

1 HOUSE BILL NO. 483

2 INTRODUCED BY D. HOWARD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS; REVISING
5 REPORTING PROVISIONS APPLICABLE TO CHURCHES ~~AND COMMUNITY GROUPS~~ IN ISSUE AND
6 BALLOT ISSUE CAMPAIGNS TO CONFORM WITH COURT DECISIONS PROTECTING ~~FREEDOM OF~~
7 ~~SPEECH AND RELIGIOUS EXPRESSION~~ THE FREE EXERCISE OF RELIGION AS GUARANTEED BY THE
8 FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTION 5, OF THE
9 MONTANA CONSTITUTION; DEFINING "BALLOT ISSUE COMMITTEE"; REVISING DEFINITIONS RELATED
10 TO EXPENDITURES AND CONTRIBUTIONS; PROHIBITING RULES THAT WOULD REQUIRE THE
11 REPORTING OF INCIDENTAL CONTRIBUTIONS OR EXPENDITURES IN ISSUE AND BALLOT ISSUE
12 CAMPAIGNS; AMENDING SECTIONS ~~2-2-121~~, 13-1-101; AND 13-37-226, ~~AND 13-37-228~~, MCA; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
14

15 WHEREAS, Montana's campaign finance laws were specifically at issue in Canyon Ferry Road Baptist
16 Church v. Unsworth, 556 F.3d 1021 (9th Cir. 2009); and

17 WHEREAS, the 9th Circuit Court specifically held that it was unconstitutional to require a church or other
18 community groups to become incidental political committees for de minimis expenditures in support of a ballot
19 issue; and

20 WHEREAS, the Court also found that Montana's low threshold for triggering incidental political committee
21 requirements violated First Amendment rights; and

22 WHEREAS, the Court held that ballot issue elections do not involve the same state interests in disclosure
23 as in candidate elections; and

24 WHEREAS, other federal courts have held that it is unconstitutional to apply complex finance laws to
25 community groups that do not have a major purpose to influence elections and who spend relatively small
26 amounts on a ballot issue campaign (Sampson v. Buescher, 625 F.3d 1247 (10th Cir. 2010)); and

27 WHEREAS, in a concurring opinion, 9th Circuit Court Judge Noonan stated that the disparity in Montana's
28 campaign finance laws between the treatment of the media and the treatment of churches is "great and gross";
29 and

30 WHEREAS, Judge Noonan stated that "What has happened here is that a small congregation has been

1 put to trouble and expense in order to exercise its right to speak on an issue seen by it to be of vital religious
 2 significance. One lesson of history is that small incursions on freedom are to be resisted lest they grow greater.";
 3 and

4 WHEREAS, Judge Noonan noted the historic struggles concerning slavery and the civil rights movement
 5 in which churches played a crucial role and actually led the way in challenging discrimination and in securing
 6 fundamental freedoms, which requires that they be free to speak without unconstitutional restraint; AND

7 WHEREAS, ARTICLE II, SECTION 5, OF THE MONTANA CONSTITUTION AND THE FIRST AMENDMENT TO THE
 8 UNITED STATES CONSTITUTION PROHIBIT THE STATE AND CONGRESS FROM MAKING A LAW THAT PROHIBITS THE FREE
 9 EXERCISE OF RELIGION.

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 ~~Section 1.~~ Section 2-2-121, MCA, is amended to read:

14 ~~"2-2-121. Rules of conduct for public officers and public employees.~~ (1) Proof of commission of any
 15 act enumerated in subsection (2) is proof that the actor has breached a public duty.

16 ~~(2) A public officer or a public employee may not:~~

17 ~~(a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the~~
 18 ~~officer's or employee's private business purposes;~~

19 ~~(b) engage in a substantial financial transaction for the officer's or employee's private business purposes~~
 20 ~~with a person whom the officer or employee inspects or supervises in the course of official duties;~~

21 ~~(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other~~
 22 ~~economic benefit from the officer's or employee's agency;~~

23 ~~(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic~~
 24 ~~benefit from any agency;~~

25 ~~(e) perform an official act directly and substantially affecting to its economic benefit a business or other~~
 26 ~~undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel,~~
 27 ~~consultant, representative, or agent; or~~

