\_\_\_ My website address is: \_\_\_\_\_
5. My full name as it is to appear on the ballot for LT. GOVERNOR is \_\_\_\_\_
6. My mailing address is: \_\_\_\_\_
7. City, State and Zip Code \_\_\_\_\_ Phone: Home \_\_\_\_\_ Work \_\_\_\_\_
8. My e-mail address is: \_\_\_\_\_ My website address is: \_\_\_\_\_
9. We submit herewith the statutory filing fee, for the joint offices, of \$ \_\_\_\_\_.

*Candidates must sign and acknowledge below in the presence of a Notary Public if mailed, or in the presence of the Secretary of State or deputy if delivered in person.*

DATE \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Signature of Candidate for Governor)

DATE \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Signature of Candidate for Lieutenant Governor)

STATE OF MONTANA )  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me, personally appeared the above named candidate, known to me or proved to me to be the person whose name is subscribed to the above declaration, and acknowledged to me that he/she executed the same.

SEAL

\_\_\_\_\_  
Notary Public for the State of Montana

\_\_\_\_\_  
Printed Name of Notary Public

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_, 20 \_\_\_\_\_

By: \_\_\_\_\_

Deputy (if not notarized)

Submit this form to the Secretary of State, PO Box 202801, Helena, MT 59620-2801, with the required fee.

**FOR  
OFFICE  
USE ONLY**

Filed on _____ under document number _____ for Secretary of State, by _____, Deputy or Filing Officer.
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**13-36-101. Grounds for contest of nomination or election to public office.** An elector may contest the right of any person to any nomination or election to public office for which the elector has the right to vote, for any of the following causes:

- (1) on the ground of a deliberate, serious, and material violation of any provision of the law relating to nominations or elections;
- (2) whenever the person whose right is contested was not, at the time of the election, eligible to such office;
- (3) on account of illegal votes or an erroneous or fraudulent count or canvass of votes.

**History:** En. Sec. 45, Init. Act, Nov. 1912; re-en. Sec. 10810, R.C.M. 1921; re-en. Sec. 10810, R.C.M. 1935; Sec. 94-1464, R.C.M. 1947; reds. 23-4763 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 59, Ch. 365, L. 1977; R.C.M. 1947, 23-4763; amd. Sec. 224, Ch. 571, L. 1979.

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**13-10-601. Parties eligible for primary election -- petitions by minor parties.** (1) Each political party that had a candidate for a statewide office in either of the last two general elections who received a total vote that was 5% or more of the total votes cast for the most recent successful candidate for governor shall nominate its candidates for public office, except for presidential electors, by a primary election as provided in this chapter.

(2) (a) A political party that does not qualify to hold a primary election under subsection (1) may qualify to nominate its candidates by primary election by presenting a petition, in a form prescribed by the secretary of state, requesting the primary election.

(b) The petition must be signed by a number of registered voters equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is less, which number must include the registered voters in more than one-third of the legislative districts equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election in those districts or 150 electors in those districts, whichever is less.

(c) At least 1 week before the filing deadline provided in subsection (2)(d), the petition and the affidavits of circulation required by [13-27-302](#) must be presented to the election administrator of the county in which the signatures were gathered to be verified under the procedures provided in [13-27-303](#) through [13-27-306](#).

(d) The election administrator shall forward the verified petition to the secretary of state at least 75 days before the date of the primary.

**History:** En. Sec. 80, Ch. 368, L. 1969; R.C.M. 1947, 23-3320(1); amd. Sec. 88, Ch. 571, L. 1979; amd. Sec. 1, Ch. 368, L. 1981; amd. Sec. 30, Ch. 250, L. 1985; amd. Sec. 1, Ch. 196, L. 1991; amd. Sec. 7, Ch. 390, L. 1993; amd. Sec. 2, Ch. 193, L. 1999; amd. Sec. 13, Ch. 273, L. 2007.

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**13-36-201. Contents of contest petition.** Any petition contesting the right of any person to a nomination or election shall set forth the name of every person whose election is contested and the grounds of the contest. The petition shall not thereafter be amended, except by leave of the court.

**History:** En. Sec. 48, Init. Act, Nov. 1912; re-en. Sec. 10813, R.C.M. 1921; re-en. Sec. 10813, R.C.M. 1935; Sec. 94-1467, R.C.M. 1947; redes. 23-4766 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 23-4766(part).

Provided by Montana Legislative Services

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**1-2-107. Applicability of definitions.** Whenever the meaning of a word or phrase is defined in any part of this code, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears.

**History:** En. Sec. 4661, Civ. C. 1895; re-en. Sec. 6223, Rev. C. 1907; re-en. Sec. 8776, R.C.M. 1921; Field Civ. C. Sec. 2000; re-en. Sec. 8776, R.C.M. 1935; R.C.M. 1947, 12-215.

