Chapter 11 Office of Commissioner of Political Practices			
Sub-Chapter 1 COPP Organizational Rule, Procedural Rule and General Policy			
Old #		**New #**	**Proposed Action**
44.10.101	Organizational Rule	44.11.101	TRANS and AMD
44.10.201	Incorporation of Model Rules	44.11.102	TRANS and AMD
44.10.301	Introduction and Definitions	44.11.103	TRANS and AMD
44.10.303	Construction of Rules	44.11.104	TRANS and AMD
44.10.305	Practice Regarding Application of Rules	44.11.105	TRANS and AMD
44.10.307	Complaints of Violations	44.11.106	TRANS and AMD
44.10.309	Copying of Public Records	44.11.107	TRANS
Subchapter 2 Political Committees and Candidates			
44.10.405	Political Committee - Statement of Organization	44.11.201	TRANS and AMD
44.10.327	Political Committee - Definition and Types	44.11.202	TRANS and AMD
	Primary Purpose	44.11.203	ADOPT
44.10.329	Political Committee Classification	44.11.204	TRANS and AMD
Candidates			
	Statement of Candidate	44.11.220	ADOPT
	Business Interest Disclosure	44.11.221	ADOPT
44.10.334	Elections to Which Aggregate Contribution Limits Apply	44.11.222	TRANS and AMD
44.10.337	Aggregate Contribution Limits for Write-in Candidates	44.11.223	TRANS and AMD
44.10.330	Designation of Contributions Primary-General	44.11.224	TRANS and AMD
44.10.333	Limits on Contributions from Parties	44.11.225	TRANS and AMD
44.10.331	Limits on Contributions from Political Committees	44.11.226	TRANS and AMD
44.10.338	Limitations on Individual and Political Party Contributions	44.11.227	TRANS and AMD
	Consequences for Failure to File Required Reports and Disclosures	44.11.240	ADOPT
Subchapter 3 Filing			
44.10.501	Uniform System of Accounts	44.11.301	TRANS and AMD
44.10.401	Statements, Reports, and Electronic Filing	44.11.302	TRANS and AMD
44.10.403	Amending Statements and Reports	44.11.303	TRANS and AMD
44.10.407	Local Candidates And	44.11.304	TRANS and AMD

	Committees, Receiving or Expending Less Than $500		
44.10.413	Nonresident and Federally Filing Committees	44.11.305	TRANS and AMD
44.10.409	Committee Semiannual and Closing Reports	44.11.306	TRANS and AMD
Subchapter 4 Reporting Contributions			
44.10.321	Contribution - Definition	44.11.401	TRANS and AMD
44.10.511	Reporting Contributions	44.11.402	TRANS and AMD
44.10.513	In-Kind Contribution, Reporting and Valuation	44.11.403	TRANS and AMD
44.10.519	Earmarked Contribution	44.11.404	TRANS and AMD
44.10.515	Loans as Contributions	44.11.405	TRANS and AMD
44.10.521	Mass Collections at Fundraisers	44.11.406	TRANS and AMD
44.10.505	Cash Contributions	44.11.407	TRANS
	Electronic Contributions	44.11.408	ADOPT
44.10.503	Deposits and Expenditures Campaign Account	44.11.409	TRANS and AMD
Subchapter 5 Reporting Expenditures			
44.10.323	Expenditure - Definition	44.11.501	TRANS and AMD
44.10.531	Reporting Expenditures	44.11.502	TRANS and AMD
44.10.533	In-Kind Expenditures, Reporting and Valuation	44.11.503	TRANS and AMD
44.10.517	Expenditure to Avoid Direct Contribution	44.11.504	TRANS and AMD
44.10.525	Debts Owed By Candidate or Committee	44.11.505	TRANS and AMD
44.10.535	Debts Owed To a Candidate or Committee	44.11.506	TRANS and AMD
Subchapter 6 General Campaign Practices			
	Attribution on Election Material	44.11.601	ADOPT
	Coordination	44.11.602	ADOPT
	De Minimis	44.11.603	ADOPT
	Election Communication	44.11.604	ADOPT
	Electioneering Communication	44.11.605	ADOPT
44.10.311	Electioneering	44.11.606	TRANS
	Fair Notice Period	44.11.607	ADOPT
	Personal Use of Campaign Funds	44.11.608	ADOPT
Subchapter 7 Surplus and Constituent Accounts			
44.10.536	Definitions	44.11.701	TRANS and AMD
44.10.335	Disposal of Surplus Campaign	44.11.702	TRANS and AMD

	Funds		
44.10.336	Personal Benefit	44.11.703	TRANS and AMD
44.10.537	Applicability of Rules	44.11.704	TRANS and AMD
44.10.538	Eligible Elected Officials	44.11.705	TRANS
44.10.539	Prohibitions	44.11.706	TRANS and AMD
44.10.540	Authorized Expenditures	44.11.707	TRANS and AMD
44.10.541	Opening a Constituent Account	44.11.708	TRANS and AMD
44.10.542	Records and Reporting	44.11.709	TRANS and AMD
44.10.543	Interest Paid on Accounts	44.11.710	TRANS
44.10.544	Closing a Constituent Account	44.11.711	TRANS and AMD

REPEALED		
44.10.325	Political Committee – Definition (incorporated in 44.11.201)	REP
44.10.332	Leadership Political Committees	REP
44.10.411	Incidental Political Committee, Filing Schedule, Reports	REP
44.10.507	Transfer of Contribution to Campaign Treasurer (incorporated into 44.11.409)	REP
44.10.523	Aggregate Contribution (incorporated in 44.11.222)	REP

BEFORE THE OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules I through XII; the transfer of ARM 44.10.309, 44.10.311, 44.10.505, 44.10.538, and 44.10.543; the transfer and amendment of ARM 44.10.101, 44.10.201, 44.10.301, 44.10.303, 44.10.305, 44.10.307, 44.10.321, 44.10.323, 44.10.327, 44.10.329, 44.10.330, 44.10.331, 44.10.333, 44.10.334, 44.10.335, 44.10.336, 44.10.337, 44.10.338, 44.10.401, 44.10.403, 44.10.405, 44.10.407, 44.10.409, 44.10.413, 44.10.501, 44.10.503, 44.10.511, 44.10.513, 44.10.515, 44.10.517, 44.10.519, 44.10.521, 44.10.525, 44.10.531, 44.10.533, 44.10.535, 44.10.536, 44.10.537, 44.10.539, 44.10.540, 44.10.541, 44.10.542, and 44.10.544; and the repeal of ARM 44.10.325, 44.10.332, 44.10.411, 44.10.507, and 44.10.523 pertaining to campaign finance reporting, disclosure, and practices	)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION, TRANSFER, TRANSFER AND AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On September 2, 2015, from 9:00 a.m. until 4:00 p.m., and on September 3, 2015, from 9:00 a.m. until 4:00 p.m., the Office of the Commissioner of Political Practices will hold a public hearing in Room 303, the Old Supreme Court Chambers of the Capitol Building, 1301 East 6th Avenue, Helena, Montana, to consider the proposed adoption, transfer, transfer and amendment, and repeal of the above-stated rules. The COPP intends to have the public hearings live broadcast on the Legislature's web site, http://leg.mt.gov/, under the current streaming schedule of video and audio on the days of the hearings.

2. The Office of the Commissioner of Political Practices 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 of the Commissioner of Political Practices no later than 5:00 p.m. on August 26, 2015, to advise us of the nature of the accommodation that you need. Please contact Jaime MacNaughton or Anne Sherwood, Office of the Commissioner of Political Practices, P.O. Box 202401,

Helena, Montana, 59620-2401; telephone (406) 444-2942; fax (406) 444-1643; or e-mail CPPRules@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY

The COPP has statutory authority to establish rules that implement the Montana Campaign Practices and Finance Act as enacted and amended by the Legislature. These rules set forth minimum disclosure and reporting standards which are important elements in providing for the public disclosure of funds used in campaigns for elected office or ballot issues. These rules provide clarity to candidates and political committees to facilitate the ability to achieve the Act's purpose of keeping the public's trust, fulfilling their public duty of reporting and disclosure, and promoting the public's right to know.

In 1976 the Office of the Commissioner of Political Practices (COPP) enacted its first set of administrative rules. The last major re-write of the rules occurred in 2001. In an effort to organize the current COPP rules to follow the logical flow of a campaign, the commissioner has determined that we will retire the old campaign finance reporting and disclosure rule numbers, from ARM Title 44, chapter 10, subchapters 1 through 5 to Title 44, chapter 11, subchapters 1 through 7.

The COPP proposes the transfer, amendment, adoption, and repeal of current COPP rules to conform to current law, including *Citizens United*, and to clarify application of the Montana Campaign Practices and Finance Act to candidates and political committees. Further, the 2015 Legislature passed SB 89, SB 151, and SB 289, all of which are effective October 1, 2015, and the amendment, adoption, and repeal of COPP rules are necessary to define and clarify compliance standards in accord with these new laws.

The COPP recognizes and commends James Scheier, Bureau Chief for Agency Legal Services, for his assistance, guidance, and commitment over the previous 28 years working with the commissioners and staff of the COPP and to the benefit of the people of Montana. This commendation includes gratitude for Mr. Scheier's assistance in formulating these rules.

4. The rules as proposed to be adopted provide as follows:

NEW RULE I PRIMARY PURPOSE (1) The term "primary purpose" refers to a major, principal, or important goal, function, or reason for existence for a committee.

(2) The commissioner may determine that a primary purpose of a committee is to support or oppose candidates or ballot issues based upon any one or more of the following criteria:

(a) allocation and source of budget;
(b) staff or members' activity, both during an election and otherwise;
(c) the statement of purpose, articles of incorporation, bylaws, or goals;
(d) election activity;

(e) the history of the committee and the number of elections in which it has participated or registered;

(f) receipt of contributions in response to an appeal or that are designated for a specified candidate, ballot issue, petition, or election activity;

(g) the number and cost of reportable election expenditures made;

(h) coordination with any candidates or other political committees;

(i) ordinary business actually conducted;

(j) if a corporation, whether it was created and maintained as provided by law; or

(k) the date of founding, incorporation, or organization.

(3) If the commissioner finds, pursuant to ARM 44.11.204 and based on his or her analysis of the information provided on the committee's statement of organization (Form C-2), or any other information known or provided to the commissioner's office, that an organization's primary purpose is to support or oppose a candidate or ballot issue, then that organization shall file and report as an independent committee, ballot issue committee, or political party committee, pursuant to these rules, and not as an incidental committee.

AUTH: 13-37-114, MCA
IMP: 13-37-226, 13-37-232, MCA

REASON: The COPP is including the adoption of this rule into the subchapter specific to political committees to make the rules easier to navigate and more user-friendly. The primary purpose rule defines an independent committee, as opposed to an incidental committee.

The COPP considered alternative methods for the criteria used in (2) of this rule. Those alternatives included using percentages or a "totality of the circumstances" balancing test to determine primary purpose. The COPP chose the alternative in this proposed rule because election activity varies from cycle to cycle and is infinitely varied over time.

The COPP considered establishing a rebuttable presumption that any corporation, entity, or organization that was formed in the six months prior to an election in which it solicits contributions for or made a reportable election expenditure would have been established for the purpose of supporting or opposing candidates or issues (an independent, party, or ballot issue committee).

The method chosen for the COPP's proposed rule reflects a balancing of the people's informational interest in disclosure with an entity's associational privacy. Montanans' right to evaluate different speakers and messages participating in an election is dependent not upon an organization's overall conduct, but upon the organization's conduct in and around Montanans' elections. The COPP is further adopting this rule to satisfy public need, clarify the statutory requirements, increase transparency, and identify the minimum reporting and disclosure baseline consistent with the law.

NEW RULE II STATEMENT OF CANDIDACY (1) "Candidate" is defined in 13-1-101, MCA.

(2) A candidate, whether or not the office for which the individual will seek nomination or election is known, shall file certification with the commissioner pursuant to 13-37-201, MCA, within five business days of becoming a candidate as defined by 13-1-101, MCA.

(3) A statement of candidacy shall include, but not be limited to:

(a) the complete name, office sought, and party affiliation (if applicable) of the candidate; and

(b) the complete name and address of the candidate's campaign treasurer and campaign depository, and the complete name and address of his or her deputy campaign treasurer and secondary campaign depository, if any.

AUTH: 13-37-114, MCA
IMP: 13-1-101, 13-37-201,13-37-202, 13-37-205, MCA

REASON: The COPP is adopting this rule to clarify the candidate-specific statutory requirements, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

NEW RULE III BUSINESS DISCLOSURE (1) For purposes of this rule, "state officer" means elected officials, candidates for statewide or state district offices, state district court candidates, Supreme Court candidates, department directors, or anyone appointed to fill any of these offices.

(2) All state officers must file a business disclosure statement, as provided in 2-2-106, MCA.

(a) Each candidate for a statewide election or a state office elected from a district must file a business disclosure statement within five days of the time that the candidate files for office.

(3) For additional rule requirements, see ARM 44.10.621.

AUTH: 13-37-114, MCA
IMP: 13-2-2-106, MCA

REASON: The COPP is adopting this rule to clarify the candidate specific statutory requirements, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

NEW RULE IV CONSEQUENCES FOR FAILURE TO FILE REQUIRED STATEMENTS, REPORTS, OR DISCLOSURES (1) The commissioner, following inspection of the candidate or committee's required statements, disclosures, or reports or lack thereof, may take actions, including but not limited to any of the following:

(a) declare the statement, disclosure, or report to be incomplete or inadequate and require the preparation of a new statement, disclosure, or report, as provided in 13-37-121 and 13-37-123, MCA;

(b) require the production of a candidate or committee's campaign records, accounts, books, correspondence, memoranda, bank account statements, or any other information as provided in 13-37-111 and 13-37-123, MCA;

(c) reclassify a political committee as provided in 13-37-226, MCA;

(d) issue an order of noncompliance as provided in 13-37-121, MCA;

(e) provide notice to the Secretary of State or other election administrator that a candidate's name should be withheld from a primary election ballot as provided in 13-37-126, MCA;

(f) provide notice to the Secretary of State or other election administrator that a certificate of nomination or election should be withheld following the general election as provided in 13-37-127, MCA;

(g) issue a finding of sufficient evidence of violation of Montana's Campaign Practice and Finance laws as provided by 13-37-111 and 13-37-123, MCA;

(h) initiate a civil or criminal court action to enforce Montana's Campaign Practice and Finance laws as provided by 13-37-128, MCA;

(i) request the District Court to remove an elected official from office, if the official is found by the court to have violated the laws as provided in 13-35-106, MCA;

(j) request that the District Court void an election pursuant to 13-35-107, MCA; or

(k) any other action allowed by statute to carry out the purposes of Montana's 1975 Campaign Finance and Candidate Disclosure Act as provided by sec. 1, Ch. 480, L. 1975.

(2) This rule is not intended to limit the powers of others to enforce the laws of Title 13, chapters 35 and 37, MCA, where allowed by law, nor to encompass all potential legal consequences for actions outside the jurisdiction of the commissioner.

AUTH: 13-37-114, MCA
IMP: 13-35-106, 13-35-107, 13-37-111, 13-37-121, 13-37-123, 13-37-126, 13-37-127, 13-37-128, MCA and Sec. 1, Ch. 480, L. 1975

REASON: The COPP is proposing adoption of this rule to clarify the authority of the commissioner to regulate and enforce Montana's Campaign Practice and Finance laws. The commissioner's authority is spread throughout Title 13, chapters 35 and 37, MCA, and the purpose of this rule is to reduce confusion and enhance understanding of the COPP.