28 ~~(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a~~
 29 ~~person whom the officer or employee regulates in the course of official duties without first giving written~~
 30 ~~notification to the officer's or employee's supervisor and department director.~~

1 ~~———— (3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public~~
 2 ~~time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political~~
 3 ~~committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the~~
 4 ~~use is:~~

5 ~~———— (i) authorized by law; or~~

6 ~~———— (ii) properly incidental to another activity required or authorized by law, such as the function of an elected~~
 7 ~~public officer, the officer's staff, or the legislative staff in the normal course of duties.~~

8 ~~———— (b) As used in this subsection (3), "properly incidental to another activity required or authorized by law"~~
 9 ~~does not include any activities related to solicitation of support for or opposition to the nomination or election of~~
 10 ~~a person to public office or political committees organized to support or oppose a candidate or candidates for~~
 11 ~~public office. With respect to ballot issues, properly incidental activities are restricted to:~~

12 ~~———— (i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the~~
 13 ~~impact of passage or failure of a ballot issue on state or local government operations;~~

14 ~~———— (ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of~~
 15 ~~law governing public meetings of the local board of trustees, including the resulting dissemination of information~~
 16 ~~by a board of trustees or a school superintendent or a designated employee in a district with no superintendent~~
 17 ~~in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended~~
 18 ~~for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the~~
 19 ~~electors.~~

20 ~~———— (c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express~~
 21 ~~personal political views.~~

22 ~~———— (4) A candidate, as defined in 13-1-101(6)(a), may not use or permit the use of state funds for any~~
 23 ~~advertisement or public service announcement in a newspaper, on radio, or on television that contains the~~
 24 ~~candidate's name, picture, or voice except in the case of a state or national emergency and then only if the~~
 25 ~~announcement is reasonably necessary to the candidate's official functions.~~

26 ~~———— (5) A public officer or public employee may not participate in a proceeding when an organization, other~~
 27 ~~than an organization or association of local government officials, of which the public officer or public employee~~
 28 ~~is an officer or director is:~~

29 ~~———— (a) involved in a proceeding before the employing agency that is within the scope of the public officer's~~
 30 ~~or public employee's job duties; or~~

1 ~~———(b) attempting to influence a local, state, or federal proceeding in which the public officer or public~~
 2 ~~employee represents the state or local government.~~

3 ~~———(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in~~
 4 ~~5-7-102, on behalf of an organization, other than an organization or association of local government officials, of~~
 5 ~~which the public officer or public employee is a member while performing the public officer's or public employee's~~
 6 ~~job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing~~
 7 ~~charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized~~
 8 ~~by law.~~

9 ~~———(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101~~
 10 ~~of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section.~~
 11 ~~The public officer or public employee may not make arrangements for the listing in the electronic directory during~~
 12 ~~work hours.~~

13 ~~———(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act~~
 14 ~~notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute~~
 15 ~~and if the person complies with the disclosure procedures under 2-2-131.~~

16 ~~———(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless~~
 17 ~~the member is also a full-time public employee.~~

18 ~~———(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government~~
 19 ~~from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise~~
 20 ~~enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to~~
 21 ~~performing the official act."~~

22

23 **Section 1.** Section 13-1-101, MCA, is amended to read:

24 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
 25 definitions apply:

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

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

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

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

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

6 ~~(6) "Ballot issue committee" means a combination of two or more individuals who are organized or a~~
 7 ~~person that:~~

8 ~~—— (a) has as its major purpose the support or opposition of a ballot issue; or~~

9 ~~—— (b) accepts contributions or makes expenditures in excess of \$1,000 to support or oppose a ballot issue.~~

10 ~~(6)(7)(6)~~ "Candidate" means:

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

13 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained
 14 contributions, made expenditures, or given consent to an individual, organization, political party, or committee
 15 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination
 16 or election to any office at any time, whether or not the office for which the individual will seek nomination or
 17 election is known when the:

18 (i) solicitation is made;

19 (ii) contribution is received and retained; or

20 (iii) expenditure is made; or

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

22 ~~(7)(8)(7)~~ (a) "Contribution" means:

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

25 (ii) a transfer of funds between political committees;

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

28 (b) "Contribution" does not mean:

29 (i) services provided without compensation by individuals volunteering a portion or all of their time on
 30 behalf of a candidate or political committee or meals and lodging provided by individuals in their private

1 residences for a candidate or other individual;

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

4 ~~(iii) the cost of any communication by a church that is made in the normal course of exercising its freedom
5 of religious expression;~~

6 (III) THE COST OF ANY COMMUNICATION BY A BONA FIDE CHURCH RELATING TO AN ISSUE OR BALLOT ISSUE THAT
7 IS MADE IN THE NORMAL COURSE OF EXERCISING ITS FREEDOM OF RELIGIOUS EXPRESSION;

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

10 ~~(iv)(v)~~ filing fees paid by the candidate.

