

# Accounting and Reporting Manual for Political Committees



## Commissioner of Political Practices

1209 8th Ave.  
PO Box 202401  
Helena, MT 59620

Phone: 406-444-2942  
Fax: 406-444-1643  
[www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

Contact us via email: [cpphelp@mt.gov](mailto:cpphelp@mt.gov)  
or [cppcompliance@mt.gov](mailto:cppcompliance@mt.gov)

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Twitter: @MontanaCOPP

# Introduction

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

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

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

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

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

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

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

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



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

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

## PART 1: POLITICAL COMMITTEES, DEFINITION AND TYPES

### **Political Committee**

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

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

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

A political committee is **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.

### **Types of Committees**

#### **Ballot Issue Committees**

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

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

Both statewide and local ballot issue committees must file a Form C-2, Statement of Organization, with the COPP within five days after the issue becomes a ballot issue, 13-37-201, MCA. A ballot issue committee's initial Form C-6, Political Committee Finance Report must include all contributions received and expenditures made by the committee since its date of foundation to qualify the issue for the ballot, 13-37-226, MCA. See 13-37-206, MCA for exceptions.

#### **Independent Committees**

An independent committee is a political committee organized for the primary purpose of receiving contributions and making expenditures that are not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction

with making expenditures except as within the contribution limits set in 13-37-216(1), MCA, and 13-1-101(23), MCA. Independent committees have a primary purpose of supporting and/or opposing candidates for election to office and ballot issues.

## **Political Party Committees**

A political party committee is "a political committee formed by a political party organization and includes all county and city central committees", 13-1-101(31), MCA. In turn, a "political party organization" "means a political organization that was represented on the official ballot in either of the two most recent statewide general elections; or has met the petition requirements, as provided in Title 13, chapter 10, part 5", 13-1-101(33)(a) and (b). Currently the Republican, Libertarian, and Democratic parties are recognized as political party organizations in the State of Montana.

Coordinated expenditures made solely by a political party committee for **personal services** by paid staff intended to benefit the associational interest of the political party as well as a candidate do not count towards Montana's contribution limits, ARM 44.11.401. The value of the paid personal services must be reported as an expenditure by the political party committee on the campaign finance report where the activity occurred.

**Example:** The Coffee Lover's Party hires interns to do literature drops for several candidates for the legislature. The Coffee Lover's Party will have to report the amount of the paid personal services as an expenditure on the campaign finance report where the activity occurred, including the value received by each candidate that benefitted from those services. These personal services contributions would not count towards the aggregate political party contribution limit to the candidate.

Political party committees "may not contribute to a judicial candidate," 13-35-231, MCA.

## **Incidental Committees**

An incidental committee is a political committee that is not specifically organized or operated for the primary purpose of supporting or opposing candidates or ballot issues but may incidentally become a political committee by receiving a contribution or making an expenditure, 13-1-101(23), MCA.

Incidental committees often engage in limited activity, such as making a singular reportable campaign contribution or expenditure. If all reportable contribution and expenditure activity undertaken by an incidental committee occurred during a single reporting period, that incidental committee would only need to file one campaign finance report. Contact COPP compliance specialists with specific questions about incidental committee reporting requirements.

**Example:** A local Ace Hardware has an interest in a ballot issue that could impact the owner's ability to conduct business. The primary purpose of Ace Hardware is to sell home improvement supplies. Ace Hardware writes a check to an organized ballot issue committee in the amount of \$1,000. By making a contribution to a ballot issue committee, Ace Hardware becomes an incidental committee. Ace Hardware would be required register as an incidental political committee and file a financial report disclosing this contribution.

## **Primary Purpose**

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

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

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

## PART 2: POLITICAL COMMITTEE ACCOUNTING

### **Treasurer**

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

The treasurer performs the important functions of depositing and disbursing funds, keeping accurate accounts, and administering the financial affairs of the political committee.

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

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

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

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

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

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

## Depository

Each political committee must designate one primary depository. This depository may be a bank, a credit union, a savings and loan association, or a building and loan association; however, this depository must be authorized to transact business in Montana and must offer accounts on which the equivalent of a check may be drawn. Accounts must be completely separate from any personal accounts, 13-37-205, MCA, although they may be in the same depository.