<u>NEW RULE V ELECTRONIC CONTRIBUTIONS, REPORTING</u> (1) A candidate or political committee may accept electronic contributions from online payment service providers and payment gateways as contributions.

(a) A contribution made through a payment gateway, such as Bitcoin or other electronic peer-to-peer systems, shall be converted to U.S. dollars at the prevailing rate within twenty-four hours of receipt.

(b) A contribution made through an online service provider, such as Paypal or Google Wallet, shall be deposited in the campaign account.

(c) Any electronic contribution must be deposited in the designated campaign account within five business days of actual receipt or conversion.

(2) All electronic contributions shall be reported according to the requirements for contributions set out in these rules.

(a) An electronic contribution shall be reported as received on the day the electronic contribution is made to the online service provider or payment gateway, regardless of whether the contribution has actually been received.

(b) The full value of the contribution shall be reported as received from the contributor, not the amount as received from the service.

(c) Each service charge or conversion fee incurred or discounted by the payment service provider shall be reported as a campaign expenditure in accordance with these rules.

(3) Anonymous contributions shall never be accepted.

(4) If the electronic contribution amount exceeds the candidate contribution limit, the contributor must be issued a refund for the excess funds via check or through an online payment system from the campaign account. If it is not possible to return only a portion of the funds, the entire contribution must be returned.

(5) All candidates and political committees that receive electronic contributions are subject to the same limits, prohibitions, reporting, and disclosure requirements as monetary contributions, as outlined in these rules.

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

REASON: The COPP is proposing the adoption of this rule to address the current digital nature of campaign fundraising and to reduce confusion from candidates and committees on how to report them. The rule provides specific instructions on how to handle the receipt and reporting of electronic contributions. See also the reason for ARM 44.10.511 (44.11.402).

<u>NEW RULE VI ATTRIBUTION ON ELECTION MATERIAL</u> (1) Pursuant to 13-35-225, MCA, election communications, electioneering communications, and independent expenditures (referred to collectively herein as "election materials") must disclose the person who paid for the election materials, by including the appropriate attribution language set out in (2).

(2) All attributions must include the words "paid for by" followed by the appropriate identifying information. For election materials financed by:

(a) a candidate or a candidate's campaign, the attribution must include either:

(i) the name and address of the candidate; or

(ii) the name and address of the candidate's campaign.

(A) An attribution using the name of the candidate's campaign must include the first and last name of the candidate if the name of the campaign does not include at least the candidate's last name.

(B) Additional information, such as the name of the campaign treasurer, may be included within the attribution language, but it is not required.

(iii) Examples of an appropriate attribution for a candidate are:

Paid for by John Smith
P.O. Box 10000

Helena, MT 59605

or

Paid for by Smith for Senate
P.O. Box 20000
Helena, MT 59605

(b) a political committee, the attribution must include:

(i) the name of the committee, the name of the committee treasurer, and the address of either the committee or its treasurer.

(ii) An example of an appropriate attribution for a political committee is:

Paid for by Support Our Schools
Sarah Jones, Treasurer
P.O. Box 30000
Helena, MT 59605

(c) a political committee that is a corporation or union, the attribution must include:

(i) the name of the corporation or union, its chief executive officer or equivalent, and the physical address of the corporation or union's principal place of business.

(ii) Examples of an appropriate attribution for a political committee that is a corporation or union are:

Corporation:
Paid for by Pretty Good Manufacturing Co.
Susan Smith, CEO
1000 Industry Drive
Helena, MT 59605

Union:
Paid for by Montana Grocery Workers Union
James Miller, President
2000 Shopping Cart Avenue
Helena, MT 59605

(d) For election materials funded or facilitated solely by an individual acting on his or her own behalf, the attribution must include the name and address of the individual who paid for the materials.

(3) All election materials are required by 13-35-225, MCA, to clearly and conspicuously include the appropriate attribution language. To ensure compliance with this statutory directive, the commissioner establishes the following requirements and specifications:

(a) for written election materials, including but not limited to those published, broadcast, or otherwise disseminated through print media or digital media, as defined in these rules:

(i) the reader or observer should have no difficulty locating and reading the attribution language;

(ii) the attribution language should be of sufficient type size to be clearly readable by the recipient or reader of the communication;

(iii) the language should be contained in a printed area or segment set apart from the other contents of the election materials;

(iv) the language should be printed with a reasonable degree of color contrast between the background and the printed statement; and

(v) 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.

(b) for broadcast election materials, including but not limited to those published, broadcast, or otherwise disseminated through broadcast media or digital media, as defined by these rules:

(i) the attribution language for broadcast election communications containing audio content shall be spoken in the communication;

(ii) the attribution language for broadcast election materials containing visual content shall be displayed in the communication. The language may simultaneously be spoken, but it is not required.

(4) In partisan candidate elections, election communications and electioneering communications financed by a candidate or a political committee organized on the candidate's behalf must state either the candidate's party affiliation or include the candidate's party symbol.

(a) To meet the party affiliation disclosure requirement, election materials should state the name or a reasonable and comprehensible abbreviation of the name of one of the qualified political parties in Montana: "Democrat," "Libertarian," or "Republican."

(b) To meet the party symbol disclosure requirement, election materials should include either the symbol for one of the qualified political parties in Montana or the capitalized first letter of one of the parties. Acceptable symbol designations are:

(i) Democrat: the donkey symbol or "D";

(ii) Libertarian: the Statue of Liberty symbol or "L"; or

(iii) Republican: the elephant symbol or "R."

(c) The commissioner may determine that other language or a symbol included within a particular election material complies with the statutory directive, as long as there is some objective basis for the use of the language or symbol and the identity of the party is readily discernable.

(d) The party affiliation or symbol may appear with the attribution language, or within the body of the message content in the election materials.

(5) Printed election material that contains information about another candidate's voting record must include all the information specified in 13-35-225, MCA. The signed statement referred to in the statute may consist of a facsimile of an actual hand signature or an electronic signature. An acceptable electronic signature will be in the following format: "/s/ John Smith." An electronic signature

that appears on written election materials shall have the same effect as an actual hand signature or a facsimile of a hand signature.

(6) Election materials consisting of documents or other articles of campaign advertising that are too small for the inclusion of the attribution language and other information required by 13-35-225, MCA, need not include the information; however, 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 of its public distribution. For purposes of this rule, "at the time" means at or before the earliest date and time the election material is scheduled to be published, broadcast, or disseminated to the public.

(7) If information required by 13-35-225, MCA, is omitted from election materials, or if information required by (6) is not filed with the commissioner, the person who is responsible for or who financed the material shall, upon discovering the deficiency:

(a) file notification of the deficiency with the commissioner within two business days of discovery;

(b) bring the election material into compliance or file the information required by (6); and

(c) withdraw any noncompliant material from circulation as soon as possible.

(8) If notification required by (7)(a) is not provided and the commissioner becomes aware of the existence of election material that does not comply with 13-35-225, MCA, whether by complaint or otherwise, the commissioner will contact the person who is responsible for or financed the material and provide notice of the deficiency.

(a) The notice will require that the material be brought into compliance within the time limits provided in 13-35-225, MCA.

(b) The notice will state that failure to bring the material into compliance will subject the person who financed the election materials to a civil penalty action pursuant to 13-37-128, MCA.

(c) The noncompliant election material must not be disseminated or broadcast until it has been corrected and brought into compliance.

(9) The office of the commissioner, when notified, will work informally with candidates, political committees, and others to ensure compliance with the requirements of 13-35-225, MCA, and to promptly bring deficient election materials into compliance.

AUTH: 13-37-114, MCA
IMP: 13-35-225, MCA

REASON: The COPP is proposing adoption of this rule to satisfy public need, set forth the procedural requirement for attribution on campaign materials, to provide clarification and consistency throughout these rules, and to provide uniformity with the statutes.

<u>NEW RULE VII COORDINATION</u> (1) A "coordinated expenditure" means any election communication, electioneering communication, or election activity that is:

(a) funded or facilitated by:

(i) an expenditure as defined in 13-1-101, MCA, and further defined in ARM 44.11.501;

(ii) a payment of money by any person; or

(iii) a purchase, distribution, loan, advance, promise, pledge, gift, or provision of anything of value by any person.

(b) in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(c) The coordination of an expenditure need not require agreement, cooperation, consultation, request, or consent on every term necessary for the particular coordinated expenditure, such as content, price, or timing, but only requires one of those elements to be met as a fact of a coordinated expenditure.

(2) Whether an election communication, electioneering communication, or election activity may constitute a "coordinated expenditure" depends upon conduct, communications, or relationships involving a person and a candidate or political committee or an agent of a candidate or political committee, or involving an individual who acted within the previous twelve months as a paid agent or consultant to the candidate or a political committee supporting the candidate.

(3) A "coordinated expenditure" does not mean any election communication, electioneering communication, or election activity consisting of:

(a) an independent expenditure or an independent election activity funded or facilitated by a person;

(b) services, food, or lodging provided in a manner that they are not contributions by a person within the meaning of contribution as defined by 13-1-101, MCA, or these rules;

(c) the cost funded or facilitated by a person for any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical of general circulation;

(d) activity by an individual acting solely on his or her own behalf independently of any candidate or political committee; or

(e) the independent use of statements, images, or other information that is appropriated from a public source.

(4) A "coordinated expenditure" does not exist solely because:

(a) the person funding or facilitating the activity has previously made a contribution to the candidate;

(b) after publication or distribution, the person funding or facilitating the activity informs the candidate or an agent of the candidate that the person has made an expenditure or funded the activity, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure or funding the activity; or

(c) the funding or facilitating of the activity is made at the request or suggestion of a candidate or an agent of a candidate for the benefit of another candidate or political committee where the other potentially benefitted candidate or political committee has no involvement.

(5) There shall be a rebuttable presumption that any funding or facilitating of an election activity is not independent of the candidate on whose behalf, or for whose benefit, the activity is conducted, when:

(a) it is based on information that is provided by the candidate or an agent of the candidate directly or indirectly to the person funding or facilitating the activity;

(b) it is made by or through any candidate's agent in the course of the agent's involvement in the current campaign;

(c) the person funding or facilitating the activity retains the services of a person who consults with or provides services benefitting the candidate related to campaign activity or fundraising strategy for that same election, except as provided in (6);

(d) the activity replicates, reproduces, republishes, or disseminates, in whole or in substantial part, any material designed, produced, paid for, or distributed by the candidate;

(e) the candidate or political committee or an agent of a candidate or political committee has made or participated in any discussion or in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of any communication broadcast or conveyed as part of the activity;

(f) the person funding or facilitating the activity has an employee or agent who is also involved in activities described in (5)(a) through (e) on behalf of the candidate; or

(g) the candidate, during the twelve months prior to the election, raised money for election activity for the person funding or facilitating the election activity.

(6) There shall also be a rebuttable presumption that any funding or facilitating of an election activity is not independent of the candidate on whose behalf, or for whose benefit, the activity is conducted, when a person involved in funding or facilitating the activity also acted within the previous twelve months as a paid agent, consultant, employee, or vendor to the candidate or political committee supporting the candidate where there is no contemporaneous writing creating a documented firewall signed by the person and filed with the commissioner stating that the person is not involved with activity described in (1) through (5) with respect to the candidate. A vendor engaging only in arms-length transactions as a third-party supplier or service provider to candidate(s) or political committee(s) may satisfy this requirement by signing and filing a single written firewall statement for any applicable twelve-month election cycle.

(7) A "coordinated expenditure" shall be treated and reported as an in-kind contribution from and expenditure by the person funding, facilitating, or engaging in the election communication, electioneering communication, or election activity. Both the candidate and the committee shall report the coordinated expenditure and/or in-kind contribution as the case may be.

AUTH: 13-37-114, MCA
IMP: 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA

REASON: The COPP is proposing adoption of this rule to follow the directives of SB 289, to satisfy public need, and to set forth the procedural requirements for reporting coordinated expenditures and contributions.

Montana's history of actual and perceived corruption in elections prompted citizens to pass by initiative the 1912 Corrupt Practices Act. Undisclosed coordination threatens the integrity of the people's election reporting and disclosure laws that Montanans have traditionally and repeatedly upheld. Based on past experience, coordination carries a consequence for the people of Montana, candidates, and committees.

The COPP considered a 24-month rebuttable presumption of coordination when a person was involved in various election activities, and later associated with or made a reportable election activity expenditure or solicited contributions for a candidate. Given the population size of Montana and relationships that exist between Montanans, the COPP has proposed the adoption of a lessor 12-month time frame for the rebuttable presumption to attach.

In order to document a person's awareness of the obligation to avoid coordinated election activity, when necessary, the COPP proposes the adoption of a contemporaneous statement to be filed with the COPP which acknowledges and establishes a firewall in (6) of this rule. The firewall statements are not required, but will allow persons and vendors who regularly participate or provide services in Montana's elections to create a rebuttable presumption that the election activity they intend to participate in is not and will not be coordinated.

The COPP's proposed rule balances competing interests by creating rebuttable presumptions and allowing the public filing of firewall statements to protect all participants in our electoral system. The COPP is further adopting this rule to clarify statutory requirements, increase transparency, and to identify the minimum disclosure baseline consistent with the law.

NEW RULE VIII DE MINIMIS (1) A "de minimis act" is defined in 13-1-101, MCA. The commissioner may consider the following factors in determining whether specific acts, contributions, or expenditures are de minimis and therefore do not trigger registration, reporting, attribution, or disclosure requirements, or warrant enforcement as a campaign practices violation:

(a) whether the act, contribution, or expenditure has an ascertainable fair market value, and if so the amount of that value;

(b) in the case of an act that results in the provision of services, whether the act results in either a detriment to the provider of the services, such as an out-of-pocket expense or the preclusion of other activities;

(c) whether the act, contribution, or expenditure at issue is a single, one-time event or occurrence or multiple events or occurrences;

(d) the extent to which a particular campaign practices violation deprives the public of disclosure;

(e) other factors and circumstances the commissioner determines are relevant.

(2) These criteria will be considered and applied on a case-by-case basis.

(3) Acts, contributions, or expenditures that may, depending on the circumstances, be considered de minimis include, but are not limited to:

(a) the creation of electronic or written communications or digital photos or video, on a voluntary (unpaid) basis by an individual, including the creation and outgoing content development and delivery of social media on the internet or by telephone;

(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 in the aggregate for any single election;

(c) the location value of the display of lawn or yard signs on real property, but only if the property owner does not normally and does not in fact charge a fee for display of signs;

(d) any value attributable to the display of campaign bumper stickers or signs on a vehicle, but only if the vehicle owner does not normally and does not in fact charge a fee for display of bumper stickers or signs;

(e) typographical errors or incomplete or erroneous information on a campaign finance report that is determined not to be misleading or that does not substantially affect disclosure;

(f) any failure to comply with the attribution requirements of 13-35-225, MCA, that is determined to nevertheless provide sufficient disclosure regarding who made or financed the communication;

(g) expenses associated with volunteer services or efforts, including but not limited to the cost of gas, parking, and meals.

(4) Fair market value will be determined according to the description of the term in ARM 44.11.403 and 44.11.503.

