

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE APPOINTMENT OF PUBLIC SERVICE
5 COMMISSIONERS; ESTABLISHING A METHOD FOR SETTING COMMISSION SALARIES; AND AMENDING
6 SECTIONS 2-16-405, 5-7-102, 10-1-1010, 13-12-207, 13-37-216, 13-37-225, 13-37-226, 13-37-240, 69-1-103,
7 69-1-104, 69-1-105, 69-1-106, AND 69-1-107, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 2-16-405, MCA, is amended to read:

12 **"2-16-405. Salaries of certain elected state officials.** (1) The salaries paid to the following elected
13 officials are determined as provided in subsection (2):

- 14 (a) governor;
- 15 (b) lieutenant governor;
- 16 (c) attorney general;
- 17 (d) state auditor;
- 18 (e) superintendent of public instruction;
- 19 ~~(f) public service commission presiding officer;~~
- 20 ~~(g) public service commissioners, other than presiding officer;~~
- 21 ~~(h)~~(f) secretary of state;
- 22 ~~(i)~~(g) clerk of the supreme court.

23 (2) Before June 30 of each even-numbered year, the department of administration shall conduct a salary
24 survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for the states
25 of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the Montana
26 official in determining the average salary for the officials with similar titles. If the average salary is greater than
27 the salary for the official in Montana, then beginning July 1 of the year following the year in which the survey is
28 conducted, the average salary is the new salary for the official."

29
30 **Section 2.** Section 5-7-102, MCA, is amended to read:



1 **5-7-102. Definitions.** The following definitions apply in this chapter:

2 (1) "Appointed state official" means an individual who is appointed:

3 (a) to public office in state government by the governor or the chief justice of the Montana supreme court
4 and who is subject to confirmation by the Montana senate;

5 (b) by the board of regents of higher education to serve either as the commissioner of higher education
6 or as the chief executive officer of a campus of the Montana university system; or

7 (c) by the board of trustees of a community college to serve as president.

8 (2) "Business" means:

9 (a) a holding or interest whose fair market value is greater than \$1,000 in a corporation, partnership, sole
10 proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock
11 company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit
12 organizations; and

13 (b) present or past employment from which benefits, including retirement allowances, are received.

14 (3) "Commissioner" means the commissioner of political practices.

15 (4) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant
16 to 5-7-201.

17 (5) "Elected federal official" means a person elected to a federal office, including but not limited to a
18 member of the United States senate or house of representatives. The term includes an individual appointed to
19 fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but
20 who has not yet been sworn in.

21 (6) "Elected local official" means an elected officer of a county, a consolidated government, an
22 incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill
23 the unexpired term of an elected local official and an individual who has been elected to a local office but who
24 has not yet been sworn in.

25 (7) (a) "Elected state official" means an individual holding a state office filled by a statewide vote of all
26 the electors of Montana or a state district office, including but not limited to ~~public service commissioners and~~
27 district court judges. The term includes an individual appointed to fill the unexpired term of an elected state official
28 and an individual who has been elected to a statewide office but who has not yet been sworn in.

29 (b) The term does not include a legislator.

30 (8) "Elected tribal official" means an elected member of a tribal council or other elected office filled by

1 a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected tribal
2 official and an individual who has been elected to a tribal office but who has not yet been sworn in.

3 (9) "Individual" means a human being.

4 (10) "Legislator" means an individual holding public office as a representative or a senator in the Montana
5 legislature. The term includes an individual who has been elected to the legislature but who has not yet been
6 sworn in.

7 (11) (a) "Lobbying" means:

8 (i) the practice of promoting or opposing the introduction or enactment of legislation before the legislature
9 or legislators; and

10 (ii) the practice of promoting or opposing official action of any public official or the legislature.

11 (b) The term does not include actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed
12 by a public official, an elected local official, an elected federal official, or an elected tribal official while acting in
13 an official governmental capacity.

14 (12) (a) "Lobbyist" means a person who engages in the practice of lobbying.

15 (b) Lobbyist does not include:

16 (i) an individual acting solely on the individual's own behalf;

17 (ii) an individual working for the same principal as a licensed lobbyist if the individual does not have
18 personal contact involving lobbying with a public official or the legislature on behalf of the lobbyist's principal; or

19 (iii) an individual who receives payments from one or more persons that total less than the amount
20 specified under 5-7-112 in a calendar year.

21 (c) Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to
22 communicate with public officials or the legislature.

23 (13) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or
24 to be made of money, property, or anything of value:

25 (i) to a lobbyist to influence legislation or official action by an elected local official, a public official, or the
26 legislature;

27 (ii) directly or indirectly to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement
28 for lobbying expenses; or

29 (iii) in support of or for assistance to a lobbyist or a lobbying activity, including but not limited to the direct
30 payment of expenses incurred at the request or suggestion of the lobbyist.

1 (b) The term does not include payments or reimbursements for:

2 (i) personal and necessary living expenses; or

3 (ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.

4 (14) "Person" means an individual, corporation, association, firm, partnership, state or local government
5 or subdivision of state or local government, or other organization or group of persons.

6 (15) "Principal" means a person who employs a lobbyist or a person required to report pursuant to
7 5-7-208.

8 (16) (a) "Public official" means an elected state official or an appointed state official acting in an official
9 capacity for state government or a legislator.

10 (b) The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial
11 acts.