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**1-2-106. Construction of words and phrases.** Words and phrases used in the statutes of Montana are construed according to the context and the approved usage of the language, but technical words and phrases and such others as have acquired a peculiar and appropriate meaning in law or are defined in chapter 1, part 2, as amended, are to be construed according to such peculiar and appropriate meaning or definition.

**History:** En. Sec. 15, Pol. C. 1895; re-en. Sec. 15, Rev. C. 1907; amd. Sec. 3, Ch. 4, L. 1921; re-en. Sec. 15, R.C.M. 1921; Cal. Pol. C. Sec. 16; re-en. Sec. 15, R.C.M. 1935; R.C.M. 1947, 19-102.

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**1-2-102. Intention of the legislature -- particular and general provisions.** In the construction of a statute, the intention of the legislature is to be pursued if possible. When a general and particular provision are inconsistent, the latter is paramount to the former, so a particular intent will control a general one that is inconsistent with it.

**History:** En. Sec. 613, p. 198, L. 1877; re-en. Sec. 613, 1st Div. Rev. Stat. 1879; re-en. Sec. 631, 1st Div. Comp. Stat. 1887; re-en. Sec. 3135, C. Civ. Proc. 1895; re-en. Sec. 7876, Rev. C. 1907; re-en. Sec. 10520, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1859; re-en. Sec. 10520, R.C.M. 1935; R.C.M. 1947, (part).

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**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 who voted in the previous federal general election and whose name is on the active list.

(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, 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) "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; and

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) 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:

(i) 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;

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

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

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the

requirements of state law, regardless of the time or purpose.

(9) "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, the term means the school district clerk.

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

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(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, 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.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a 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 upon 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.

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

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

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

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

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

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

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

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

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

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

(29) "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.

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

(31) "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.

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**45-7-401. Official misconduct.** (1) A public servant commits the offense of official misconduct when in his official capacity he commits any of the following acts:

- (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
- (b) knowingly performs an act in his official capacity which he knows is forbidden by law;
- (c) with the purpose to obtain advantage for himself or another, performs an act in excess of his lawful authority;
- (d) solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law; or
- (e) knowingly conducts a meeting of a public agency in violation of [2-3-203](#).

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court shall have exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from his office without pay pending final judgment. Upon final judgment of conviction he shall permanently forfeit his office. Upon acquittal he shall be reinstated in his office and shall receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect such impeachment or removal.

**History:** En. by Sec. 1, Ch. 513, L. 1973; amd. Sec. 2, Ch. 474, L. 1975; R.C.M. 1947, .

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**45-7-202. False swearing.** (1) A person commits the offense of false swearing if the person knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made when the person does not believe the statement to be true and:

(a) the falsification occurs in an official proceeding;

(b) the falsification is purposely made to mislead a public servant in performing an official function;  
or

(c) the statement is one that is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.

(2) Subsections (4) through (7) of [45-7-201](#) apply to this section.

(3) Except as provided in [13-35-240](#), a person convicted of false swearing shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

**History:** En. by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, ; amd. Sec. 5, Ch. 407, L. 2007.

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**13-10-602. Use of party name.** (1) Every political party and its regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party name. No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

(2) An independent or nonpartisan candidate shall not use any word of the name of any existing political party or organization in his candidacy.

**History:** En. Sec. 80, Ch. 368, L. 1969; R.C.M. 1947, 23-3320(2), (3).

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**13-36-102. Time for commencing contest.** (1) Five days or less after a candidate has been certified as nominated, a person wishing to contest the nomination to any public office shall give notice in writing to the candidate whose nomination he intends to contest, briefly stating the cause for the contest. The contestant shall make application to the district court in the county where the contest is to be had. The judge shall then set the time for the hearing. The contestant shall serve notice 3 days before the hearing is scheduled. The notice shall state the time and place of the hearing.

(2) Any action to contest the right of a candidate to be declared elected to an office or to annul and set aside such election or to remove from or deprive any person of an office of which he is the incumbent for any offense mentioned in this title must, unless a different time is stated, be commenced within 1 year after the day of election at which such offense was committed.

**History:** (1)En. Sec. 71, Ch. 368, L. 1969; amd. Sec. 23, Ch. 365, L. 1977; Sec. 23-3316, R.C.M. 1947; (2)En. Sec. 40, Init. Act, Nov. 1912; re-en. Sec. 10805, R.C.M. 1921; re-en. Sec. 10805, R.C.M. 1935; Sec. 94-1459, R.C.M. 1947; redes. 23-4759 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 57, Ch. 365, L. 1977; Sec. 23-4759, R.C.M. 1947; R.C.M. 1947, 23-3316(1) thru (3), 23-4759; amd. Sec. 225, Ch. 571, L. 1979; amd. Sec. 58, Ch. 575, L. 1981.