

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 44.11.224, 44.11.226,) AMENDMENT
44.11.227, 44.11.406, 44.11.409,)
44.11.502, and 44.11.603 pertaining) NO PUBLIC HEARING
to campaign finance laws) CONTEMPLATED

TO: All Concerned Persons

1. The Office of the Commissioner of Political Practices (COPP) proposes to amend the above-stated rules. On December 10, 2021, the COPP published MAR Notice No. 44-2-253 pertaining to the proposed amendment of the above-stated rules at page 1763 of the 2021 Montana Administrative Register, Issue Number 23. The COPP inadvertently failed to notice the appropriate interim committee concurrently with filing the proposal with the Secretary of State (2-4-302(2)(a), MCA). The COPP has subsequently notified the appropriate interim committee. The COPP is extending the comment period in this notice, but the proposed amendments have not changed since the initial notice.

2. The COPP will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the office no later than 5:00 p.m. on December 30, 2021, to advise us of the nature of the accommodation that you need. Please contact Scott Cook, Office of the Commissioner of Political Practices, P.O. Box 202401, 1209 Eighth Avenue, Helena, Montana, 59620-2401; telephone (406) 444-2942; fax (406) 444-1643; or e-mail scook3@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

44.11.224 DESIGNATION OF CONTRIBUTIONS FOR PRIMARY AND GENERAL ELECTIONS (1) and (2) remain the same.

(3) A candidate for the legislature may use the same account in a campaign depository for primary and general election contributions received without being required to segregate those funds if:

(a) the candidate maintains records concerning when a contribution is received, and for which election the contribution is designated for; and

(b) the account balance does not drop below the amount of general election contributions received until after the day of the primary election.

(3) remains the same but is renumbered (4).

AUTH: 13-37-114, MCA
IMP: 13-37-216, 13-37-218, MCA

REASON: The COPP is amending this rule to reflect the changes in designation of primary and general election contributions for legislative candidates adopted by the 2021 Montana Legislature through its passage and implementation of Senate Bill 224.

44.11.226 LIMITS ON RECEIPTS FROM POLITICAL COMMITTEES

(1) Senate Bill 224 of the 2021 Legislature repealed contribution limits from political committees to legislative candidates.

~~(1) Based on the calculation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to candidates for the state legislature are as follows:~~

~~(a) a candidate for the state house of representatives may receive no more than \$1,850;~~

~~(b) a candidate for the state senate may receive no more than \$3,050.~~

~~(2) These limits apply to total combined receipts for the entire election cycle of 2020.~~

~~(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.~~

AUTH: 13-37-114, 13-37-218, MCA

IMP: 13-37-218, MCA

REASON: The COPP is amending this rule to reflect the 2021 Montana Legislature's repeal of aggregate contribution limits for candidates from political committees through its passage and implementation of Senate Bill 224. The rule number is being maintained to ensure the structure of the campaign finance rules follow the flow of a campaign.

44.11.227 LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS TO A CANDIDATE (1) Pursuant to the calculation specified in 13-37-216, MCA, limits on total combined contributions by a political committee, other than a political party committee, or by an individual to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than ~~\$740~~ \$1,000;

(b) a candidate for other statewide office may receive no more than ~~\$360~~ \$700;

(c) a candidate for all other public offices may receive no more than ~~\$180~~ \$400.

(2) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from political party committees to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than ~~\$25,600~~ \$100,000;

(b) a candidate for other statewide offices may receive no more than ~~\$9,250~~ \$75,000;

(c) a candidate for Public Service Commission may receive no more than ~~\$3,700~~ \$15,000;

- (d) a candidate for senate may receive no more than ~~\$1,500~~ \$3,000;
 - (e) a candidate for all other public offices may receive no more than ~~\$900~~ \$2,000.
- (3) Pursuant to 13-37-216 and ~~13-37-218~~, MCA, all contributions must be included in computing these limitation totals, except the personal services exemption found in ARM 44.11.401.
- (4) remains the same.

REASON: The COPP is amending this rule to reflect the changes in aggregate contribution limits to candidates from individuals or political parties for the 2022 election cycle adopted by the 2021 Montana Legislature through its passage of Senate Bill 224.

AUTH: 13-37-114, MCA
IMP: 13-37-216, 13-37-218, MCA

44.11.406 MASS COLLECTIONS AT FUNDRAISING EVENTS, REPORTING (1) For the purposes of 13-37-229, MCA:

- (a) "Mass collections" made at a fundraising event include the proceeds received from passing the hat or from the sale of items such as campaign pins, flags, emblems, hats, banners, raffle tickets, auction items, refreshments, baked goods, admission tickets and similar items sold at a dinner, rally, auction, dance, bake sale, rummage sale or similar fundraising event, provided that mass collections do not include the proceeds of purchases of ~~\$35~~ \$50 or more for any candidate or political committee.
 - (b) remains the same.
- (2) For purposes of preparing the statement of deposit required by 13-37-207(2), MCA, a record identifying the name of and amount received from each person must be maintained for a purchase of ~~\$35~~ \$50 or more at an event for any candidate or political committee. The proceeds of purchases of less than ~~\$35~~ \$50 may be recorded and deposited in lump sum without identifying the name of the contributor.