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

REASON: The COPP is proposing adoption of this rule to follow the directive of SB 289, to satisfy public need, and to set forth the types of campaign activity which the commissioner may consider de minimis actions. The COPP is further adopting this rule to provide guidance to candidates and campaigns on campaign actions which have been determined to be de minimis in the past, which have not triggered reporting and disclosure obligations.

<u>NEW RULE IX ELECTION COMMUNICATION</u> (1) An election communication is a communication, made in media as defined in these rules, that is made to support or oppose a candidate or ballot issue, as those terms are defined in 13-1-101, MCA.

(2) An election communication means:

(a) a paid advertisement broadcast over radio, television, cable, or satellite;

(b) paid placement of content on the internet or other electronic communication network;

(c) a paid advertisement published in a newspaper or periodical or on a billboard;

(d) a mailing; or

(e) printed materials.

(3) An election communication does not mean any communication that is excluded from the definition of the term in 13-1-101, MCA.

(4) A person who makes an election communication is subject to the reporting and disclosure requirements of Title 13, chapters 35 and 37, MCA, and these rules.

AUTH: 13-37-114, MCA
IMP: 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA

REASON: The COPP is proposing adoption of this rule to follow the directives of SB 289, to satisfy public need, and to clarify statutory requirements specific to election communications in comparison to electioneering communications. The two types of communications have separate and distinct statutory reporting and disclosure obligations. The rule is proposed to prevent confusion of candidates or committees on the similarly named communication types, for clarification and consistency throughout these rules, and to provide uniformity with the statutes.

<u>NEW RULE X ELECTIONEERING COMMUNICATION</u> (1) An electioneering communication is a paid communication that:

(a) is publicly distributed by one or more of the modes of communication listed in the statute;

(b) is made within 60 days of the initiation of voting in an election;

(c) does not support or oppose a candidate or ballot issue, as "support or oppose" is defined in 13-1-101, MCA;

(d) can be received by more than 100 recipients in the district voting on the candidate or ballot issue;

(e) meets one or more of the following criteria:

(i) refers to one or more clearly identified candidates in the election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in the election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in the election; and

(f) may also include an independent expenditure.

(2) In (1)(b) the phrase "made within 60 days of the initiation of voting in an election" shall mean the following:

(a) in the case of mail ballot elections, the initiation of voting occurs when official ballot packets are mailed to qualified electors pursuant to 13-19-206, MCA;

(b) in other elections the initiation of voting occurs when absentee ballot packets are mailed to or otherwise delivered to qualified electors pursuant to 13-13-214, MCA.

(3) An electioneering communication does not mean any communication that is excluded from the definition of the term in 13-1-101, MCA. In addition, an electioneering communication does not mean:

(a) a communication that refers to or depicts the name, image, likeness, or voice of one or more clearly identified candidates, but that is susceptible to no reasonable interpretation other than as unrelated to the candidacy or the election;

(b) a communication that refers to a political party, ballot issue, or other question submitted to the voters at an election, but that is susceptible to no reasonable interpretation other than as unrelated to the issue or the election;

(c) the voter information pamphlet prepared and distributed by the Secretary of State; or

(d) any other communication by a local government or a state agency that only includes non-election information about a candidate, ballot issue, or election. For purposes of this rule the terms local government and state agency shall have the same meaning as the definitions of the terms in 2-2-102, MCA.

(4) The determination whether a particular communication is an electioneering communication or is excluded from the definition of the term will be based on the purpose, timing, and distribution of the communication, as well as the facts and circumstances surrounding its creation and distribution.

(5) Upon request, the commissioner may issue a letter to a group or person reporting the cost of electioneering communications under these rules. The letter may state that the reporting and disclosure required for an electioneering communication does not mean or imply that an express advocacy determination was made as to the communication that is covered by the cost reported.

(6) A person who makes an electioneering communication is subject to the reporting and disclosure requirements of Title 13, chapters 35 and 37, MCA, and these rules.

AUTH: 13-37-114, MCA
IMP: 13-1-101, 13-37-225, 13-37-226, 13-37-229, 13-37-232, MCA

REASON: The COPP is proposing adoption of this rule to follow the directives of SB 289, to satisfy public need, and to clarify statutory requirements specific to electioneering communications in comparison to election communications. The two types of communications have separate and distinct statutory reporting and disclosure obligations. The rule is proposed to prevent confusion of candidates or committees on the similarly named communication types, for clarification and consistency throughout these rules, and to provide uniformity with the statutes. The COPP added (5) to this rule to allow entities or organizations to request a letter from the COPP in instances where reporting and disclosure of electioneering communications are required by law, but no administrative determination has been made by the commissioner.

<u>NEW RULE XI FAIR NOTICE PERIOD BEFORE ELECTION</u> (1) For purposes of this rule, "campaign advertising" refers to reportable election activity, as defined in ARM 44.11.103.

(2) The "fair notice requirement" is described in 13-35-402, MCA. For the purpose of that section, the date used to determine the date "intended for public distribution" for material distributed by:

(a) print media is the date of the postmark.

(i) If no postmark is provided on the mailing, the date the mailing is mailed or "dropped," as reported by the mail distributor, is the equivalent of the postmark date.

(b) broadcast media, digital media, or published material is "at the time" the material is published or broadcast or disseminated to the public.

(i) "At the time" means at or before the earliest date and time the message is scheduled to be published, broadcast, or disseminated to the public.

(c) hand dissemination, see 13-35-402, MCA.

AUTH: 13-37-114, MCA
IMP: 13-35-402, MCA

REASON: The COPP is including the adoption of this rule into this subchapter on general campaign practices to make the rules easier to navigate and more user-friendly. The COPP is further adopting this rule to satisfy public need, clarify the application of key terms and phrases in the statute, increase transparency and promote fair play in the electoral process, and to identify the minimum disclosure baseline consistent with the law.

<u>NEW RULE XII PERSONAL USE OF CAMPAIGN FUNDS</u> (1) Except as provided in (4), no goods, services, funds, property, or other contributions received by a candidate or political committee may be used for the personal use or expense of any candidate, immediate family of a candidate, or staff of a candidate's campaign.

(2) Expenditures for personal use are those that have no direct connection with, or effect upon, expenditures to support or oppose candidates or issues, and those that would exist irrespective of a candidate's campaign or an individual's involvement in a candidate's campaign. Campaign expenditures are those that serve to support or oppose a candidate or issue. An expenditure for personal use or expense occurs when, for example, the expenditure:

(a) covers normal living needs of the candidate, the candidate's immediate family, or any other individual;

(b) covers food or clothing that are not specially required by or related to a campaign activity;

(c) covers the cost of travel, lodging, food, and registration, including attendance at any conference or event, that does not serve a campaign interest.

(3) A candidate or candidate's campaign may purchase goods or services and lease personal and real property that provide a mixed benefit to the candidate provided:

(a) the amount attributed to an individual's personal use or expense shall be determined in writing and reimbursed by the individual to the campaign, unless the personal benefit is de minimis;

(b) a mixed benefit to the candidate means use of goods, services, or property for personal use or expense as well as to support or oppose candidates or issues; or

(c) the personal benefit is de minimis as determined according to ARM [NEW RULE VIII].

(4) The prohibition of this rule is not applicable to:

(a) reimbursements to a candidate, or staff or volunteers of a candidate's campaign, for goods and services purchased for campaign expenditures;

(b) gifts or bonuses of less than $250 in a calendar year to campaign staff; or

(c) expenditures expressly authorized elsewhere in these rules.

(5) Prior to filing a closing report of a candidate's campaign:

(a) any personal and real property purchased with campaign funds that has a residual fair market value of $50 or more may be disposed of by one of the following methods:

(i) sale of the property at fair market value, in which case the proceeds shall be treated the same as other campaign funds and disposed of according to ARM 44.11.702 regarding surplus campaign funds. If campaign property is sold to the candidate, a member of the candidate's immediate family, or paid campaign staff, the campaign must receive at least 75 percent of the original purchase price or value of the in-kind contribution as determined per ARM 44.11.403; or

(ii) donation of the property under one of the options set out in ARM 44.11.702 pertaining to disposal of surplus campaign funds.

(b) the disposition of all campaign property under this rule must be reported on the closing report required by ARM 44.11.306, including the method of disposition (sale or donation), the complete date of the disposition, the name and address of the purchaser or donee, and a description of the property. If the property is sold, the information shall include the sale price received; if the property is donated, the information shall include the fair market value of the property at the time of the transfer.

(c) for purposes of this rule, the "residual" fair market value is based upon the value of the property at the time it is sold or donated, accounting for items of similar description, age, and condition. The sale of property through an online commercial auction shall be considered as a favorable factor in determining that the sale price received was the fair market value of the property sold.

(d) any personal or real property purchased with campaign funds that is not disposed of under this rule, shall be disposed of according to ARM 44.11.702.

(6) Whether an expenditure of campaign funds is to be considered a personal use or expense, and therefore prohibited, is a factual determination to be made by the commissioner.

AUTH: 13-37-114, MCA
IMP: 13-1-101, 13-37-229, 13-37-240, MCA

REASON: The COPP is adopting this rule to satisfy public need and to explain statutory requirements regarding the use of campaign funds for campaign purposes. A "contribution" is "anything of value to support or oppose a candidate or ballot issue," 13-1-101, MCA. In turn, an "expenditure" is made by a candidate or political committee "to support or oppose a candidate or ballot issue," id. The receipt of contributions from the public involves an obligation to expend the funds for the purpose which the contributions were given and in a manner that supports the public trust, 2-3-103, MCA. This obligation is reflected in the statutory definition of "expenditure" itself: "'Expenditure' does not mean:...payments by a candidate for a

filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family," 13-1-101(17)(b)(ii), MCA.

The use of campaign funds for personal expenditures such as meals, lodging, and utilities does enable a candidate of lessor means to be able to take time off of their primary job and campaign for public office. This alternative has been thoroughly considered, but was ultimately rejected based on the requirements of the statute and in the face of the larger public trust obligation of expending campaign funds in a manner that supports the candidacy, rather than the candidate. In order to protect the public trust in making contributions, the COPP proposes the above rule. The COPP believes such a rule is needed to clarify existing responsibilities and obligations of candidates and committees in regards to use of campaign funds, which will increase transparency and trust in the electoral process.

5. The department proposes to transfer the following rules:

OLD	NEW	
44.10.309	44.11.107	COPYING OF PUBLIC RECORDS

AUTH: 13-37-114, MCA
IMP: 13-37-119(1), MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter.

OLD	NEW	
44.10.311	44.11.606	ELECTIONEERING–INTERPRETIVE RULE

AUTH: 13-37-114, MCA
IMP: 13-35-211, MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter.

OLD	NEW	
44.10.505	44.11.407	CASH CONTRIBUTION, RECEIPT

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

REASON: See the reason for ARM 44.10.511 (44.11.402).

OLD	NEW	
44.10.538	44.11.705	ELIGIBLE ELECTED OFFICIALS

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See reason for ARM 44.10.536 (44.11.701).

OLD	NEW	
44.10.543	44.11.710	INTEREST PAID ON ACCOUNTS

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See reason for ARM 44.10.536 (44.11.701).

6. The rules as proposed to be transferred and amended provide as follows, new matter underlined, deleted matter interlined:

44.10.101 (44.11.101) ORGANIZATIONAL RULE (1) Organization of the Office of the Commissioner of Political Practices (COPP).

(a) History. The position of the Commissioner of Political Practices (commissioner) was created by the Legislature in 1975.

(b) remains the same.

(c) Commissioner. The commissioner ~~of Political Practices~~ is appointed for a term of six years and may be removed pursuant to 13-37-102~~(2)~~ and 13-37-105, MCA.

(2) Functions of the commissioner:

(a) ~~The~~ the commissioner ~~of Political Practices~~ is to establish clear and consistent requirements for the full disclosure and reporting of the sources and disposition of funds used in Montana ~~to support or oppose~~ elections regarding candidates, political committees, or issues, and in conjunction with the county attorneys, to enforce the election and campaign finance laws as specified in Title 13, chapters 35 and 37, MCA. The powers and duties of the commissioner are provided in Title 13, chapter 37, part 1, MCA.

(b) through (c) remain the same.

(3) Personnel Roster. Commissioner of Political Practices, ~~1205 Eighth Avenue,~~ P.O. Box 202401, Helena, Montana 59620-2401, http://www.politicalpractices.mt.gov/default.mcpx.

(4) All forms referenced in these rules are available for download on the COPP's web site.

AUTH: 13-37-114, MCA
IMP: 2-4-201, MCA

REASON: The COPP is transferring this rule for intelligibility, and proposing amendment of this rule for brevity, clarification, and consistency throughout these rules.

44.10.201 (44.11.102) ADVISORY OPINIONS AND SELECTED INCORPORATION OF CERTAIN ATTORNEY GENERAL ~~MODEL~~ RULES, ~~IN PART~~ REGARDING DECLARATORY RULINGS AND RULEMAKING (1) ~~The~~ In

cases when a formal declaratory ruling proceeding is requested by a person through the filing of a petition as prescribed in ARM 1.3.226, the commissioner ~~of political practices herein~~ adopts and incorporates by reference the Attorney General's ~~Model~~ Organizational and Procedural Rules ~~Introduction through rule 7 by reference to such rules as stated in ARM 1.3.101 through 1.3.210 and the Attorney General's Model Procedural Rules 22 through 24 by reference to such as stated in ARM 1.3.227 through 1.3.229 in cases when a formal declaratory ruling proceeding is requested by a person through the filing of a petition as prescribed in ARM 1.3.226~~ ARM 1.3.227 through 1.3.229 effective August 15, 2008.

(2) In all other cases, the commissioner will issue "advisory opinions" under the following procedure:

(a) through (a)(iv) remain the same.

(b) The commissioner may request a memorandum of authority containing basic research and points of law bearing on the request. The memorandum should include the requesting party's own conclusion on the question presented.

(c) Within a reasonable time after the receipt of a request for an advisory opinion, the commissioner shall consider the request and, based upon the facts presented in the request, prepare an opinion in writing, except as provided in ~~(b)~~(i). The commissioner may seek public comment prior to issuing an advisory opinion, depending on the particular question presented for an opinion.

(i) The commissioner will not issue an advisory opinion, but will notify the inquirer of the determination, when:

(A) and (B) remain the same.

(C) The facts are inadequate for a determination, or the request requires resolution of a factual dispute.

(D) The issue involves wholly abstract or hypothetical factual situations.

~~(c)~~ (d) An advisory opinion will be rendered upon the facts submitted in the request and over the signature of the commissioner. A copy of the opinion will be mailed to the inquirer and published in a manner which will provide wide public dissemination. The commissioner will maintain an index of all opinions and will make an opinion available upon request.

~~(d)~~ (e) An advisory opinion rendered in accordance with this rule is binding between the commissioner and the inquirer on the statement of facts alleged in the written request. An advisory opinion is not subject to judicial review. A person desiring judicial review of an advisory opinion shall file a formal petition for declaratory ruling, pursuant to 2-4-501, MCA, and ~~(1) of~~ this rule.

~~(e)~~ (f) A later advisory opinion or declaratory ruling overrules an earlier advisory opinion or declaratory ruling with which it is necessarily in conflict.

~~(f)~~ (g) A request for a declaratory ruling or an advisory opinion shall have no effect on the commissioner's investigation of and disposition of a formal complaint on the same issue or a related dispute filed pursuant to ARM ~~44.10.307~~ 44.11.106.