11 ~~(8)(9)(8)~~ "Election" means a general, regular, special, or primary election held pursuant to the
12 requirements of state law, regardless of the time or purpose.

13 ~~(9)(10)(9)~~ "Election administrator" means the county clerk and recorder or the individual designated by
14 a county governing body to be responsible for all election administration duties, except that with regard to school
15 elections not administered by the county, the term means the school district clerk.

16 ~~(10)(11)(10)~~ "Elector" means an individual qualified to vote under state law.

17 ~~(11)(12)(11)~~ (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
18 or gift of money or anything of value made for the purpose of influencing the results of an election.

19 (b) "Expenditure" does not mean:

20 (i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(7)~~
21 ~~(8)~~ (7);

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

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

26 ~~(iv) the cost of any communication by a church that is made in the normal course of exercising its freedom
27 of religious expression; or~~

28 (IV) THE COST OF ANY COMMUNICATION BY A BONA FIDE CHURCH RELATING TO AN ISSUE OR BALLOT ISSUE THAT
29 IS MADE IN THE NORMAL COURSE OF EXERCISING ITS FREEDOM OF RELIGIOUS EXPRESSION; OR

30 ~~(iv)(v)~~ the cost of any communication by any membership organization or corporation to its members or

1 stockholders or employees.

2 ~~(12)(13)~~(12) "Federal election" means a general or primary election in which an elector may vote for
3 individuals for the office of president of the United States or for the United States congress.

4 ~~(13)(14)~~(13) "General election" or "regular election" means an election held for the election of public
5 officers throughout the state at times specified by law, including elections for officers of political subdivisions when
6 the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
7 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
8 legislature to the electors at a general election, "general election" means an election held at the time provided
9 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
10 as a constitutional initiative at a regular election, regular election means an election held at the time provided in
11 13-1-104(1).

12 ~~(14)(15)~~(14) "Inactive elector" means an individual who failed to respond to confirmation notices and
13 whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

14 ~~(15)(16)~~(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

15 ~~(16)(17)~~(16) "Individual" means a human being.

16 ~~(17)(18)~~(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
17 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
18 questions, school levy questions, bond issue questions, or a ballot question.

19 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the
20 proper official that the legal procedure necessary for its qualification and placement upon the ballot has been
21 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the
22 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

23 ~~(18)(19)~~(18) "Legally registered elector" means an individual whose application for voter registration was
24 accepted, processed, and verified as provided by law.

25 ~~(19)(20)~~(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by
26 mailing ballots to all active electors.

27 ~~(21) "Major purpose" means the expenditure of more than 25% of the ballot issue committee's annual~~
28 ~~budget to support or oppose a ballot issue.~~

29 ~~(20)(22)~~(20) "Person" means an individual, corporation, association, firm, partnership, cooperative,
30 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6)

1 ~~(7)~~ (6).

2 ~~(21)(23)(21)~~ "Place of deposit" means a location designated by the election administrator pursuant to
3 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

4 ~~(22)(24)(22)~~ (a) "Political committee" means a combination of two or more individuals or a person other
5 than an individual who makes a contribution or expenditure:

6 ~~(a)(i)(A)~~ to support or oppose a candidate or a committee organized to support or oppose a candidate
7 or a petition for nomination; or

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

9 ~~(B) TO SUPPORT OR OPPOSE A BALLOT ISSUE OR A COMMITTEE ORGANIZED TO SUPPORT OR OPPOSE A BALLOT~~
10 ~~ISSUE; OR~~

11 ~~(c)(ii)(C) as an earmarked contribution to support or oppose a candidate or a petition for nomination.~~

12 ~~(b) The term does not mean a ballot issue committee.~~

13 ~~(23)(25)(23)~~ "Political subdivision" means a county, consolidated municipal-county government,
14 municipality, special district, or any other unit of government, except school districts, having authority to hold an
15 election for officers or on a ballot issue.

