

COMMISSIONER OF
POLITICAL PRACTICES

EXHIBIT 9
DATE 1/22/15
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STATE OF MONTANA

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January 22, 2015

Honorable Jeff Essmann
Chairperson
House State Administration Committee
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Re: House Bill 131
Hearing Date: Tuesday, January 22,
2015 at 9:00 AM
Sponsor: Representative Ellie Boldman
Hill

Dear Chairperson Essmann and members of the Committee:

The Office of the Commissioner of Political Practices supports House Bill 131 and respectfully offers the following information to the members of the House State Administration Committee.

HB 131 modifies the timelines by which Candidates and political committees are required to report and disclose contributions and/or expenditures by §13-37-226 MCA. HB 131 does this by adding May 1 and October 1 reporting dates for all candidates and political committees. The May

1 reporting date applies to primary elections while the October 1 reporting date applies to general elections.

These additional reporting dates adjust Montana's reporting and disclosure laws to respond to the early voting, increases in money and third party presence that are now part of elections for public office in Montana. *Citizens United* and its progeny have endorsed, and not limited, the ability of a legislature to establish and require reporting and disclosure of campaign expenditures and contributions.

State district candidates (for example), including legislative candidates, now file a single pre-election report on the 12th date preceding the primary or general election [§13-37-226(3) MCA]. The 1993 Montana Legislature was the last to visit this reporting date, changing reporting from the 10th day pre-election to the current 12th day pre-election. In 1994 (the next election cycle) voting in Montana elections took place on "election day", as broad scale absentee balloting was first launched in Montana in 1999. Likewise in 1994 Montana elections corporations were prohibited from making independent expenditures in candidate campaigns by §13-35-227 MCA, a law stricken by the U.S. Supreme Court in 2012.

In terms of campaign finance, it was a simpler election world for 1994 Montana candidates for public office. Candidates focused campaigning to peak close to election day, since that was when voting occurred. Candidates were the source of most election activity relating to their campaigns since corporate entities could not engage in independent expenditures in candidate campaigns. A single reporting period, 12 days before the election, made sense for 1994 candidates.

It will be a different campaign finance election world facing 2016 Montana candidates for public office. A candidate's campaigning is no longer focused exclusively on election day since many 2016 electors will have already voted by absentee ballot during the 30 day absentee ballot voting procedure. Further, candidates targeted by third party independent expenditure campaigns will see expenditures for or against them throughout the entire 30 day absentee ballot voting period.

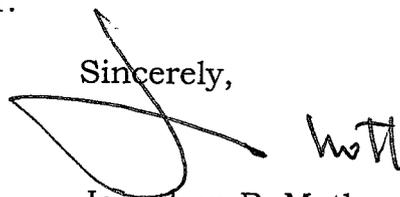
In the 2016 election context a single 12 day pre-election campaign finance report filed by candidates and political committees provides transparency of limited value when the first campaign finance report is filed after many electors have voted and after a candidate may have been subjected to a third party attack. Further, the disclosure 12 days before the election

leaves limited time for the opposing candidate, press or public to review and respond to the information as to the amount of money spent and (perhaps) the source of the money being spent.

The additional reporting period established by HB 131, coupled with an accompanying electronic reporting requirement proposed by SB 86, greatly increases transparency to the opposing candidate, press and the public. This transparency is essential to an open and fair political culture. Yes, a third party may spend against a candidate, but the additional reporting period and electronic reporting means that the timing, amount and nature of the expenditure will be timely known to the opposing candidate, the press and the public. This information will promote political discussion, rather than just serve as political attack, and this serves fair elections.

The COPP urges passage of HB 131. Thank you for your consideration of HB 131.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Motl', written over the word 'Sincerely,'.

Jonathan R. Motl
Commissioner of Political Practices