(3) In cases when the COPP engages in agency rulemaking, the commissioner adopts and incorporates by reference the Attorney General's Organizational and Procedural Rules ARM 1.3.201, 1.3.202, and 1.3.304 through 1.3.313 effective August 15, 2008.

AUTH: 13-37-114, MCA

IMP: 2-4-201, MCA

REASON: The COPP is transferring this rule to place it at the beginning of the rules to make the rules easier to navigate and more user-friendly. The COPP is proposing amendment of this rule for brevity, clarification, and consistency throughout these rules.

44.10.301 (44.11.103) ~~TERMS AND REFERENCES~~ INTRODUCTION AND DEFINITIONS (1) All statutory references in these rules refer to the Montana Code Annotated, unless otherwise indicated.

~~(1)~~ (2) Terms used in these rules shall be construed, unless the meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the intent of the law, to mean the following:

(a) ~~The statutory~~ election definitions as set forth in Title 13, MCA; ~~and~~

(b) ethics definitions as set forth in Title 2, MCA;

(c) lobbying definitions as set forth in Title 5, MCA; and

~~(b)~~ (d) the definitions as set forth in these rules.

~~(2) All statutory references in these rules refer to the Montana Code Annotated, unless otherwise indicated.~~

(3) "Attribution" is described in 13-35-225, MCA, and is further explained by ARM [NEW RULE VI].

(4) "Ballot Committee" is a political committee specifically organized to support or oppose a ballot issue as defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(5) "Campaign Account" is as referred to in 13-37-205, MCA, and further defined in ARM 44.11.409.

(6) "Candidate" is as defined in 13-1-101, MCA, and as applied to contribution limits in 13-37-216 and 13-37-218, MCA.

(7) "Commissioner" means the Commissioner of Political Practices as created under 2-15-411 and 13-37-102, MCA.

(8) "Complainant" means any person that files a complaint with the commissioner alleging a violation of the statutes or rules within the commissioner's jurisdiction.

(9) "Contested Primary" is defined in ARM 44.11.222.

(10) "Contribution" is defined in 13-1-101, MCA, and further defined in ARM 44.11.401.

(11) "Coordinated" is defined in 13-1-101, MCA, and further defined in ARM 44.11.602.

(12) "De Minimis" is defined in 13-1-101, MCA, and further defined in ARM 44.11.603.

(13) "Earmarked Contribution" is as described in 13-37-217, MCA, and defined in ARM 44.11.404.

(14) "Election" is defined in 13-1-101, MCA.

(15) "Election Activity" means any action by any person, candidate, or political committee that concerns, relates to, or could be reasonably interpreted as an attempt to influence or affect an election or that supports or opposes a candidate or ballot issue. Election activity includes reportable election activity.

(16) "Election Communication" is defined in 13-1-101, MCA, and further defined in ARM 44.11.604.

(17) "Electioneering" is defined in 13-1-101, MCA, and further defined in ARM 44.11.606.

(18) "Electioneering Communication" is defined in 13-1-101, MCA, and further defined in ARM 44.11.605.

(19) "Ethics Code" means the code of ethics, Title 2, chapter 2, part 1, MCA.

(20) "Expenditure" is defined in 13-1-101, MCA, and further defined in ARM 44.11.501.

(21) "Fair market value" means the retail price of such services, property, or rights in the market from which it ordinarily would have been either purchased by the expendee at the time of its expenditure, or purchased or sold by the contributor at the time of its contribution.

(22) "Immediate Family" is defined in 2-2-302, MCA, and further defined in ARM 44.11.608 and 44.11.703.

(23) "Incidental Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(24) "Independent Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(25) "Independent Expenditure" is defined in 13-1-101, MCA.

(26) "In-kind" is defined in ARM 44.11.403, 44.11.503, and 44.11.701.

(27) "Media" includes three subtypes which are subject to all restrictions, definitions, requirements, and limitations on communications found in these rules:

(a) print media includes physical editions of newspapers, magazines, journals, periodicals, newsletters, books, flyers, brochures, posters, direct mail pieces, letters, postcards, billboards, and other similar media;

(b) broadcast media includes television, radio, cable, satellite, and other similar media; and

(c) digital media includes content on the internet, electronic files, including digital versions of print media and broadcast media, and other similar media.

(28) "Periodical publication" is one that publishes at regular daily, weekly, monthly, or quarterly intervals year round.

(29) "Political Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(30) "Political Party Committee" is defined in 13-1-101, MCA, and further defined in ARM 44.11.202.

(31) "Reportable Election Activity" includes but is not limited to accepting a contribution, a contribution in response to an appeal, or a designated contribution, or making an expenditure, a coordinated expenditure, an independent expenditure, or an in-kind contribution or expenditure, or making an election communication or electioneering communication.

(32) "Respondent" means any person against whom a complaint is filed with the commissioner.

(33) "Support or Oppose" is defined in 13-1-101, MCA.

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

REASON: This definition rule is newly expanded in these rules. The alternative considered was to list the definition multiple times by repeating the definition within each applicable rule. That alternative was rejected because the rules are easier to understand if a single definition rule is used. The COPP is transferring this rule to place it at the beginning of the COPP rules to make them easier to navigate and more user-friendly. The COPP is proposing amendment of this rule for consistency of terminology used throughout these rules.

44.10.303 (44.11.104) CONSTRUCTION OF ~~REGULATIONS~~ RULES

(1) These rules shall be interpreted and applied to permit the commissioner to discharge the statutory functions of the office and to secure a just and speedy determination of all matters before the commissioner.

AUTH: 13-37-114, MCA
IMP: Sec. 1, Ch. 480, Laws of 1975

REASON: The COPP is transferring this rule to place it at the beginning of the COPP rules to make the rules easier to navigate and more user-friendly. The COPP is proposing amendment of the title of this rule to make a grammatical change.

44.10.305 (44.11.105) PRACTICE ~~WHERE REGULATIONS DO NOT GOVERN~~ REGARDING APPLICATION OF RULES (1) In any matter not specifically ~~governed~~ addressed by these ~~regulations~~ rules, the commissioner shall exercise discretion so as to execute the purposes of the ~~act~~ applicable law, without exceeding the statutory authority ~~of the act~~ identified in ARM 44.11.101.

AUTH: 13-37-114, MCA
IMP: Sec. 1, Ch. 480, Laws of 1975

REASON: The COPP is transferring this rule to place it at the beginning of the COPP rules to make the rules easier to navigate and more user-friendly. The COPP is also proposing amendment of this rule to make grammatical changes.

44.10.307 (44.11.106) COMPLAINTS OF VIOLATIONS (1) ~~A person~~ An individual who believes a violation of a provision of Title 13, chapters 35 or 37, MCA, or a rule or regulation implementing one or more of those statutory provisions has occurred may file a written complaint in person or by ~~certified~~ mail with the commissioner. ~~When a complaint is received, it shall be marked to show the date of receipt. Unless the complaint is determined to be insufficient pursuant to (3)(a) of~~ A complaint may be filed on a form available from the COPP. Except as provided in this rule, within five business days after receipt of a complaint, the commissioner shall ~~, by certified mail,~~ acknowledge its receipt and transmit a copy to the alleged violator. ~~Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.~~

(2) ~~A~~ Whether submitted on the form available from the COPP or otherwise, a complaint shall:

(a) be typewritten or legibly handwritten in ink~~.~~; and

(b) contain the following information:

(i) ~~The~~ the complete name and mailing address of the complainant;

(ii) the complete name and mailing address of the alleged violator, if known or readily discoverable;

(iii) a detailed description of the alleged violation, including citation to each statute and/or rule that is alleged to have been violated;

(iv) any evidentiary material; and

(c) ~~person filing the complaint shall be typewritten or legibly hand printed on the complaint; and the complaint shall~~ be signed and verified by the oath of affirmation of the complainant ~~such person~~, taken before any officer authorized to administer oaths. ~~A complaint shall name the alleged violator, and should include the complete mailing address of the alleged violator, if known or readily discoverable. The complaint shall describe in detail the alleged violation, and cite each statute and/or rule that is alleged to have been violated. The complaint shall be filed together with any evidentiary material. A complaint may be filed on a form available on request from the commissioner's office.~~

(3) ~~Upon~~ Except as provided in (4), upon receipt of a complaint, the commissioner shall investigate~~, except as provided in (3)(a) of this rule,~~ the alleged violation. The commissioner~~, upon completion of the investigation,~~ shall prepare a written summary of facts and statement of findings, upon completion of the investigation, which shall be sent to the complainant and the alleged violator. Following the issuance of a summary of facts and statement of findings, the commissioner may take other appropriate action.

~~(a)~~ (4) No investigation shall be required and a complaint may be dismissed if ~~a~~ the complaint is frivolous on its face, illegible, too indefinite, does not identify the alleged violator, does not cite the statute or rule that is alleged to have been violated, is unsigned, or is not verified by the oath of affirmation of such person, taken before any officer authorized to administer oaths. In addition, no investigation shall be required and may be dismissed if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction. The commissioner may request additional information from the complainant or the alleged violator prior to making a determination whether to proceed with a full investigation and whether to dismiss a complaint under this rule.

~~(4) A~~ (5) With the exception of any material that the commissioner determines is subject to protection from disclosure based on constitutional or statutory law, a filed complaint and the summary of facts and statement of findings shall be public record.

(6) All documents provided to and all communications with the COPP are public records as provided by 13-37-118 and 13-37-119, MCA. The Montana Constitution Article II, Sections 9 and 10 require the commissioner to balance the public's right to know with an individual's privacy rights on documents that are filed with the COPP office. The COPP has a detailed privacy policy available on the commissioner's web site.

AUTH: 13-37-114, MCA

IMP: 13-37-111~~(2)~~, MCA

REASON: The COPP is transferring this rule to place it at the beginning of the COPP rules to make the rules easier to navigate and more user-friendly. The COPP is proposing amendment of this rule, primarily calling attention to the COPP policy on privacy protection in regard to complaint information, to make grammatical changes, to remove the requirement of certified mail for filing a complaint, to explain confidentiality of public records, and to clarify the requirements in filing a complaint.

44.10.321 (44.11.401) CONTRIBUTION – DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "contribution" as defined in 13-1-101, MCA, includes, but is not limited to:

(a) each contribution as ~~listed~~ described in 13-37-229, MCA;

(b) remains the same.

(c) a candidate's own money used on behalf of his or her candidacy, except as provided in 13-1-101~~(6)(b)(iv) and (10)(b)(ii)~~, MCA; ~~and~~

(d) an in-kind contribution, as defined in ~~(2) of this rule~~ ARM 44.11.403 and 44.11.503; and

(e) a coordinated expenditure, as defined in ARM 44.11.501 and [NEW RULE VII].

(2) ~~The term "in-kind contribution" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, ballot issue or political committee, except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.~~ For the purposes of determining compliance with political party contribution limits established pursuant to 13-37-216, MCA, a "contribution" does not include a coordinated expenditure made solely by a political party committee in the form of provision of personal services by paid staff of the political party that benefit the associational interest of the political party but also constitute election activity benefitting a particular candidate of the same political party.

~~(a) An "in-kind contribution", includes, but is not limited to:~~

~~(i) Forgiveness of any loan to or debt of a candidate or political committee;~~

~~(ii) Payment of a loan or other debt by a third person;~~

~~(iii) An expenditure made at the behest of a candidate or political committee as specified in ARM 44.10.517;~~

~~(iv) A "coordinated expenditure" as defined in ARM 44.10.323(4); and~~

~~(v) The cost of distributing, republishing or reproducing campaign material (print or broadcast) produced or prepared by a candidate or political committee unless the distribution, republication or reproduction costs are a communication by a membership organization or corporation under 13-1-101(6)(b)(iii) or (10)(b)(iv) , MCA.~~

(3) For the purposes of determining compliance with contribution reporting required by 13-37-225 through 13-37-229, MCA, any coordinated expenditure not counted toward contribution limits pursuant to (2) must be reported as a contribution and shall be reported based upon the actual cost for such paid staff including, but not limited to, total compensation in the form of any salaries, wages, bonuses,

benefits, expense reimbursement, or other supplemental payments, and a pro rata share of any taxes, fees, or assessments paid by the political party committee for each staff person.

(4) ~~The fact that the public office being sought by the individual is not known by the contributor or has not yet been~~ Whether or not the candidate has determined the office sought or the political committee has determined what election activity it will participate in at the time the contribution is received ~~by the potential candidate at the time that the contribution is made or the fact that a candidate and/or issue being supported or opposed by a political committee is not known by the contributor or has not yet been determined by a political committee at the time that the contribution is made~~ has no effect on the ~~determination or reporting of that contribution~~ responsibility to report the contribution, and any such contribution shall also be subject to the limitations of 13-37-219, MCA.

AUTH: 13-37-114, MCA
IMP: 13-1-101~~(3)~~, 13-37-219, 13-37-225, 13-37-229, MCA

REASON: This rule consolidates contribution rules and includes in rule the commissioner's determination of an exception from applicable aggregate contribution limits for political party in-kind contributions spent for paid personal services provided by the political party committee to a candidate. This determination is set out in the COPP's Advisory Opinion COPP-AO-2014-009. The COPP is transferring this rule to organize the rules on the same subject in the same subchapter, and proposing amendment of this rule for brevity, clarification, and consistency throughout these rules. The COPP is also amending this rule to provide clarity on the application of 13-37-216, MCA, to political party committees and to facilitate increased transparency in the disclosure of funds used in elections.

44.10.323 (44.11.501) EXPENDITURE – DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "expenditure" as defined in 13-1-101, MCA, includes, but is not limited to:

(a) each expenditure as ~~listed~~ described in ~~13-37-230~~ 13-37-229 and 13-37-232, MCA;

(b) expenses incurred by a candidate or political committee with respect to polls, surveys, and the solicitation of funds for election activity;

(c) expenses incurred in ~~support of or opposition to~~ the drafting, printing, distribution, and collection of signatures for any petition for nomination or a ~~statewide~~ ballot issue;

(d) a candidate's own expense, except as provided in 13-1-101~~(6)(b)(iv) and (10)(b)(ii)~~, MCA, and as further explained in (4);

(e) payment of interest on a loan or other credit received;

(f) an in-kind expenditure, as defined in (2)~~ of this rule.~~;

(g) an independent expenditure, as defined in (3); and

(h) a coordinated expenditure, as defined in (4).

(2) The term "in-kind expenditure" means a third party reportable election activity expenditure, such as payment for goods or services, that does not go through the campaign depository. In the event that the third party election activity

involves the furnishing of services, property, or rights without charge or at a charge ~~which~~ that is less than fair market value ~~to a person, candidate, or political committee for the purpose of supporting or opposing any person, candidate, ballot issue or political committee, except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.~~ in a manner that creates a reportable election expense, then the difference between the amount charged and the fair market value must be reported as an in-kind expenditure.

~~(a)~~ An "in-kind contribution expenditure" includes, but is not limited to, the forgiveness of any loan or debt owed ~~to~~ by a candidate or political committee.

(3) The term "independent expenditure" ~~means an expenditure for communications expressly advocating the success or defeat of a candidate or ballot issue which is not made with the cooperation or prior consent of or in consultation with, or at the request or suggestion of, a candidate or political committee or an agent of a candidate or political committee. An independent expenditure shall be reported as provided in ARM 44.10.531.~~ has the meaning set out in 13-1-101, MCA.