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

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

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

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

## Receipts

Contributions from supporters are the principal source of receipts. A contribution is defined by law, in part, as “an advance, gift, loan, conveyance, deposit, payment, or

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

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

distribution of money or anything of value to influence an election. . .” 13-1-101(9), MCA.

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

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

Checks are preferable to contributions of cash. Checks simplify tracking and accounting. A simple list of the names of contributors and the amounts contributed is a satisfactory method of maintaining a record of contributions received by check; however, the easiest and best way to satisfy the statement of contributions requirement is to make photocopies of checks as they are received. This ensures that contributions are properly credited and preserves useful information for the political committee.

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

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

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

All political committees are required to electronically file finance reports and should become familiar with the CERS system. CERS allows the user to enter transactions and save this information as often as they like. The information does not become public until the report has been filed.



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

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

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

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

Again, records must be kept showing the full name, complete mailing address, occupation and employer of the lender, and the date and amount of the loan.<sup>4</sup>

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

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

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

There is, however, an *exception to this rule*. If an individual donates \$50 in the aggregate or more, the donation or purchase must be recorded and reported individually. We recommend using a contribution envelope that requests basic contact information to ensure an accurate tracking of individual contributions. In addition, anonymous contributions are illegal. Even proceeds collected from Pass the Hat or raffle types of events are required to be recorded.

**Example:** An individual contributor attends multiple committee fundraising events. The first event is be a BBQ held by the committee at a volunteer's home. This individual puts \$40 in a donation basket at this event. The following week the same individual purchases a raffle ticket sold by the committee for \$25. Between these two events, the aggregate contribution received by the committee from this individual is \$65. Since this individual's aggregate contributions to the committee exceed \$50, their contributions must be itemized within the committee's finance report. If the committee did not keep track of this contributor's information (name, address, occupation, and employer), it would be impossible to meet this reporting requirement.

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



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

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

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

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

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

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

- 44.11.403, ARM(1)** A candidate or political committee shall report an in-kind contribution on the appropriate reporting schedule and shall describe what was received consistent with the reporting requirements specified in ARM 44.11.402.
- (2) A candidate who makes personal expenditures benefitting his or her campaign shall also report and disclose the expenditures as in-kind contributions or loans to the campaign; see ARM 44.11.501.
- (3) The total value of the services, property, or rights contributed in-kind shall be deemed to have been consumed in the reporting period in which received.
- (4) The value of an in-kind contribution shall be determined as follows:
- (a) It shall be reported as its fair market value at the time of the contribution;
  - (b) It shall be reported as the difference between the fair market value at the time of the contribution and the amount charged the contributee;
  - (c) It shall be reported as the actual monetary value or worth at the time of the contribution; or
  - (d) If due to extraordinary circumstances none of these provisions would be appropriate or no reasonable fair market value can be established, it shall be sufficient to report a precise description of such in-kind contribution so received.
- (5) Upon receiving or making an in-kind contribution, its value shall be calculated and reduced to writing, reflecting the calculation method used under (4) and the writing shall be retained by the treasurer and available for inspection as provided by 13-37-111, 13-37-208, and 13-37-209, MCA. The value shall also be reported consistent with ARM 44.11.502.

A receipt of interest earned on a checking or savings account is not considered a contribution to a campaign. Other receipts to a campaign might include rebates and

refunds, although they are not contributions. However, they all must be recorded and reported under fundraisers so accounts will balance.

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

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

Some things are not included in the legal definition of “contribution.” For instance, any services provided by *individuals* who volunteer their time without compensation need not be recorded or reported, 13-1-101(9)(b)(i), MCA. The use of real property for a fundraiser or other political event would also not qualify as a contribution.

## Limitations on Contributions

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

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

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

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

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

Governor/Lt. Governor	\$1,000
Other statewide offices	\$700
Other public offices	\$400

These limits include **both** monetary and in-kind contributions.

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

Governor/Lt. Governor	\$100,000
Other statewide offices	\$75,000
PSC	\$15,000
State Senate	\$3,000
Other public offices	\$2,000

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

**Example:** A candidate for the office of Governor can receive \$100,000 in the aggregate from political party committees. In other words, the candidate can receive one \$100,000 check or multiple smaller checks up to \$100,000. When the candidate has reached the \$100,000 aggregate for political party contributions, they cannot accept any more political party contributions. It is important for the campaign to track the political party contributions to avoid exceeding the limits. See exception, ARM 44.11.225(3).