AUTH: 13-37-114, MCA
IMP: 13-37-207, 13-37-229, MCA

REASON: The COPP is amending this rule to reflect the change in fundraiser reporting itemization from \$35 to \$50 contained in Senate Bill 226, adopted and implemented by the 2021 Montana Legislature.

44.11.409 MONETARY DEPOSITS AND EXPENDITURES, ONLY THROUGH DEPOSITORY (1) and (2) remain the same.

- (3) All expenditures, ~~except expenditures from the petty cash fund~~, shall be made by check drawn on the designated depository.
- (4) ~~Except as stated in (5), all~~ All expenditures shall be drawn on the designated campaign depository by check, debit card, wire transfer, or other

electronic means that clearly identifies the person receiving the payment, and no check or other withdrawal shall be drawn payable to the order of cash.

~~(5) Expenditures from the petty cash fund shall be documented by a receipt voucher designating the date the monies were withdrawn, the exact amount of the withdrawal and by whom the monies were withdrawn, the name of the person or vendor to whom the monies were paid, and the purpose for which the monies were used. The receipt vouchers shall be attached to the cancelled check or other withdrawal receipt which provided the monies for the petty cash fund for the period and shall be maintained as a permanent record of the treasurer.~~

(6) remains the same but is renumbered (5).

AUTH: 13-37-114, MCA

IMP: 13-37-111, 13-37-205, 13-37-207, 13-37-208, 13-37-209, 13-37-215, 13-37-226, 13-37-229, 13-37-231, 13-37-232, MCA

REASON: The COPP is amending this rule to reflect that petty cash usage is no longer allowed by candidates or political committees under Senate Bill 115, adopted and implemented by the 2019 Montana Legislature.

44.11.502 EXPENDITURES, REPORTING (1) through (4) remain the same.

~~(5) Expenditures made from the petty cash fund need not be reported, except that an accounting shall be maintained pursuant to ARM 44.11.409.~~

(6) remains the same but is renumbered (5).

~~(7) For purposes of the disclosure requirements of 13-37-229 and 13-37-232, MCA, the "purpose" of each expenditure as reported on the commissioner's campaign finance reporting forms shall specifically describe the purpose, quantity, subject matter, as appropriate to each expenditure, and must be detailed enough to distinguish among expenditures for similar purposes. For example, two expenditures for direct mail advertisements should not both be reported as "Flyers."~~

(8) and (9) remain the same but are renumbered (6) and (7).

AUTH: 13-37-114, MCA

IMP: 13-37-225, 13-37-226, 13-37-228, 13-37-229, 13-37-232, MCA

REASON: The COPP is amending this rule to reflect the changes in expenditure reporting adopted by the 2021 Montana Legislature through its passage and implementation of Senate Bill 224. The COPP is also amending this rule to reflect that petty cash usage is no longer allowed by candidates or political committees under Senate Bill 115, adopted and implemented by the 2019 Montana Legislature.

44.11.603 DE MINIMIS (1) remains the same.

(2) Acts, contributions, or expenditures that may, depending on the circumstances, be considered de minimis include:

(a) remains the same.

(b) the provision by an individual or political committee of personal property, food, or services with a cumulative fair market value of less than ~~\$35~~ \$50 in the aggregate for any single election;

(c) through (3) remain the same.

AUTH: 13-37-114, MCA

IMP: 13-1-101, 13-37-114, MCA

REASON: The COPP is amending this rule to reflect the change in reporting itemization and disclosure from \$35 to \$50 contained in Senate Bill 226, adopted and implemented by the 2021 Montana Legislature.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Scott Cook, Office of the Commissioner of Political Practices, P.O. Box 202401, 1209 Eighth Avenue, Helena, Montana, 59620-2401; telephone (406) 444-2942; fax (406) 444-1643; or e-mail scook3@mt.gov, and must be received no later than 5:00 p.m., January 20, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Scott Cook at the above address no later than 5:00 p.m., January 20, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 137 persons based on the 1,369 candidates in the 2020 and 2021 election cycles.

7. The commissioner maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. For ARM 44.11.224, 44.11.226, 44.11.227, 44.11.406, 44.11.409, 44.11.502, and 44.11.603, the bill sponsor contact requirements of 2-4-302, MCA, apply. Senator Fitzpatrick and Senator Kary were contacted via email on November 18, 2021, and via email and mail on November 22, 2021. On November 23, 2021,

both senators responded that they had no comments on the amendments as proposed.

9. With regard to the requirements of 2-4-111, MCA, the COPP has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Jaime MacNaughton
Jaime MacNaughton
Rule Reviewer

/s/ Jeffrey Mangan
Jeffrey Mangan
Commissioner
Office of the Commissioner of Political Practices

Certified to the Secretary of State December 13, 2021.