(4) The term "coordinated expenditure" ~~means an expenditure made in cooperation with, consultation with, at the request or suggestion of, or the prior consent of a candidate or political committee or an agent of a candidate or political committee. A coordinated expenditure shall be reported as an in-kind contribution as provided in ARM 44.10.511 and 44.10.513.~~ is an expenditure that is "coordinated" as defined in 13-1-101, MCA, or involves "coordination" as defined in ARM [NEW RULE VII].

(a) A campaign expense paid personally by an individual in his or her own campaign is always coordinated with and is a campaign expense under (1)(d) that must be reported and disclosed with the same information as an expense by the campaign in the same manner as an expense paid through the campaign depository account.

(b) The candidate must balance his or her campaign finance report by reporting the amount of the expense as an in-kind contribution and/or loan by the candidate sufficient to balance the total amount of campaign expenses personally paid by the candidate.

(i) Any such candidate personal expenditure repaid by the candidate's campaign shall be disclosed and reported both as a campaign expenditure and as a repaid loan, even if both events take place in a single reporting period.

(ii) Any such candidate personal expenditure that is not repaid by the candidate's campaign shall be disclosed and reported both as a candidate contribution and as a campaign expenditure.

(5) An expenditure does not include election activity carried out solely by one individual that is not coordinated with any candidate, ballot issue, or political committee.

AUTH: 13-37-114, MCA
IMP: 13-1-101~~(7)~~, 13-37-129, 13-37-232, MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter, proposing amendment of this rule for brevity, clarification, and consistency throughout the rules, and to provide uniformity with the

statutes. This rule consolidates expenditure rules, including expenditures created by coordination. This rule is further amended to reflect the repeal of 13-37-230, MCA, and the proposed adoption of a rule defining the distinction between coordinated and independent expenditures.

44.10.327 (44.11.202) POLITICAL COMMITTEE, DEFINITION AND TYPES

(1) A political committee has the meaning as defined in 13-1-101, MCA. ~~For purposes of~~ A political committee exists under Title 13, chapters 35 and 37, MCA, and these rules~~, political committees shall be one of three types:~~ by virtue of its receipt of contributions or through making expenditures. A political committee, including each incidental or independent committee, must register with the commissioner at the time and in the manner set out in these rules, see ARM 44.11.201 and 44.11.302.

(2) There are four types of political committees:

(a) ~~principle campaign committee;~~ a ballot issue committee as defined in 13-1-101, MCA;

(b) ~~independent committee; and~~ a political party committee as defined in 13-1-101, MCA;

(c) an incidental committee as defined in 13-1-101, MCA; and

(d) an independent committee as defined in 13-1-101, MCA.

(3) A political committee is not formed by the following:

(a) by an individual who makes an independent expenditure solely with his or her own funds and by his or her own actions;

(b) by a $250 or less expenditure as defined by "political committee" in 13-1-101, MCA;

(c) by a de minimis activity, as defined in these rules;

(d) by an individual who is married making a contribution through his or her joint checking account; or

(e) by a candidate and his or her campaign treasurer(s) making an expenditure or accepting a contribution in the candidate's campaign.

~~(2) These types of political committees are defined as follows:~~

~~(a) a principle campaign committee is a political committee that is specifically organized to support or oppose a particular candidate or issue. There are three types of principal campaign committees:~~

~~(i)~~ (4) A ballot issue committee is a political committee specifically organized to support or oppose a ballot issue~~, as defined in~~. A "ballot issue" is defined by 13-1-101, MCA.

~~(ii) A particular candidate committee is specifically organized to support or oppose a particular candidate. A particular candidate committee is not the same as a candidate's own campaign organization, which according to ARM 44.10.325(2) is not a political committee.~~

~~(iii) a leadership political committee is defined in ARM 44.10.332(1).~~

(5) A political party committee is a political committee formed by a political party organization. A political party organization is defined by 13-1-101, MCA. A political party committee includes a county central committee, city central committee, clubs, and any other political committee that was formed by a political party organization.

(6) An incidental committee is a political committee that does not have the primary purpose of supporting or opposing candidates or ballot issues. Incidental committee election activity may consist of:

(a) making one or more expenditures;

(b) accepting one or more designated contributions; or

(c) accepting one or more contributions in response to an appeal.

~~(b)~~ (7) An independent committee is a political committee that ~~is not specifically organized to support or oppose any particular candidate or issue but one that is organized for~~ has the primary purpose of supporting or opposing ~~various~~ candidates ~~and/~~or ballot issues but is neither a ballot issue nor a political party political committee. ~~There are two types of independent committees:~~ Independent committee activity may consist of:

(a) making one or more expenditures;

(b) accepting one or more contributions.

~~(i) A political action committee ("PAC") is a committee composed of individuals who contribute their money for the purpose of supporting or opposing candidates or issue upon which the committee agrees.~~

~~(ii) A political party committee is a committee formed by a political party organization, as that term is defined in 13-37-216, MCA. Examples of political party committees are listed in ARM 44.10.333(1).~~

~~(c) An incidental committee is a political committee that is not specifically organized or maintained for the primary purpose of influencing elections but that may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue.~~

(8) Provided its election activity is all within a single reporting period, a political committee may file a single report of its election expenditures or contributions, identifying the report as an opening and closing report.

~~(3)~~ (9) "~~Primary purpose" shall be determined based upon such criteria as allocation of budget, staff or members' activity, and the statement of purpose or goals of the individuals or person.~~ The primary purpose standard is defined in ARM 44.11.203.

(10) The commissioner may classify each political committee in the manner defined in these rules, see ARM 44.11.204.

(a) Subunits of a main political committee, such as county committees or other divisions, that have authority to receive contributions and make expenditures independent of a parent political committee are a separate political committee.

(b) Subunits within those entities defined under "person" in these rules that have authority to receive contributions and make expenditures independent of the corporation or other entity are a separate political committee.

AUTH: 13-37-114, MCA
IMP: 13-1-101~~(12)~~, 13-37-225, 13-37-226~~(4) and (5)~~, 13-37-229, 13-37-231, 13-37-232, MCA

REASON: See the reason for ARM 44.10.405 (44.11.201). This rule adjusts the types of political committees to comply with the directives of SB 289. It also gathers political committee descriptions from several prior rules and places them into one

rule. The rule also deals with "subunits" of political committees and other entities. The alternative considered was to refer the reader to statutory language. That alternative was rejected in favor of the information conveyed by the rule language. The COPP is amending this rule to satisfy public need, clarify the statutory requirements, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

44.10.329 (44.11.204) POLITICAL COMMITTEE, CLASSIFICATION

(1) The commissioner shall classify a political committee upon the basis of information ~~provided~~, including ~~on~~ the statement of organization as defined in these rules. ~~which is set forth in ARM 44.10.405 and which is required to be filed by a political committee pursuant to 13-37-201, MCA.~~ The commissioner shall notify~~, in writing,~~ a political committee of its classification.

(2) The political committee shall be classified as one of the types of political committee specified in ARM ~~44.10.327~~ 44.11.202.

(3) The commissioner may~~, in writing,~~ reclassify a political committee if the status of that committee should change pursuant to ARM ~~44.10.403(2),~~ 44.11.204 or pursuant to (5)~~ of this rule~~.

(4) If the commissioner, based upon the information provided on the statement of organization, is unable to classify a political committee, additional information may be requested by the commissioner. If additional information is requested, a political committee shall provide the requested information within 10 business days after ~~its~~ receipt of the request. ~~Saturdays, Sundays, and holidays shall be excluded in the calculation of the 10-day period.~~

(5) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-226~~(4) and (5)~~, MCA

REASON: See the reason for ARM 44.10.405 (44.11.201). The COPP is proposing amendment of this rule for clarification, and to make grammatical and rule reference changes.

44.10.330 (44.11.224) DESIGNATION OF CONTRIBUTIONS FOR PRIMARY AND GENERAL ELECTIONS (1) Aggregate contributions for each election in a campaign are limited according to 13-37-216 and 13-37-218, MCA, and as explained by ARM 44.11.222. An "election" in a campaign~~, for the purposes of 13-37-216, MCA,~~ is ~~defined as~~ either a primary election or a general election.

(2) For purposes of applying aggregate contribution limits per election the following apply:

(a) aggregate contribution limits for each election, as set forth in 13-37-216 and 13-37-218, MCA, apply to a primary election and to a general election as defined in ARM ~~44.10.334~~ 44.11.222;

(b) remains the same.

(c) general election contributions received prior to the day of the primary election must be maintained in a separate account and shall not be used until after the day of the primary election;

(d) and (e) remain the same.

(3) If a candidate receives contributions designated for the general election prior to the primary, and does not proceed to the general election, the candidate must return the contributions to the donors. These funds are not "surplus campaign funds~~.~~" as defined in ARM 44.11.702.

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

REASON: The COPP is proposing amendment of this rule to make grammatical and rule reference changes. See also the reason for ARM 44.10.337 (44.11.223).

44.10.331 (44.11.226) ~~LIMITATIONS~~ LIMITS ON RECEIPTS FROM POLITICAL COMMITTEES (1) ~~Pursuant to the operation~~ Based on the calculation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to ~~legislative~~ candidates for the state legislature are as follows:

(a) a candidate for the state house of representatives may receive no more than ~~$1650~~ $1,700;

(b) a candidate for the state senate may receive no more than ~~$2750~~ $2,800.

(2) These limits apply to total combined receipts for the entire election cycle of ~~2014~~ 2016.

(3) remains the same.

AUTH: 13-37-114, ~~13-37-218~~ MCA
IMP: 13-37-218, ~~15-30-101(8)~~ MCA

REASON: The COPP is transferring the rules regarding requirements specific to candidates into one subchapter of the rules to make the rules easier to navigate and more user-friendly. The COPP is amending this rule to reflect the change in contribution limits for candidates from political committees for the 2015-16 election cycle.

44.10.333 (44.11.225) LIMITATIONS ON CONTRIBUTIONS FROM POLITICAL PARTY COMMITTEES (1) Political committees formed by "political party organizations~~"~~," as that ~~term~~ phrase is defined in ~~13-37-216~~ 13-1-101, MCA, are subject to the aggregate contribution limits, which include in-kind contributions and expenditures, established in 13-37-216~~(3)~~, MCA. Such committees are "political party committees~~"~~," and include all county central committees, city central committees, ~~women's~~ clubs, and other committees, that fit within the definition of "political committee" in 13-1-101~~(18)~~, MCA, and were formed by a political party organization.

(2) Candidates ~~will~~ shall be responsible for monitoring contributions from political party committees to ensure that the contribution limits are not exceeded.

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

REASON: See the reason for ARM 44.10.337 (44.11.223).

44.10.334 (44.11.222) ELECTIONS TO WHICH AGGREGATE CONTRIBUTION LIMITS APPLY (1) ~~For purposes of the limitations on contributions established in 13-37-216, MCA, and these rules, the term "election" is defined in 13-37-216(5), MCA.~~ The term "aggregate contributions" means the total of all of the following contributions made by or received from a person for all elections in a campaign:

(a) all contributions, as defined in 13-1-101, MCA, and further defined in ARM 44.11.401;

(b) all earmarked contributions, as defined in ARM 44.11.404;

(c) all expenditures encouraged in order to avoid a contribution, as specified in ARM 44.11.504; and

(d) all contributions that are coordinated as defined in 13-1-101, MCA, and further explained in ARM 44.11.501 and [NEW RULE VII].

(2) The term "contested primary~~"~~," as used in 13-37-216~~(5)~~, MCA, means a primary election in which two or more candidates compete for the same nomination. An election is not contested when, due to the number of candidates, the candidate automatically advances to the general election or position. For example:

(a) in partisan primary elections, if two or more candidates compete for one party's nomination, ~~but only one candidate seeks a different party's nomination,~~ it is a "contested primary~~"~~," resulting in two elections to which the contribution limits in 13-37-216 and 13-37-218, MCA, apply ~~only with respect to the primary for which two or more candidates compete for the party's nomination~~. ~~For example, if~~ For the two candidates ~~seek~~ seeking Party A's nomination in the primary election for a public office, it is a contested primary with respect to Party A's nomination~~.~~; or

(b) if only one candidate seeks Party B's nomination for the same public office, it is not a contested primary with respect to Party B's nomination~~.~~, and there is only one election to which the contribution limits in 13-37-216 and 13-37-218, MCA, apply; or

~~(b)~~ (c) in judicial and other nonpartisan primary elections, if a nonpartisan candidate automatically advances from the primary election to the general election pursuant to 13-14-117, MCA, it is not a contested primary election~~.~~; or

~~(c)~~ (d) when an incumbent judicial officer is the only candidate who files a declaration for nomination in the primary election, and subsequently faces a vote, pursuant to 13-14-212, MCA, for or against retention in the general election, there is no "contested primary~~"~~," and there is only one election to which the contribution limits in 13-37-216 and 13-37-218, MCA, apply.

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

REASON: The COPP is transferring the rules regarding requirements specific to candidates into one subchapter of the rules to make the rules easier to navigate and more user-friendly. The COPP is amending this rule to incorporate ARM 44.10.523, and further amending this rule to clarify the candidate specific statutory

requirements, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

44.10.335 (44.11.702) DISPOSAL OF SURPLUS CAMPAIGN FUNDS AND PROPERTY (1) remains the same.

(a) The candidate's closing report shall be filed whenever all debts and obligations are extinguished, the provisions of ARM [NEW RULE XII] are followed, and no further contributions or expenditures will be received or made which relate to the campaign.

(b) remains the same.

(2) "Surplus campaign funds" are those campaign funds remaining when all debts and other obligations of the campaign have been paid or settled, pursuant to ARM [NEW RULE XII], no further campaign contributions will be received, and no further campaign expenditures will be made.

(3) Surplus campaign funds will be considered to have been "disposed of" on the date payment or donation of the item of property is made by the candidate or the candidate's committee to a permissible person, entity, or account.

(4) The candidate shall be responsible for obtaining a receipt containing the requisite information from all recipients of any surplus campaign funds or property. Payment of surplus campaign funds or property shall be evidenced by a receipt from the recipient containing the following information:

(a) the full name and mailing address of the recipient;

(b) the date the funds or property were received;

(c) the full name of the candidate from whose campaign the funds or property were received~~,~~; and~~;~~

(d) the exact amount of funds or fair market value of the property received.

(5) Those candidates with surplus campaign funds shall file a supplement to the closing campaign report, on a form prescribed by the commissioner, showing the disposition of surplus campaign funds or property. The report shall be accompanied by copies of all receipts required by (4) ~~of this rule~~. The supplement shall be filed within 135 days after the closing report is filed.

(6) A candidate or eligible elected official shall abide by the prohibitions on the use of surplus campaign funds specified in 13-37-240, and 13-37-402, MCA, ARM ~~44.10.336~~ 44.11.703, the provisions of this rule, and the rules in this chapter.

(a) For purposes of the restrictions on the disposal of surplus campaign funds and personal or real property set forth in 13-37-240, MCA, "personal benefit" is defined in 13-37-240~~(2)~~, MCA. For the purposes of this definition, a candidate's or an eligible elected official's "immediate family" includes any individual related or connected to a candidate or an eligible elected official as specified in 2-2-303~~(1)~~, MCA.

(b) For purposes of the restrictions on the disposal of surplus campaign funds and personal or real property set forth in 13-37-240, MCA, "campaign" means any effort to support or oppose the nomination or election of a candidate for public office, or to support or oppose passage of a ballot issue.