16 ~~(24)(26)(24)~~ "Polling place election" means an election primarily conducted at polling places rather than
17 by mail under the provisions of Title 13, chapter 19.

18 ~~(25)(27)(25)~~ "Primary" or "primary election" means an election held throughout the state to nominate
19 candidates for public office at times specified by law, including nominations of candidates for offices of political
20 subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

21 ~~(26)(28)(26)~~ "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has
22 not been verified as provided by law.

23 ~~(27)(29)(27)~~ "Provisionally registered elector" means an individual whose application for voter registration
24 was accepted but whose identity or eligibility has not yet been verified as provided by law.

25 ~~(28)(30)(28)~~ "Public office" means a state, county, municipal, school, or other district office that is filled
26 by the people at an election.

27 ~~(29)(31)(29)~~ "Random-sample audit" means an audit involving a manual count of ballots from designated
28 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

29 ~~(30)(32)(30)~~ "Registrar" means the county election administrator and any regularly appointed deputy or
30 assistant election administrator.

1 ~~(31)(33)~~(31) "Special election" means an election other than a statutorily scheduled primary or general
2 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
3 scheduled election.

4 ~~(32)(34)~~(32) "Statewide voter registration list" means the voter registration list established and maintained
5 pursuant to 13-2-107 and 13-2-108.

6 ~~(33)(35)~~(33) "Transfer form" means a form prescribed by the secretary of state that may be filled out by
7 an elector to transfer the elector's registration when the elector's residence address has changed within the
8 county.

9 ~~(34)(36)~~(34) "Valid vote" means a vote that has been counted as valid or determined to be valid as
10 provided in 13-15-206.

11 ~~(35)(37)~~(35) "Voted ballot" means a ballot that is:

- 12 (a) deposited in the ballot box at a polling place;
- 13 (b) received at the election administrator's office; or
- 14 (c) returned to a place of deposit.

15 ~~(36)(38)~~(36) "Voting system" or "system" means any machine, device, technology, or equipment used
16 to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

17

18 ~~Section 3. Section 13-37-226, MCA, is amended to read:~~

19 ~~"13-37-226. Time for filing reports -- rulemaking. (1) Candidates for a state office filled by a statewide~~
20 ~~vote of all the electors of Montana and political committees that are organized to support or oppose a particular~~
21 ~~statewide candidate shall file reports electronically as follows:~~

22 ~~(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in~~
23 ~~which funds are received or expended during the year or years prior to the election year that the candidate~~
24 ~~expects to be on the ballot;~~

25 ~~(b) on the 10th day of March, April, July, August, and September;~~

26 ~~(c) on the 15th and 5th days preceding the date on which an election is held;~~

27 ~~(d) within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before~~
28 ~~the election and the day of the election;~~

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

30 ~~(f) on the 10th day of March and September of each year following an election until the candidate or~~

- 1 political committee files a closing report as specified in 13-37-228(3).
- 2 ~~———— (2) Political committees organized to support or oppose a particular statewide A ballot issue committee~~
 3 ~~shall file reports:~~
- 4 ~~———— (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in~~
 5 ~~which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the~~
 6 ~~year or years prior to the election year that an issue is or is expected to be on the ballot;~~
- 7 ~~———— (b) on the 10th day of March and on the 10th day of each subsequent month through September in each~~
 8 ~~year that an election is to be held;~~
- 9 ~~———— (c) on the 15th and 5th days preceding the date on which an election is held;~~
- 10 ~~———— (d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before~~
 11 ~~the election and the day of the election;~~
- 12 ~~———— (e) within 20 days after the election; and~~
- 13 ~~———— (f) on the 10th day of March and September of each year following an election until the political ballot~~
 14 ~~issue committee files a closing report as specified in 13-37-228(3).~~
- 15 ~~———— (3) Candidates for a state district office, including but not limited to candidates for the legislature, the~~
 16 ~~public service commission, or a district court judge, and political committees that are specifically organized to~~
 17 ~~support or oppose a particular state district candidate or, and a ballot issue committee, except as provided in~~
 18 ~~[section 5], shall file reports:~~
- 19 ~~———— (a) on the 12th day preceding the date on which an election is held;~~
- 20 ~~———— (b) within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before~~
 21 ~~the election and the day of the election. The report under this subsection (3)(b) must be made by mail or by~~
 22 ~~electronic communication to the commissioner and the election administrator of the appropriate county pursuant~~
 23 ~~to 13-37-225.~~
- 24 ~~———— (c) not more than 20 days after the date of the election; and~~
- 25 ~~———— (d) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).~~
- 26 ~~———— (4) Candidates for any other public office and political committees that are specifically organized to~~
 27 ~~support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount~~
 28 ~~of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing~~
 29 ~~fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.~~
- 30 ~~———— (5) For the purposes of this subsection, a committee that is not specifically organized to support or~~