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

## ILLEGAL CONTRIBUTIONS

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

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

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

Any check deposited by a campaign treasurer must be recorded and reported in the name of the entity actually making the contribution. Usually, that will be the name of the individual signing the check, however, since a bookkeeper (who is not the contributor)

may be authorized to sign checks, the treasurer of the candidate or the political committee receiving the contribution must verify exactly who is making the contribution.

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

Detailed information on contributors of less than the threshold reportable amount of \$50 need not be disclosed on reporting forms; however, campaign records must maintain the amount and the contributor’s information. Contributions must be refused when the source is not known or when the person offering money wishes not to be known.

If your committee does inadvertently receive an anonymous contribution, those funds must be donated to a non-profit organization. The committee would be required to maintain records of both receiving this anonymous contribution and dispersing those funds.

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

Federal law prohibits foreign nationals from making contributions in connection with any state, local, or federal election. Contributions cannot be made directly, or through any other person. Further, no person may solicit, accept, or receive such a contribution. If your committee receives a check with a foreign address, it could be that of a US citizen that is overseas for military purposes, etc. Best practices include notifying COPP staff that your committee has researched the contributor to ensure that it is not a foreign national. Committees can accept contributions from US citizens residing outside the country.

## **Expenditures**

An expenditure is defined in law as “a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made by a candidate or political committee to support or oppose a candidate or ballot issue; or for intended use in making independent expenditures or in producing electioneering communications, MCA § 13-1-101(18)(a). As such, an expenditure means just about anything a political committee expends in support of or in opposition to a candidate or ballot issue. Expenditures that are exempt from the reporting requirements are; bona fide news stories, commentary, blogs, or editorials, and communications by a membership organization or corporation to its members, stockholders or employees.

All money spent must be by check, debit card, wire transfer, or other electronic means that clearly identifies the person or entity receiving payment. The person who draws the check must be an appointed treasurer or an appointed deputy treasurer who has been certified to the Commissioner of Political Practices. All expenditures must be supported by a contemporaneous written agreement, invoice, billing statement, or similar

documentation appropriate to the transaction that describes the services provided, the billing period identifying the specific dates on which services were provided (44.11.502(6), ARM).

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

- 1) The full name,
- 2) The complete mailing address,
- 3) The date,
- 4) The amount, and
- 5) The purpose of the expenditure.

**Note:** A common mistake is the reporting of consultants. Reports of expenditures made to a consultant, advertising agency, polling firm, etc. must be itemized and must be described in, sufficient detail to disclose the specific services performed, 13-37-229(2)(b), MCA.

Independent expenditures are expenditures for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with the candidate or ballot issue committee, 13-1-101(25) MCA. *Independent expenditures must be reported in the same manner as any other expenditure, but the candidate or issue the expenditure was intended to benefit must be identified on the finance report.*

**Example:** A political committee named Montanans for a Brighter Future organizes to support candidates that advocate for higher graduation standards. They identify three candidates they support and purchase advertisements supporting those candidates. Montanans for a Brighter Future does not coordinate this ad buy with any of the candidates, making the expenditure independent. The political committee is required to disclose the expenditure information detailed above but also needs to include the candidates' names that the expenditure was intended to benefit.

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

A best practice to avoid coordination is prior to engaging in a reportable election activity, establish a written firewall policy to prevent the flow of information about the candidate's plans, projects, activities, or needs from the persons providing services to the candidate or persons involved in the creation, production, or dissemination of the communication or activity. The firewall policy should be distributed to all relevant employees, consultants, and clients affected by the policy and filed with the COPP. The firewall policy will be made publicly available on the COPP website, 44.11.602 ARM.

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

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

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

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

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

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

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

## **COMMITTEE DEBTS AND OBLIGATIONS**

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

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

## **PART 3: POLITICAL COMMITTEE REPORTING**

### **Statements and Reports**



Political committees are required to file finance reports electronically, using the CERS system. CERS can be accessed from the COPP's website, [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov). The website also offers guidance for electronic reporting. Additional information on accessing the CERS system and utilizing it to file finance reports is available on the COPP's website, and COPP compliance specialists are available via telephone and email to provide assistance.