(c) Surplus campaign funds, including surplus campaign funds deposited in a constituent services account and any interest accrued as provided in ARM ~~44.10.543~~ 44.11.710, may only be disbursed as follows:

(i) return the funds to the contributors, so long as the refund to contributors will not violate the personal benefit or campaign contribution provisions of 13-37-240 and 13-37-402, MCA, ARM ~~44.10.336~~ 44.11.703, or the rules in this chapter;

(ii) donate the funds and personal or real property to any organization or entity, so long as the use of the funds and personal or real property will not violate the personal benefit or campaign contribution provisions of 13-37-240 and 13-37-402, MCA, ARM ~~44.10.336~~ 44.11.703, or the rules in this chapter;

(iii) remains the same.

(iv) an eligible elected official may transfer the funds to a constituent services account provided for in Title 13, chapter 37, part 4, MCA, and the rules in this chapter~~.~~;

(v) an eligible elected official may retain the personal or real property of the campaign to serve constituents as provided in Title 13, chapter 37, part 4, MCA, and the rules in this chapter.

(7) A candidate or an eligible elected official shall not contribute surplus campaign funds to a political committee~~, including a leadership political committee maintained by a political officeholder~~. However, nothing in this section shall be construed as prohibiting the contribution of surplus campaign funds to a political party or a political party committee, so long as the funds are not earmarked for a specific campaign.

(8) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-240, 13-37-402, MCA

REASON: The COPP is transferring the rules regarding the conclusion of a campaign to the end of the rules to make the rules easier to navigate and more user-friendly. The COPP is proposing amendment of this rule to clarify the procedure for disposing of property and to make grammatical and rule reference changes.

44.10.336 (44.11.703) PERSONAL BENEFIT (1) remains the same.

(2) Surplus campaign funds or constituent services account funds may be donated to a group of individuals or an organization to which the candidate or an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family belongs or is a member, as long as:

(a) the candidate, an eligible elected official, or a member of a candidate's or an eligible elected official's immediate family do not control how the group or organization spends the surplus campaign funds or constituent services account funds received by the group or organization~~.~~;

(b) the candidate, an eligible elected official, or a member of the candidate's or ~~the~~ an eligible elected official's immediate family abstains from voting on or taking any action to approve or disapprove a decision by the group or organization to spend the surplus campaign funds or constituent services account funds received by the organization; and

(c) remains the same.

(3) Surplus campaign funds or constituent services account funds may be donated to a government entity under ARM ~~44.10.335(6)(c)(ii)~~ 44.11.702, even if the

candidate, an eligible elected official, or a member of the candidate's or an eligible elected official's immediate family is an employee of the government entity or serves on the government entity's policy making or advisory board, as long as:

(a) remains the same.

(b) the candidate, an eligible elected official, or a member of the candidate's or ~~the~~ an eligible elected official's immediate family abstains from voting on or taking any action to approve or disapprove a decision by the government entity to spend the surplus campaign funds or constituent services account funds received; and

(c) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-240, MCA

REASON: See the reason for ARM 44.10.536 (44.11.701).

44.10.337 (44.11.223) AGGREGATE CONTRIBUTION LIMITS FOR WRITE-IN CANDIDATES (1) ~~For purposes of the limitations on contributions established in 13-37-216, MCA, and these rules, the term "election" is defined in 13-37-216, MCA, and the term "candidate" is defined in 13-1-101, MCA. Pursuant to 13-10-211, MCA, a write-in candidate must file a declaration of intent.~~ A candidate who is unsuccessful in a contested primary election, but who complies with applicable statutes to qualify as a write-in candidate for the general election, ~~is subject to the aggregate contribution limits for both the primary election and the general election~~ must file a declaration of intent pursuant to 13-10-211, MCA.

(2) The write-in candidate must close his or her primary election account, and follow the procedures to dispose of the funds according to ARM 44.11.701 and 44.11.702.

(3) The write-in candidate shall not use any primary election funds for his or her general write-in election campaign.

(4) The write-in candidate shall file a new statement of candidate and, if required, a business disclosure statement, and comply with the aggregate contribution limits for the general election.

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

REASON: The COPP is transferring the rules regarding requirements specific to candidates into one subchapter of the rules to make the rules easier to navigate and more user-friendly. The COPP is amending this rule to clarify statutory requirements, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

44.10.338 (44.11.227) LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS TO A CANDIDATE (1) Pursuant to the ~~operation~~ 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~~s~~ to candidates are as follows:

(a) candidates filed jointly for governor and lieutenant governor may receive no more than ~~$650~~ $660;

(b) a candidate for other statewide office may receive no more than ~~$320~~ $330;

(c) a candidate for all other public offices may receive no more than $170.

(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 ~~$23,350~~ $23,850;

(b) a candidate for other statewide offices may receive no more than ~~$8450~~ $8,600;

(c) a candidate for Public Service Commission may receive no more than ~~$3350~~ $3,450;

(d) a candidate for senate may receive no more than ~~$1350~~ $1,400;

(e) a candidate for all other public offices may receive no more than $850.

(3) Pursuant to 13-37-216 and 13-37-218, MCA, ~~in-kind~~ all contributions must be included in computing these limitation totals.

(4) A candidate may make unlimited contributions to his or her own campaign, but shall report and disclose each contribution and expenditure according to these rules.

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

REASON: The COPP is transferring the rules regarding requirements specific to candidates into one subchapter of the rules to make the rules easier to navigate and more user-friendly. The COPP is amending this rule to clarify that candidates can make unlimited contributions to their own campaigns and to reflect the changes in contribution limit for candidates from individuals or political parties for the 2015-16 election cycle.

44.10.401 (44.11.302) STATEMENTS AND REPORTS, FILING (1) Except as provided in this rule, each statement and report required by Title 13, chapters 35 and 37, MCA, and these rules shall be filed on forms prescribed by the commissioner. The forms may be obtained without cost and upon request from the commissioner ~~of Political Practices, 1205 Eighth Avenue~~, P.O. Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942. The forms may also be downloaded from the office's web site at http://www.politicalpractices.mt.gov.

(a) Pursuant to 13-37-226, MCA, candidates for a state office filled by a statewide vote of all the electors of Montana ~~and political committees organized to support or oppose a statewide candidate~~, incidental committees, independent committees, and statewide ballot issue committees shall file all reports electronically.

(b) Political party committees that receive a contribution or make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file all reports electronically in accordance with the procedure described in this rule.

(c) Except as provided in (1)(d) and (2), the following candidates shall also file all reports electronically:

(i) candidates for the legislature;

(ii) candidates for the public service commission; and

(iii) candidates for district court judge.

(d) Candidates listed in (c) shall file all reports electronically only if the total amount of contributions received or the total amount of expenditures made exceeds $500, for all elections in a campaign, excluding the filing fee paid by a candidate.

(2) Pursuant to 13-37-226, MCA, electronic filing is mandatory for those candidates and committees listed in (1) except for those qualifying under (1)(d). Candidates listed in (1)(c) may submit a written request for a waiver from the requirement that reports be filed electronically. The commissioner may provide a waiver if the candidate or committee establishes that they cannot file electronically for reasons such as they do not have reasonable access to the technology necessary to file electronically.

~~(a)~~ (3) A report is filed "electronically," as provided in 13-37-226, MCA, by providing the required information to the commissioner ~~of Political Practices~~ through the office's web site by using the ~~"Campaign Tracker" icon~~ "Campaign Electronic Reporting System (CERS)" link to electronically input the information. The commissioner's office will make training available for all users of the electronic filing system.

~~(2)~~ (4) All statements and reports required by Title 13, chapters 35 and 37, MCA, and these rules ~~are~~ shall be filed with the commissioner ~~and, where required by statute, with the appropriate county election administrator~~, as specified in 13-37-225, MCA, and this rule.

(a) remains the same.

(b) A statement or report is filed if it is submitted electronically or delivered to the commissioner ~~and, if required, delivered to the appropriate county election administrator~~ before 5:00 p.m. on the prescribed filing date, or if it is deposited in an established U.S. post office, postage prepaid, no later than 5:00 p.m. three days before the prescribed filing date.

(c) ~~A faxed report is timely filed if the original of the report is filed within five days after the fax transmission.~~ If the candidate or committee fails to file the original report with the COPP, the candidate or committee thereby acknowledges the signature on the fax has the same force and effect as the original signature on the report or statement. ~~Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.~~

~~(i)~~ (d) ~~A~~ The commissioner's office shall acknowledge receipt of a delivered statement or report ~~shall be acknowledged by a dated receipt~~.

AUTH: 13-37-114, MCA
IMP: 13-37-117~~(1)~~, 13-37-225~~(1)~~, 13-37-226, 13-37-231~~(1)~~, MCA

REASON: The Disclose Act, SB 289's purpose is to provide information on the participants to Montanans in the timeliest manner possible. Electronic filing of campaign finance reports and statements provides immediate and searchable reporting and disclosure to Montanans. Further the CERS system alerts candidates

and committees to some potential errors in their report prior to submitting the information to the COPP, allowing them to avoid some potential campaign practice violations. This rule implements SB 289's authority provided the commissioner to require electronic filing beyond the statewide candidate filing currently required.

One alternative considered was to require no additional candidates to file electronically, which was rejected because it did not serve the transparency interests sought by SB 289. The second alternative the COPP considered was requiring all state district candidates to file electronically unless they established that they did not have reasonable access to technology. The COPP instead proposes allowing state district candidates to apply for a waiver of the electronic filing requirement directly from the COPP by establishing a reasonable cause for inability to file electronically. This proposed rule amendment balances Montanans' right to access the campaign finance reports immediately, while also providing for a waiver of the requirement under certain circumstances.

The proposed rule language clarifies the electronic reporting requirements for candidates and committees and also makes grammatical changes. See also the reason for ARM 44.10.501 (44.11.301).

44.10.403 (44.11.303) AMENDMENTS TO STATEMENTS AND REPORTS

(1) Amendments correcting a report filed pursuant to 13-37-225 and 13-37-226, MCA, for a previous reporting period shall be filed ~~with the next report~~ as soon as possible following the date upon which the person filing the report became aware of the inaccuracy. The correction shall identify the date of the report and schedule containing the information to be corrected and the reason for the correction.

(2) Any material change in information previously submitted in a statement of candidate or statement of organization filed pursuant to 13-37-201 or 13-37-205, MCA, and ARM ~~44.10.405~~ 44.11.201 and 44.11.220 shall be reported by filing an amended statement with the ~~appropriate filing officers~~ commissioner within five business days after the change.

(3) Candidates and committees who electronically file with the commissioner using the CERS system may use the "Update or Amend Report" button to immediately submit a correction to a previous report.

AUTH: 13-37-114, MCA
IMP: 13-37-201, 13-37-205, 13-37-225, 13-37-226, 13-37-229~~(10)~~, ~~13-37-230(7),~~ 13-37-232, MCA

REASON: The proposed rule language clarifies the available electronic amendment capability for candidates and committees and makes grammatical changes. See also the reason for ARM 44.10.501 (44.11.301).

44.10.405 (44.11.201) STATEMENT OF ORGANIZATION - POLITICAL COMMITTEE, INFORMATION REQUIRED (1) A statement of organization required to be filed pursuant to 13-37-201 and 13-37-205, MCA, shall include, but not be limited to:

(a) through (e) remain the same.

(f) The name, office sought, and party affiliation (if any) of each candidate ~~whom a committee is supporting or opposing;~~ on whom the committee makes a reportable election expenditure, or if a committee is supporting the entire ticket of any party, the name of the party.

(g) Ballot issue or issues concerned, if any, and whether a committee is in favor of or ~~opposition to~~ opposes such issue or issues.

AUTH: 13-37-114, MCA
IMP: 13-37-117~~(1)~~, 13-37-201, 13-37-202~~(1)~~, 13-37-205, MCA

REASON: The COPP is transferring the rules regarding requirements specific to political committees into one subchapter of the rules to make the rules easier to navigate and more user-friendly. The COPP is amending this rule to remove former statutory language and clarify reporting requirements for all political committees.

44.10.407 (44.11.304) ~~AFFIDAVIT BY~~ LOCAL ~~CANDIDATE~~ CANDIDATES ~~OR~~ AND POLITICAL ~~COMMITTEE~~ COMMITTEES ~~NOT ANTICIPATING CONTRIBUTIONS OR EXPENDITURES IN EXCESS OF $500~~ RECEIVING OR EXPENDING LESS THAN $500 (1) If a local candidate or a political committee which is specifically organized to support or oppose a particular local candidate or local issue anticipates receiving contributions in a total amount of less than $500 and anticipates ~~expending funds~~ making expenditures in a total amount of less than $500 for all elections in a campaign, the candidate or an officer of the political committee shall file an affidavit of such intent at the same time the statement of candidate or statement of organization is filed as required by 13-37-201 and 13-37-205, MCA.

(2) If a local candidate or an officer of a local political committee files an affidavit pursuant to ~~(1) of~~ this rule and subsequently receives contributions in a total amount or makes expenditures in a total amount in excess of $500 for all elections in a campaign, such candidate or officer shall, within five business days of the date when such expenditures or contributions exceed $500, file an initial report disclosing all contributions and expenditures to that date and shall file all future reports required by 13-37-226~~(2)~~, MCA.

AUTH: 13-37-114, MCA
IMP: 13-37-226~~(3)~~, MCA

REASON: The proposed rule amendment makes grammatical and stylistic changes. See also the reason for ARM 44.10.501 (44.11.301).

44.10.409 (44.11.306) COMMITTEE SEMIANNUAL AND CLOSING REPORTS ~~-INDEPENDENT COMMITTEES~~ (1) Except as provided in (2) ~~below~~, independent, incidental, ballot issue, and political party committees ~~which are not incidental committees~~ that are not required to file semiannual reports in March and September shall file a year-end closing report pursuant to 13-37-226~~(5)(c)~~, MCA. The closing date of books for the report is December 31 and the report shall be filed with the ~~appropriate filing officers~~ commissioner no later than January 31.

(a) and (b) remain the same.

(2) No committee shall be required to file the report required by (1) if the committee was required to file a post-election report pursuant to 13-37-226~~(5)(b)~~, MCA, during the second half of a calendar year and no further contributions have been received or expenditures ~~to support or oppose a candidate or ballot issue~~ have been made by it between the closing date of books for the post-election report and December 31. The post-election report shall be considered as its closing report and the closing date of books for that report shall be used as the cutoff date for the purpose of aggregating contributions and expenditures for future reports.

(3) ~~An independent~~ A committee ~~which~~ that will not participate in future elections and ~~which~~ that wishes to end its status as a ~~reporting~~ committee may file a statement of termination with its closing report. Any further activity by a terminated committee will require a new statement of organization.

(4) A committee may file its closing report at any time prior to the date prescribed by statute once it has finished making contributions and expenditures during an election cycle.

AUTH: 13-37-114, MCA
IMP: 13-37-226~~(4)(c)~~, 13-37-228, MCA

REASON: The proposed rule amendment makes grammatical and stylistic changes. See also the reason for ARM 44.10.501 (44.11.301).

44.10.413 (44.11.305) NONRESIDENT AND FEDERALLY FILING COMMITTEES, REPORTS (1) As used in this rule, "federally filing committee" means ~~a state party central committee, a qualified multi-candidate committee under 2 U.S.C. Sec. 441(a)(4), or~~ any ~~other~~ committee ~~which~~ that files reports with the federal election commission on a monthly or quarterly basis pursuant to the Federal Election Campaign Act of 1971, as amended.