1 ~~oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in~~
 2 ~~conjunction with an election is an independent committee. For the purpose of reporting, a political party committee~~
 3 ~~is an independent committee. An independent committee shall file:~~
 4 ~~——— (a) a report on the 12th day preceding the date of an election in which it participates by making an~~
 5 ~~expenditure;~~
 6 ~~——— (b) a report within 24 hours of making an expenditure or incurring a debt or obligation of \$500 or more~~
 7 ~~for election material described in 13-35-225(1) if made between the 17th day before the election and the day of~~
 8 ~~the election;~~
 9 ~~——— (c) a report not more than 20 days after the date of the election in which it participates by making an~~
 10 ~~expenditure; and~~
 11 ~~——— (d) a report on a date to be prescribed by the commissioner for a closing report at the close of each~~
 12 ~~calendar year.~~
 13 ~~——— (6) The commissioner may promulgate rules regarding the extent to which organizations that are~~
 14 ~~incidental political committees and that support or oppose a candidate shall report their politically related activities~~
 15 ~~in accordance with this chapter. The commissioner may not promulgate rules to require reporting of contributions~~
 16 ~~or expenditures that are incidental to supporting or opposing a ballot issue or that conflict with [section 5].~~
 17 ~~——— (7) Except as provided in subsections (1)(d), (2)(d), (3)(b), and (5)(b), all reports required by this section~~
 18 ~~must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."~~

19

20 **SECTION 2. SECTION 13-37-226, MCA, IS AMENDED TO READ:**

21 **"13-37-226. Time for filing reports -- rulemaking.** (1) Candidates for a state office filled by a statewide
 22 vote of all the electors of Montana and political committees that are organized to support or oppose a particular
 23 statewide candidate shall file reports electronically as follows:

24 (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in
 25 which funds are received or expended during the year or years prior to the election year that the candidate
 26 expects to be on the ballot;

27 (b) on the 10th day of March, April, July, August, and September;

28 (c) on the 15th and 5th days preceding the date on which an election is held;

29 (d) within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before
 30 the election and the day of the election;

- 1 (e) not more than 20 days after the date of the election; and
- 2 (f) on the 10th day of March and September of each year following an election until the candidate or
3 political committee files a closing report as specified in 13-37-228(3).
- 4 (2) Political committees organized to support or oppose a particular statewide ballot issue shall file
5 reports:
- 6 (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in
7 which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the
8 year or years prior to the election year that an issue is or is expected to be on the ballot;
- 9 (b) on the 10th day of March and on the 10th day of each subsequent month through September in each
10 year that an election is to be held;
- 11 (c) on the 15th and 5th days preceding the date on which an election is held;
- 12 (d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before
13 the election and the day of the election;
- 14 (e) within 20 days after the election; and
- 15 (f) on the 10th day of March and September of each year following an election until the political
16 committee files a closing report as specified in 13-37-228(3).
- 17 (3) Candidates for a state district office, including but not limited to candidates for the legislature, the
18 public service commission, or a district court judge, and political committees that are specifically organized to
19 support or oppose a particular state district candidate or issue shall file reports:
- 20 (a) on the 12th day preceding the date on which an election is held;
- 21 (b) within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before
22 the election and the day of the election. The report under this subsection (3)(b) must be made by mail or by
23 electronic communication to the commissioner and the election administrator of the appropriate county pursuant
24 to 13-37-225.
- 25 (c) not more than 20 days after the date of the election; and
- 26 (d) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).
- 27 (4) Candidates for any other public office and political committees that are specifically organized to
28 support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount
29 of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing
30 fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