All political committees must file a C-2 Statement of Organization to certify their treasurers and depositories and to provide other information required by the Commissioner of Political Practices, 13-37-201 and 205, MCA. All political committees must file periodic reports disclosing campaign contributions and expenditures, as well as other information required by law, 13-37-229 and 232, MCA.

Federally filing political committees that file reports with the Federal Election Commission (FEC) may file copies of their FEC statement forms instead of using Montana forms, *so long as they meet the reporting and disclosure requirements of Montana law, 44.11.305 ARM*. Federally filing political committees may also file copies of their FEC finance reports (instead of using Montana’s finance reporting forms) if these reports “fully disclose the source and disposition of all funds used to influence elections in Montana,” 44.11.305(1)(a), ARM.

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

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

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

The time periods covered by reports as well as the due dates for filing are established under 13-37-226 and 13-37-228, MCA.

Reporting calendars are also available on the COPP’s website, [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov).

## Reporting Forms

### Form C-2 Statement of Organization

All political committees must file form C-2, the Statement of Organization, within five days after a committee receives a contribution or makes an expenditure, 13-37-201, MCA. If a committee treasurer is removed or a depository is changed, then an amended C-2 Statement of Organization must be filed within five days reflecting this change, 13-37-204, MCA. An amended statement identifying other changes, such as addresses, telephone numbers, candidates or issues supported or opposed, and officers should be filed within five days as well. The committee’s full name and mailing address must be included.

One section of the C-2 Statement of Organization requires the “*Name of Candidate(s) or Ballot Issue(s)*” that the committee supports or opposes. All candidates or issues supported or opposed by the committee must be listed here. In the case of a political party committee, the committee may simply to state “entire (Party) ticket” if the committee supports *ALL* candidates running under that party. A political committee supporting or opposing a variety of candidates and/or ballot issues may attach a separate sheet listing them and indicating support or opposition.

A committee that files reports with the Federal Election Commission, may forward the COPP a copy of its federal registration filed with the FEC to satisfy this requirement.

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

Incidental political committees must periodically file a C-4 incidental finance report. A C-4 incidental finance report discloses any contributions received and expenditures made by an incidental political committee during a given reporting period. Form C-4 must be filed electronically using the CERS system.

## **Form C-6. Political Committee Finance Report**

All ballot issue, independent, and political party committees must periodically file form C-6, the committee finance report. Each C-6 committee finance report discloses any contributions received and expenditures made by the political committee during a given reporting period. Form C-6 must be filed electronically using the CERS system.

## **Form C-7 Notice of Pre-Election Contributions**

All political committees must file form C-7, the Notice of Pre-Election Contributions, to disclose any contributions of \$500.00 or more received from a single source between the 25<sup>th</sup> day of the month preceding an election in which the committee participates and the day before the election. Form C-7 must be filed within two (2) business days and must be filed electronically using the CERS system.

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

All political committees must file form C-7E, the Notice of Pre-Election Expenditures, to disclose any expenditures of \$500.00 or more made between the 25<sup>th</sup> day of the month preceding an election in which the committee participates and the day before the election. Form C-7E must be filed within two (2) business days and must be filed electronically using the CERS system.

## **PART 4: REQUIRED ATTRIBUTION & NOTICES**

### **Attribution**

All election communications, electioneering communications, or independent expenditures financed by a political committee need include a “paid for by” attribution message, 13-35-225, MCA. The attribution message must list the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer. Election communications, electioneering communications, or independent expenditures financed by a political committee that is a corporation or a union need to include the name of the corporation or union, its chief executive officer or equivalent, and the address of the principal place of business.

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

Paid for by the Citizens for Less Pepsi  
Coca Cola, treasurer  
PO Box 292  
Helena, MT 59601



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

Corporation:

Paid for by Pretty Good Manufacturing Co.  
Bob the Builder, CEO  
1000 Industry Drive  
Helena, MT 59605

Union:

Paid for by Montana Grocery Workers Union  
Sam A Grocer, President  
2000 Shopping Cart Avenue  
Helena, MT 59605

All election materials must clearly and conspicuously include the appropriate attribution language. To ensure compliance with this directive, the Commissioner established the following specifications (44.11.601, ARM):

- The reader should have no difficulty locating and reading the attribution language;
- The attribution language should be of sufficient type size to be clearly readable by the recipient or reader of the communication;
- The language should be contained in a printed area or segment set apart from the other contents of the election materials;
- The language should be printed with a reasonable degree of color contrast between the background and the printed statement; and
- In the case of yard signs or other campaign signs, the attribution language should appear on the side of the sign that contains the campaign message;
- For broadcast election materials that contain audio content, the attribution shall be spoken in the communication;
- For broadcast election materials containing visual content, the attribution shall be displayed in the communication.