(a) If a federally filing committee's reports filed with the federal election commission fully disclose the source and disposition of all ~~funds~~ contributions and expenditures used ~~to influence~~ in elections in Montana, the commissioner shall accept copies of such reports in lieu of the periodic reports prescribed by the Campaign Finances and Practices Act. Such reports need to be filed with the commissioner only for periods in which a federally filing committee receives contributions from Montana sources or ~~expends funds to influence~~ makes expenditures in elections in Montana. A copy of a statement of organization (FEC Form 1) shall accompany the first report, and copies of any amendments thereto shall be filed with the commissioner.

(b) This rule does not affect the duty of any such committee under ~~2 U.S.C. Sec. 439~~ 52 USCS Sec. 30113 to file copies of reports with the Montana Secretary of State.

(c) If a federally filing committee cannot satisfy the requirements set forth in these rules, it shall file reports on the COPP's forms for the periods in which the committee makes expenditures and contributions in elections in Montana. Such reports shall contain the information required by 13-37-229, MCA, and these rules.

(2) Committees headquartered outside the state of Montana ~~which~~ that are not federally filing committees and ~~which expend funds to influence~~ that make expenditures and contributions in elections in Montana may satisfy the requirements of the Montana Campaign Practices Act in one of two ways:

(a) if the committee files reports with a state officer in its home state, the commissioner may accept copies of such reports in satisfaction of the requirements of the Montana Campaign Finances and Practices Act if those reports fully disclose the source and disposition of all ~~funds~~ expenditures and contributions used ~~to influence~~ in elections in Montana. Such reports need to be filed only for periods in which the committee ~~expends funds to influence~~ makes expenditures and contributions in elections in Montana. A copy of a statement of organization or equivalent statement shall accompany the first such report, and copies of any amendments thereto shall be filed with the commissioner as they occur.

(b) if a nonresident committee cannot satisfy the requirements set forth in (a) ~~the preceding subsection~~, it shall file reports on Montana forms for the periods in which the committee ~~expends funds to influence~~ makes expenditures and contributions in elections in Montana. Such reports shall contain the information required by 13-37-229 ~~and 13-37-230~~, MCA, and these rules.

~~(3) A copy of a report or statement filed pursuant to this rule need not be filed with a county election administrator in Montana.~~

AUTH: 13-37-114, ~~13-37-227,~~ MCA
IMP: 13-37-227, MCA

REASON: The proposed rule amendment makes grammatical and stylistic changes. See also the reason for ARM 44.10.501 (44.11.301).

44.10.501 (44.11.301) UNIFORM SYSTEM OF ACCOUNTS (1) Each person required to file reports pursuant to Title 13, chapter 37, MCA, and these rules, shall maintain a system of accounts as prescribed and published in manual form by the commissioner. The manual may be obtained without cost and upon request from the commissioner ~~of Political Practices~~, ~~1205 Eighth Avenue,~~ P.O. Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942, or online at www.politicalpractices.mt.gov.

(2) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-117~~(2)~~, MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter, and proposing amendment of this rule for brevity, clarification, and consistency throughout these rules.

44.10.503 (44.11.409) MONETARY DEPOSITS AND EXPENDITURES, ONLY ~~BY CAMPAIGN TREASURER,~~ THROUGH DEPOSITORY (1) Any candidate or agent of any candidate or political committee who receives a contribution on behalf of a candidate or political committee shall, before the end of

the fifth business day, transfer it to the campaign treasurer with full disclosure of the source, as required by 13-37-229, MCA, and ARM 44.11.404 and 44.11.407.

(1) and (2) remain the same, but are renumbered (2) and (3).

~~(3)~~ (4) Except as stated in (5), ~~All~~ all expenditures~~, except expenditures from the petty cash fund,~~ shall be ~~made by check~~ 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.

~~(a)~~ (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.

~~(b) No check shall be drawn payable to the order of cash, except that the withdrawal of monies for the purpose of providing a petty cash fund shall be by check drawn on the primary depository and payable to the order of cash.~~

(6) All records shall be kept current and available for inspection as provided in 13-37-111, 13-37-208, and 13-37-209, MCA.

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~~(6)~~, 13-37-229, 13-37-231, MCA

REASON: The COPP is amending this rule to incorporate ARM 44.10.507. See also the reason for ARM 44.10.511 (44.11.402).

44.10.511 (44.11.402) CONTRIBUTIONS, REPORTING (1) through (4) remain the same.

(5) For the purposes of 13-37-226~~(1)(b), (2)(d), and (3)(a)~~, MCA, the report required to be filed within ~~24 or 48 hours~~ two business days shall be filed as follows:

(a) it shall be delivered within ~~24 or 48 hours, as appropriate,~~ two business days after the receipt thereof, ~~Saturdays, Sundays and holidays excepted,~~ to the commissioner's office ~~and the appropriate county election administrator~~; or

(b) ~~It shall be faxed to the commissioner's office and the appropriate county election administrator, provided the original of the report is received by the commissioner and the appropriate election administrator within five days after the fax transmission. Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.~~ if the candidate or committee fails to file the original report with the COPP, the candidate or committee thereby acknowledges the signature on the fax has the same force and effect as the original signature on the report or statement.

(c) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-226~~(1)(a) and (2)(a)~~, 13-37-229, 13-37-232, MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter, and proposing amendment of this rule for brevity, clarification, and consistency throughout these rules, and to provide uniformity with the statutes.

44.10.513 (44.11.403) IN-KIND CONTRIBUTION, REPORTING AND VALUATION ~~(1) For the purposes of Title 13, chapter 37, MCA, and these rules, an in-kind contribution shall be reported as follows:~~

~~(a)~~ (1) A candidate or political committee shall report an in-kind contribution on the appropriate reporting schedule and~~, in addition to~~ shall describe what was received consistent with the reporting requirements specified in ARM ~~44.10.511, shall identify it as to its nature~~ 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.

~~(i)~~ (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.

~~(b)~~ (4) The value of an in-kind contribution shall be determined as follows:

~~(i)~~ (a) it shall be reported ~~at~~ as its fair market value at the time of the contribution; ~~or~~

~~(ii)~~ (b) it shall be reported ~~at~~ as the difference between the fair market value at the time of the contribution and the amount charged the contributee; ~~or~~

~~(iii)~~ (c) it shall be reported ~~at~~ as the actual monetary value or worth at the time of the contribution; or

~~(iv)~~ (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.

~~(c) Fair market value shall be the retail price of such services, property, or rights in the market from which it ordinarily would have been purchased by the contributee at the time of its contribution.~~

(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.

AUTH: 13-37-114, MCA
IMP: 13-37-208, 13-37-209, 13-37-211, 13-37-229~~(10)~~, MCA

REASON: The COPP is amending this rule to clarify statutory requirements for records, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law. See also the reason for ARM 44.10.511 (44.11.402).

44.10.515 (44.11.405) LOANS AS CONTRIBUTIONS, REPORTING

(1) Loans to a candidate are subject to the same limits as contributions and are aggregated into a candidate's total contributions pursuant to 13-37-216 and 13-37-218, MCA; except limits do not apply to contributions or a loan made by a candidate to his or her own campaign.

(2) For the purposes of Title 13, chapter 37, MCA, and these rules, a loan shall be reported as follows:

(a) a candidate or political committee shall report a loan on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM ~~44.10.511~~ 44.11.402, shall identify it as to its ~~nature~~ purpose.

(i) The terms and conditions of all loans, including an oral agreement to lend money, shall be reduced to writing and the terms and conditions of the loan included in the documents to be retained and made available for inspection.

(ii) Any loan agreement must be signed by the candidate or political committee and the person or entity making the loan at the time the loan is made, or, if the initial agreement is an oral agreement, within five business days thereafter.

(iii) A written loan agreement must be signed prior to any transfer of funds.

(b) and (c) remain the same.

(3) A loan made to a candidate or political committee that is not repaid by the candidate or committee, including the forgiveness of any loan, becomes an in-kind contribution to the candidate or committee, see ARM 44.11.501.

AUTH: 13-37-114, MCA
IMP: 13-37-111, 13-37-217, 13-37-229~~(5) and (10)~~, MCA

REASON: The COPP is amending this rule to clarify statutory requirements for records, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law. See also the reason for ARM 44.10.511 (44.11.402).

44.10.517 (44.11.504) EXPENDITURE ENCOURAGED TO AVOID CONTRIBUTION, REPORTING (1) remains the same.

(2) Such contributions shall be reported pursuant to the provisions of ARM ~~44.10.513~~ 44.11.403.

AUTH: 13-37-114, MCA
IMP: 13-37-229~~(10)~~, MCA

REASON: The COPP is proposing amendment of this rule to make a stylistic change. See also the reason for ARM 44.10.531 (44.11.502).

44.10.519 (44.11.404) EARMARKED CONTRIBUTION, REPORTING

(1) For the purposes of 13-37-217 and 13-37-229, MCA, and these rules, an "earmarked contribution" is a contribution made with the ~~direction,~~ express, ~~or~~ implied, oral, written, direct, or indirect designation or instruction, that all or part of it be transferred to or expended on behalf of a specified candidate, ballot issue committee, political party committee, independent committee, or petition for nomination.

~~(a) A contribution is not earmarked when the initial recipient is:~~

~~(i) The candidate for the benefit of whom it is to be expended;~~

~~(ii) A political committee which supports a single candidate for the benefit of whom it is to be expended;~~

~~(iii) A political committee which supports or opposes a single ballot issue or petition for nomination for the benefit of which it is to be expended; or~~

~~(iv) A political committee which supports or opposes more than one candidate and/or issue or petition for nomination and there is no direction, express or implied, that all or part of the contribution will be expended for the benefit of a specified candidate and/or issue or petition for nomination.~~

(2) A contribution is not earmarked when it is to be used solely at the discretion of the initial recipient.

~~(2)~~ (3) An earmarked contribution shall be reported as follows:

(a) the intermediary candidate or political committee receiving an earmarked contribution shall report it pursuant to the provisions of ARM ~~44.10.511~~ 44.11.402 and~~, in addition,~~ shall:

(i) report it as an "earmarked contribution"; and

(ii) report the name and address of the candidate or political committee for which the earmarked contribution is ultimately intended~~.~~; and

(iii) inform the candidate or political committee ultimately receiving the transfer of the earmarked contribution of the full name and mailing address (and occupation and principal place of business, if any) of the original contributor.

~~(b) The intermediary candidate or political committee, when transferring an earmarked contribution or thing of value received, shall report it pursuant to the provisions of ARM 44.l0.531 and, in addition, shall:~~

~~(i) Report it as an "earmarked contribution";~~

~~(ii) Inform the candidate or political committee ultimately receiving the transfer of the earmarked contribution of the full name and mailing address (occupation and principal place of business, if any) of the original contributor.~~

~~(c)~~ (b) the candidate or political committee ultimately receiving an earmarked contribution shall report it pursuant to the provisions of ARM ~~44.10.511~~ 44.11.402 and~~, in addition,~~ shall:

(i) report it as an "earmarked contribution"; and

(ii) report it as a contribution in the name of the original contributor, disclosing the full name, mailing address (and occupation and principal place of business, if any); and

(iii) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-217, 13-37-229~~(4) and (10), 13-37-230(4)~~, MCA

REASON: See the reason for ARM 44.10.511 (44.11.402).

44.10.521 (44.11.406) MASS COLLECTIONS AT FUND-RAISING EVENTS~~-ITEMIZED ACCOUNT OF PROCEEDS~~, REPORTING (1) For the purposes of 13-37-229~~(8)~~, MCA:

(a) "Mass collections" made at a fund-raising 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 fund-raising event~~. Provided~~, provided that mass collections do not include the proceeds of purchases of $35 or more for any candidate or political committee.

(b) and (2) remain the same.

AUTH: 13-37-114 MCA
IMP: 13-37-207, 13-37-229~~(7) and (10)~~, MCA

REASON: The proposed rule amendment makes grammatical and stylistic changes. See also the reason for ARM 44.10.511 (44.11.402).

44.10.525 (44.11.505) DEBTS AND OBLIGATIONS OWED TO A CANDIDATE OR POLITICAL COMMITTEE, REPORTING (1) Pursuant to 13-37-229~~(7)~~, MCA, each report required by 13-37-226, MCA, shall disclose all debts and obligations owed to a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A ~~reporting~~ candidate or political committee shall report the full name and mailing address (and occupation and principal place of business, if any) of each person who owes a debt or obligation to the candidate or political committee at the end of a reporting period, including the amount, date contracted, and ~~nature~~ purpose of each debt and obligation owed by each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported, and the basis for the estimated amount shall be reduced to writing and retained for inspection.

(3) All invoices or billing statements must be maintained and available for inspection.

(4) If the debt or obligation is an oral agreement for services, the agreement must be contemporaneously reduced to writing at the time it is made, and must be signed by the parties and retained for inspection.

AUTH: 13-37-114, MCA
IMP: 13-37-229~~(6)~~, MCA

REASON: See the reason for ARM 44.10.531 (44.11.502).

44.10.531 (44.11.502) EXPENDITURES, REPORTING (1) A campaign expense paid personally by an individual in his or her own campaign is always coordinated with, and is a campaign expense of, the campaign that must be reported and disclosed as an expense by the campaign in the same manner as an expense paid through the campaign depository account.

(2) An obligation to pay for a campaign expenditure is incurred on the date the obligation is made, and shall be reported as a debt of the campaign until the campaign pays the obligation by making an expenditure.

(3) An expenditure is made on the date payment is made, or in the case of an in-kind expenditure, on the date the consideration is given.

~~(2)~~ (4) An expenditure shall be reported on the date and for the reporting period during which it is made.

~~(3)~~ (5) Expenditures made from the petty cash fund need not be reported, except that an accounting shall be maintained pursuant to ARM ~~44.10.503~~ 44.11.409.

(6) 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, an itemized basis for the payments made, and other pertinent information.

(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."

~~(4)~~ (8) Reporting independent expenditures:

(a) ~~Independent expenditures, as defined in ARM 44.10.323,~~ shall be reported in accordance with the procedures for reporting other expenditures~~.~~;

(b) ~~In addition,~~ a person making an independent expenditure shall report the name of the candidate or committee the independent expenditure was intended to benefit, and the fact that the expenditure was independent~~.~~; and

(c) the candidate or political committee benefiting from the independent expenditure does not have to report the expenditure.

(9) For the purposes of 13-37-226, MCA:

(a) the reports required to be filed within two business days shall be filed electronically, pursuant to ARM 44.11.302;

(b) independent, political party, and incidental committees shall, within two business days of making an expenditure of $500 or more for a reportable election activity, file a Form C-7E if the expenditure is made between the 17th day before the election and the day of the election; and

(c) all expenditures reported under (b) shall also be included on the post-election report.

AUTH: 13-37-114, MCA
IMP: 13-37-225, 13-37-226, 13-37-228, 13-37-229, ~~13-37-230(7),~~ 13-37-232, MCA

REASON: The COPP is transferring this rule to organize the rules on the same subject in the same subchapter, and proposing amendment of this rule for brevity, clarification, and consistency throughout these rules, and to provide uniformity with the statutes. The COPP is further amending this rule to clarify statutory requirements for records, increase transparency, and to identify the minimum reporting and disclosure baseline consistent with the law.