1 (5) For the purposes of this subsection, a committee that is not specifically organized to support or
 2 oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in
 3 conjunction with an election is an independent committee. For the purpose of reporting, a political party committee
 4 is an independent committee. An independent committee shall file:

5 (a) a report on the 12th day preceding the date of an election in which it participates by making an
 6 expenditure;

7 (b) a report within 24 hours of making an expenditure or incurring a debt or obligation of \$500 or more
 8 for election material described in 13-35-225(1) if made between the 17th day before the election and the day of
 9 the election;

10 (c) a report not more than 20 days after the date of the election in which it participates by making an
 11 expenditure; and

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

14 (6) The commissioner may promulgate rules regarding the extent to which organizations that are
 15 incidental political committees shall report their politically related activities in accordance with this chapter, except
 16 that the commissioner may not promulgate rules to require reporting of contributions or expenditures that are
 17 incidental to supporting or opposing a ballot issue or political committee that conflict with the exemptions in
 18 13-1-101(7) and (11) or that are otherwise reported by another political committee.

19 (7) Except as provided in subsections (1)(d), (2)(d), (3)(b), and (5)(b), all reports required by this section
 20 must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

21
 22 ~~Section 4. Section 13-37-228, MCA, is amended to read:~~

23 ~~"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be~~
 24 ~~filed to cover the following time periods even though no contributions or expenditures may have been received~~
 25 ~~or made during the period:~~

26 ~~(1) The initial report must cover all contributions received or expenditures made by a candidate or~~
 27 ~~political committee prior to the time that a person became a candidate or a political committee, as defined in~~
 28 ~~13-1-101, until the fifth day before the date of filing of the appropriate initial report pursuant to 13-37-226(1)~~
 29 ~~through (5). Reports filed by political committees organized to support or oppose a statewide ballot issue must~~
 30 ~~disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by~~

1 transmission of the petition to the proponent of the ballot issue or referral by the secretary of state even if the
2 issue subsequently fails to garner sufficient signatures to qualify for the ballot.

3 ~~———— (2) Subsequent periodic reports must cover the period of time from the closing of the previous report to
4 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5). For the purposes of this
5 subsection, the reports required under 13-37-226(1)(d), (2)(d), (3)(b), and (5)(b) are not periodic reports and must
6 be filed as required by 13-37-226(1)(d), (2)(d), (3)(b), or (5)(b), as applicable.~~

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

13
14 ~~———— **NEW SECTION. Section 5. Ballot issue committee reporting requirements.** (1) Within 72 hours of
15 accepting a contribution or making an expenditure that results in an entity becoming a ballot issue committee,
16 the ballot issue committee shall:~~

17 ~~———— (a) file with the commissioner the campaign treasurer information specified in 13-37-201;~~

18 ~~———— (b) file a report providing the information required in subsection (2); and~~

19 ~~———— (c) subject to subsection (2), file subsequent reports of contributions and expenditures at the times
20 specified in 13-37-226(2).~~

21 ~~———— (2) A ballot issue committee may not be required to report more than:~~

22 ~~———— (a) an itemized list of its expenditures to support or oppose a ballot issue; and~~

23 ~~———— (b) the name and state of residence of each person that contributes more than \$500 in the election cycle
24 with the express purpose of supporting or opposing a ballot issue.~~

25
26 **NEW SECTION. Section 3. Membership CERTAIN EXEMPTIONS to be broadly construed.** Pursuant
27 to the first amendment to the United States constitution and to ensure the consistent application of the law, the
28 commissioner shall broadly construe "membership" as the term is used in 13-1-101(8)(b)(iv) and (12)(b)(v) THE
29 EXEMPTIONS PROVIDED IN 13-1-101(7)(B)(III) AND (11)(B)(IV).

30

1 NEW SECTION. **Section 4. Codification instruction.** ~~[Sections 5 and 6] are [SECTION 3]~~ IS intended
2 to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2,
3 apply to ~~[sections 5 and 6]~~ [SECTION 3].

4

5 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

6

- END -