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

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

following these steps can sometimes avoid a formal complaint and/or be a mitigation factor if a formal complaint is filed.

## **Clean Campaign Act**

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

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

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

## JOINT FUNDRAISING COMMITTEES

The 2021 Montana Legislature, through its passage of Senate Bill 319, introduced joint fundraising committees. Joint fundraising committees are *NOT* considered political committees, however they must follow the same basic reporting and disclosure requirements as most political committees. Please see [SB 319](#) for full context.

This manual offers only summary guidance on joint fundraising committee characteristics and requirements- additional guidance will be provided by the COPP as available.

### **Participants**

A joint fundraising committee is formed when one or more candidates for statewide office and one or more political committees join together to act as a fundraising representative for all participants. Participation in a joint fundraising committee is limited to candidates for statewide office, independent political committees, and political party committees. Judicial candidates, ballot issue committees, incidental committees, and political committees that are a corporation or union may not participate in a joint fundraising committee.

Once established, a joint fundraising committee may not be a participant in any other joint fundraising effort, however a participant may participate in an unlimited number of joint fundraising committees.

After filing a C-2 Statement of Organization, a joint fundraising committee may not amend its list of participants.

### **Treasurer**

A joint fundraising committee must appoint a committee treasurer pursuant to 13-37-201, MCA. The joint fundraising committee must also keep all records as provided by 13-37-207 and 13-37-208, MCA.

The appointment of a treasurer is the first step in the organization of any joint fundraising committee. The name of the treasurer must be certified to the Commissioner of Political Practices on Form C-2.

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

### **Depository**

A joint fundraising committee must designate one primary depository. This depository may be a bank, a credit union, a savings and loan association, or a building and loan association; however, this depository must be authorized to transact business in Montana and must offer accounts on which the equivalent of a check may be drawn. Accounts must be completely separate from any personal accounts, 13-37-205, MCA, although they may be in the same depository.

Contributions to the joint fundraising committee may only be deposited in the joint fundraising committee depository.

## **Allocation of Funds**

All participants in a joint fundraising committee must enter into a written agreement stating a formula for the allocation of funds received by the joint fundraising committee. The formula must be stated as the amount or percentage of each contribution received by the joint fundraising committee that will be allocated to each individual participant. The joint fundraising committee must allocate funds received following this allocation formula.

A joint fundraising committee is required to retain this written agreement, and this agreement must be made available to the commissioner on request.

A joint fundraising committee may not accept contributions that, if allocated following the allocation formula to an individual participant, would be in excess of contribution limits applicable to that participant. Similarly, a participant in a joint fundraising committee may not accept contributions allocated through a joint fundraising committee that they could not otherwise accept.

A joint fundraising committee shall maintain records concerning contributions received, and these records must be made available to each participant.

## **Solicitation of Funds**

Each solicitation for contributions to a joint fundraising committee must include notice of certain information, including:

- The name of each participant;
- The allocation formula used by the joint fundraising committee;
- A statement informing contributors that, despite the allocation formula, their contribution may be designated for particular participants;
- A statement informing contributors that the allocation formula may change if a contributor makes a contribution that would exceed the amount they can provide to a participant or if the participant is otherwise prohibited from receiving the contribution; and
- A statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay outstanding debts (if one or more participants participate in the joint fundraising committee solely to satisfy outstanding debts).

## **Reporting Contributions Received and Expenditures Made**

Joint fundraising committees are required to file periodic finance reports disclosing contributions received by the joint fundraising committee and expenditures made by the joint fundraising committee, 13-37-225, MCA. The joint fundraising committee shall report contributions in the reporting period in which they are received and expenditures in the reporting period in which they are made. Joint Fundraising committees file form C-6, the committee finance report.

Participants in a joint fundraising committee must include contributions received through their participation in a joint fundraising committee on their relevant finance report.