44.10.533 (44.11.503) IN-KIND EXPENDITURE, REPORTING AND VALUATION ~~(1) For the purposes of Title 13, chapter 37, MCA, and these rules, an in-kind expenditure shall be reported as follows:~~

~~(a)~~ (1) A candidate or political committee shall report an in-kind expenditure on the appropriate reporting schedule and~~, in addition to~~ shall describe what was received consistent with the reporting requirements specified in ARM ~~44.10.531, shall identify it as to its nature~~ 44.11.502.

(2) The total value of the services, property, or rights expended in-kind shall be deemed to have been consumed in the reporting period in which expended.

~~(b)~~ (3) The value of an in-kind expenditure shall be determined as follows:

~~(i)~~ (a) it shall be reported ~~at~~ as its fair market value at the time of the expenditure; or

~~(ii)~~ (b) it shall be reported ~~at~~ as the difference between the fair market value at the time of the expenditure and the amount charged the expendee; or

~~(iii)~~ (c) it shall be reported ~~at~~ as the actual monetary value or worth at the time of the expenditure; or

~~(iv)~~ (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 expenditure as made.

~~(c) Fair market value shall be the retail price of such services, property, or rights in the market from which it ordinarily would have been purchased by the expendee at the time of its expenditure.~~

(4) Upon making an in-kind expenditure, its value shall be calculated and reduced to writing. The value shall be reported consistent with ARM 44.11.502. The writing must reflect the calculation method used under (3) and the writing shall be retained by the treasurer and available for inspection as provided in 13-37-111, 13-37-208, and 13-37-209, MCA.

AUTH: 13-37-114, MCA
IMP: 13-37-208, 13-37-209, 13-37-211, 13-37-229, ~~13-37-230(7),~~ MCA

REASON: See the reason for ARM 44.10.531 (44.11.502).

44.10.535 (44.11.506) DEBTS AND OBLIGATIONS OWED BY A CANDIDATE OR POLITICAL COMMITTEE, REPORTING (1) Pursuant to ~~13-37-230(6)~~ 13-37-229, MCA, each report required by 13-37-226, MCA, shall disclose all debts and obligations owed by a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A ~~reporting~~ candidate or political committee shall report the full name and mailing address (and occupation and principal place of business, if any) of each person to whom a debt or obligation is owed at the end of a reporting period, including the amount, date contracted, and ~~nature~~ purpose of each debt and obligation owed to each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported, and the basis for the estimated amount shall be reduced to writing and retained for inspection.

(3) All invoices or billing statements must be maintained and available for inspection.

(4) If the debt or obligation is an oral agreement for services, the agreement must be contemporaneously reduced to writing at the time it is made, and must be signed by the parties and retained for inspection.

(5) A loan made to a candidate or political committee that is not repaid by the candidate or committee, including the forgiveness of any loan, becomes an in-kind contribution to the candidate or committee, see ARM 44.11.401.

AUTH: 13-37-114, MCA
IMP: 13-37-229, ~~13-37-230(6),~~ MCA

REASON: See the reason for ARM 44.10.531 (44.11.502).

44.10.536 (44.11.701) DEFINITIONS For the purposes of Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and this subchapter:

(1) and (2) remain the same.

(3) "Constituent services" has the meaning generally defined in 13-37-401~~(1)~~, MCA, and more specifically defined in ARM ~~44.10.540~~ 44.11.707.

(4) through (8) remain the same.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: The COPP is transferring the rules regarding the conclusion of a campaign to the end of the rules to make them easier to navigate and more user-friendly. The COPP is proposing amendment of this rule to make grammatical and rule reference changes.

44.10.537 (44.10.704) APPLICABILITY OF RULES (1) remains the same.

(2) The rules in this chapter do not apply to the constituent services stipend and reimbursement provided by the state of Montana to a legislator, starting July 1, 2017, pursuant to 5-2-204, MCA, which is administered by Legislative Services.

~~(2)~~ (3) Only the personal benefit and campaign contribution prohibitions in 13-37-240 and 13-37-402, MCA, and ARM ~~44.10.539(1)(b),(1)(d),(1)(f), 44.10.335, and 44.10.336~~ 44.11.702, 44.11.703, and 44.11.706 apply to:

(a) remains the same.

(b) an account related to an elected official's office if the elected official has been elected to any public office other than the public offices listed in ARM ~~44.10.538~~ 44.11.705 and surplus campaign funds have been deposited in the account; or

(c) remains the same.

~~(3)~~ (4) The following provisions of Montana law may also apply to the use or expenditure of surplus campaign funds, constituent account funds, or other funds deposited in or expended from accounts related to an elected official's public office:

(a) remains the same.

(b) the provisions of Title 13, chapter 35, part 2, MCA, concerning the improper influence of voters before and after an election and the prohibition against corporate and union contributions to candidates;

(c) and (d) remain the same.

AUTH: 13-37-114, MCA
IMP: 13-35-227, 13-37-401, 13-37-402, MCA

REASON: The COPP is proposing amendment of this rule to clarify that constituent account services stipend and reimbursement monies received by state legislators from the state of Montana are not overseen by the COPP. See also the reason for ARM 44.10.536 (44.11.701).

44.10.539 (44.11.706) PROHIBITIONS (1) The following prohibitions apply to a constituent services account established under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, ARM ~~44.10.335~~ 44.11.702 and ~~44.10.336~~ 44.11.703, and the rules in this chapter:

(a) remains the same.

(b) Only surplus campaign funds as defined in ARM ~~44.10.335(2)~~ 44.11.702 may be deposited in a constituent services account established under Title 13, chapter 37, part 4, MCA, and the rules in this chapter, except for the payment of interest as provided in ARM ~~44.10.543~~ 44.11.710. An eligible elected official may not:

(i) deposit funds from a pre-existing account or any other account related to the eligible elected official's public office~~, including funds in a leadership political committee account,~~ into a constituent services account established under Title 13, chapter 37, part 4, MCA;

(ii) through (c) remain the same.

(d) Constituent services account funds may not be used for personal benefit as specified in 13-37-240 and 13-37-402, MCA, ARM ~~44.10.335~~ 44.11.702, and ~~44.10.336~~ 44.11.703, and the rules in this chapter. Constituent services account funds may not be used to pay compensation to an eligible elected official or a member of an eligible elected official's immediate family except as expressly provided in the rules in this chapter.

(e) Expenditures cannot be made from a constituent services account if the eligible elected official has an open campaign account for any elective office, including an elective office other than the office currently held. However, constituent services account funds may be used to pay for constituent services provided or expenses incurred to provide constituent services before the date upon which a campaign account was opened if payments for such services or expenses are supported by written documentation as provided in ARM ~~44.10.542~~ 44.11.709.

(f) through (2)(a) remain the same.

(b) the expenditure of surplus campaign funds by any elected official described in ARM ~~44.10.537(2)(b)~~ 44.11.704.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See reason for ARM 44.10.536 (44.11.701).

44.10.540 (44.11.707) AUTHORIZED EXPENDITURES (1) and (2) remain the same.

(3) If constituent services account funds are used to purchase office space, equipment, or supplies, the office space, equipment, or supplies purchased with constituent account funds must be used exclusively to provide constituent services. When an eligible elected official leaves public office, any office space, equipment, or unused supplies purchased with constituent account funds must be disbursed as provided in ARM ~~44.10.335(6)(c)~~ 44.11.702.

(4) If constituent services account funds are used to reimburse an eligible elected official or a person, other than a member of an eligible elected official's immediate family, for office space, equipment, or supplies used, in whole or in part, to provide constituent services, all reimbursement payments and the basis for such payments must be documented in writing as provided in ARM ~~44.10.542~~ 44.11.709. Any reimbursement for office space, equipment, or supplies must be based on the fair market value of the office space, equipment, and supplies used to provide constituent services.

(5) Nothing in this rule authorizes constituent services account funds to be used or expended in violation of the prohibitions in ARM ~~44.10.539, 44.10.335 and 44.10.336~~ 44.11.702, 44.11.703, and 44.11.706, 13-37-240, MCA, or Title 13, chapter 37, part 4, MCA.

(6) through (6)(c) remain the same.

(d) the cost of all or any portion of an event, meeting, fundraiser, or gathering at which contributions as defined in 13-1-101~~(7)~~, MCA, will be solicited or received by any person, including but not limited to, a political party, political party committee, candidate, or person or political committee supporting or opposing a candidate or ballot issue;

(e) any direct or indirect travel, lodging, meals, entertainment, or other expenses related to the sponsorship of, attendance at, or participation in an event, meeting, fundraiser, or gathering at which contributions as defined in 13-1-101~~(7)~~, MCA, will be solicited or received by any person, including but not limited to, a political party, political party committee, candidate, or a person or political committee supporting or opposing a candidate or ballot issue;

(f) through (h) remain the same.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See reason for ARM 44.10.536 (44.11.701).

44.10.541 (44.11.708) OPENING AN ACCOUNT (1) through (1)(h) remain the same.

(i) if all of the surplus campaign funds in the closed campaign account will not be deposited in the eligible elected official's constituent services account, the full name and mailing address of each contributor or entity receiving any portion of the surplus campaign funds pursuant to ARM ~~44.10.335(6)(c)(ii)~~ 44.11.702; and

(j) remains the same.

(2) The form must be signed by the eligible elected official and verified as required by 13-37-231~~(1)~~, MCA.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See reason for ARM 44.10.536 (44.11.701).

44.10.542 (44.11.709) RECORDS AND REPORTING (1) An eligible elected official who establishes a constituent services account under Title 13, chapter 37, part 4, MCA, 13-37-240, MCA, and the rules in this chapter, must file quarterly reports with the commissioner's office after an account is opened. Reports must be filed on or before April 10, July 10, October 10, and January 10 in each calendar year until the account is closed as provided in ARM ~~44.10.544~~ 44.11.711. A report must be filed even if no expenditures have been made during the reporting period. The reports must include all expenditures made and interest accrued through the end of the calendar quarter on which the quarterly report is due.

(2) Each report must contain, as a minimum, the following:

(a) the amount of money in the account at the beginning of the reporting period;

(b) the amount and rate of interest paid on money in the account during the reporting period pursuant to ARM ~~44.10.543~~ 44.11.710;

(c) for each expenditure made during the reporting period:

(i) the full name, mailing address, occupation, and principal place of business (if any) of each person to whom expenditures ~~have been~~ were made; ~~during the reporting period, including~~ and

(ii) the amount, date, and general statement describing the constituent services that were the basis for ~~the~~ each expenditure~~,~~; and

(iii) the total amount of expenditures made to each person; and

~~(d)~~ (iv) the amount of money in the account at the end of the reporting period.

(3) Each report must be signed by the eligible elected official and verified as written by 13-37-231~~(1)~~, MCA.

(4) through (4)(c) remain the same.

(d) If the expenditure involves reimbursement for travel, meal, or lodging expenses, ~~such reimbursement~~ it must be ~~based on~~ supported by receipts or other written documentation that satisfies applicable requirements of Title 2, chapter 18, part 5, MCA, and rules adopted by the Montana Department of Administration.

(e) If the expenditure involves costs incurred to communicate with constituents, ~~such expenditures~~ it must be ~~based on~~ supported by receipts or other written documentation itemizing the basis for the communication expenditure.

(5) An eligible elected official may establish only one constituent services account and no secondary depositories or subaccounts may be established. An eligible elected official may only have one constituent services account open at a time, and while a campaign account is open no expenditures shall be made from the constituent services account established pursuant to 13-37-401 and 13-37-402, MCA.

(6) remains the same.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See the reason for ARM 44.10.536 (44.11.701).

44.10.544 (44.11.711) CLOSING AN ACCOUNT–DISBURSEMENT OF SURPLUS ACCOUNT FUNDS (1) An eligible elected official must close a constituent services account within 120 days after leaving public office as defined in ARM ~~44.10.536(7)~~ 44.11.701. The closing report must be filed on a form to be provided by the commissioner.

(2) A closing report must disclose the full name and mailing address of each contributor or entity receiving all or any portion of the funds in a constituent services account pursuant to ARM ~~44.10.335(6)(c)(ii)~~ 44.11.702. The closing report must also disclose the date on which the payment was made to each contributor or entity.

AUTH: 13-37-114, MCA
IMP: 13-37-401, 13-37-402, MCA

REASON: See the reason for ARM 44.10.536 (44.11.701).

7. The department proposes to repeal the following rules:

44.10.325 POLITICAL COMMITTEE–DEFINITION

AUTH: 13-37-114, MCA
IMP: 13-1-101(12), MCA

REASON: The COPP is repealing this rule because it duplicates information found in ARM 44.10.405, and is incorporated for clarity in proposed ARM 44.11.201.

44.10.332 LEADERSHIP POLITICAL COMMITTEES

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

REASON: The COPP is repealing this rule consistent with current statute, and to avoid confusion on the type of political committees allowed under 13-1-101 and 13-37-216, MCA.

44.10.411 INCIDENTAL POLITICAL COMMITTEE, FILING SCHEDULE

AUTH: 13-37-114, 13-37-226(5), MCA
IMP: 13-37-226(5), MCA

REASON: Previously 13-37-226, MCA, required that the COPP establish by rule a reporting and disclosure schedule for incidental committees. The current statute

sets out a reporting schedule in statute for incidental committees; therefore, this rule is duplicative and repealed for clarity and consistency.

44.10.507 TRANSFER OF CONTRIBUTION TO CAMPAIGN TREASURER

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

REASON: The COPP is repealing this rule because it duplicates information found in ARM 44.10.503, and is incorporated for clarity in proposed ARM 44.11.409.

44.10.523 AGGREGATE CONTRIBUTIONS–DEFINITION, REPORTING

AUTH: 13-37-114, MCA
IMP: 13-37-216, 13-37-229(2) and (10), MCA

REASON: The COPP is repealing this rule because it duplicates information found in ARM 44.10.334, and is incorporated for clarity in proposed ARM 44.11.222.

8. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jaime MacNaughton, Office of the Commissioner of Political Practices, 1209 Eighth Ave., P.O. Box 202401, Helena, Montana, 59620-2401; telephone (406) 444-2942; fax (406) 444-1643; or e-mail CPPRules@mt.gov, and must be received no later than 5:00 p.m., September 10, 2015.

9. Jaime MacNaughton, Office of the Commissioner of Political Practices, has been designated to preside over and conduct these hearings.

10. The COPP 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 8 above or may be made by completing a request form at any rules hearing held by the COPP.

11. An electronic copy of this proposal notice is available through the Secretary of State's web site at http://sos.mt.gov/ARM/Register. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web

site may be unavailable during some periods, due to system maintenance or technical problems.

12. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. On May 14, 2015, Jonathan Motl spoke on the phone with Sen. Ankney regarding SB 289. On July 2, 2015, Sen. Kary was contacted by e-mail by Jaime MacNaughton regarding SB 151. On July 2, 2015, Sen. Brenden was contacted by e-mail, on July 6, 2015, sent a letter by U.S. mail, and finally contacted by phone on July 13, 2015, by Jaime MacNaughton regarding SB 89. None of the proposed rules are contrary to the respective primary sponsor's comments as received by the COPP pursuant to 2-4-110(2)(e), MCA.

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

/s/ Jaime MacNaughton	/s/ Jonathan Motl
Jaime MacNaughton	Jonathan Motl
Rule Reviewer	Commissioner of Political Practices
	Office of the Commissioner of Political Practices

Certified to the Secretary of State July 22, 2015.