12 (17) "Unprofessional conduct" means:

13 (a) violating any of the provisions of this chapter;

14 (b) instigating action by a public official or the legislature for the purpose of obtaining employment;

15 (c) attempting to influence the action of a public official or the legislature on a measure pending or to be
16 proposed by:

17 (i) promising financial support; or

18 (ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal,
19 or a legislator; or

20 (d) attempting to knowingly deceive a public official or the legislature with regard to the pertinent facts
21 of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a public official
22 or the legislature."

23

24 **Section 3.** Section 10-1-1010, MCA, is amended to read:

25 **"10-1-1010. Appointment of acting officials.** (1) When an elected official is ordered to military service,
26 an acting official must be appointed as provided in this section if:

27 (a) the elected official is precluded pursuant to federal law from performing the official duties of the office;

28 or

29 (b) the elected official requests the appointment of an acting official.

30 (2) If an acting official is appointed, the acting official shall take any oath of office required to assume

1 the office, shall exercise all the rights, powers, and duties vested in the office, and must be provided with all the
 2 employment rights and benefits associated with the position until the elected official is restored to office pursuant
 3 to 10-1-1008(5) or the elected official's term expires, whichever occurs first.

4 (3) (a) The governor shall appoint the acting official for any office elected by the state at large and for
 5 the office of district judge, ~~public service commissioner~~, or any other elected regional or district office of the state.

6 (b) An acting official for a legislative district must be appointed using the procedures in 5-2-402.

7 (c) The board of county commissioners shall appoint the acting official for any elected office of a county.

8 (d) The city or town council shall appoint the acting official for any elected office of a city or town.

9 (4) For any elected office not covered under subsection (3), the governing body shall determine the
 10 method by which an acting official may be appointed pursuant to this section.

11 (5) An appointment of an acting official pursuant to this section must be made for a period not to exceed
 12 the unexpired term for the office and subject to the right of the elected official to be restored to the office upon
 13 returning from the military service, as provided in 10-1-1008(5)."

14

15 **Section 4.** Section 13-12-207, MCA, is amended to read:

16 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as
 17 follows:

18 (a) If the election is in a year in which a president of the United States is to be elected, in spaces
 19 separated from the balance of the party tickets by a line must be the names and spaces for voting for candidates
 20 for president and vice president. The names of candidates for president and vice president for each political party
 21 must be grouped together.

22 (b) United States senator;

23 (c) United States representative;

24 (d) governor and lieutenant governor;

25 (e) secretary of state;

26 (f) attorney general;

27 (g) state auditor;

28 (h) state superintendent of public instruction;

29 ~~(i) public service commissioners;~~

30 ~~(j)~~(i) clerk of the supreme court;

- 1 ~~(k)~~(j) chief justice of the supreme court;
- 2 ~~(j)~~(k) justices of the supreme court;
- 3 ~~(m)~~(l) district court judges;
- 4 ~~(n)~~(m) state senators;
- 5 ~~(o)~~(n) members of the Montana house of representatives.
- 6 (2) The following order of placement must be observed for county offices:
- 7 (a) clerk of the district court;
- 8 (b) county commissioner;
- 9 (c) county clerk and recorder;
- 10 (d) sheriff;
- 11 (e) coroner;
- 12 (f) county attorney;
- 13 (g) county superintendent of schools;
- 14 (h) county auditor;
- 15 (i) public administrator;
- 16 (j) county assessor;
- 17 (k) county treasurer;
- 18 (l) surveyor;
- 19 (m) justice of the peace.
- 20 (3) The secretary of state shall designate the order for placement on the ballot of any offices not on the
- 21 ~~above~~ lists in subsections (1) and (2), except that the election administrator shall designate the order of
- 22 placement for municipal, charter, or consolidated local government offices and district offices when the district
- 23 is part of only one county.
- 24 (4) Constitutional amendments must be placed before statewide referendum and initiative measures.
- 25 Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide
- 26 measures in the order designated by the election administrator.
- 27 (5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must
- 28 be maintained.
- 29 (6) If there is a short-term and a long-term election for the same office, the long-term office must precede
- 30 the short-term."

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Section 5. Section 13-37-216, MCA, is amended to read:

"13-37-216. Limitations on contributions -- adjustment. (1) (a) Subject to adjustment as provided for in subsection (4), aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

- (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;
- (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$250;
- (iii) for a candidate for any other public office, not to exceed \$130.

(b) A contribution to a candidate includes contributions made to the candidate's committee and to any political committee organized on the candidate's behalf.

(2) (a) A political committee that is not independent of the candidate is considered to be organized on the candidate's behalf. For the purposes of this section, an independent committee means a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or candidate's committee and that does not act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions.

(b) A leadership political committee maintained by a political officeholder is considered to be organized on the political officeholder's behalf.

(3) All political committees except those of political party organizations are subject to the provisions of subsections (1) and (2). For purposes of this subsection, "political party organization" means any political organization that was represented on the official ballot at the most recent gubernatorial election. Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection (4), from all political party committees:

- (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;
- (b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$6,500;
- ~~(c) for a candidate for public service commissioner, not to exceed \$2,600;~~
- ~~(d)~~(c) for a candidate for the state senate, not to exceed \$1,050;
- ~~(e)~~(d) for a candidate for any other public office, not to exceed \$650.

(4) (a) The commissioner shall adjust the limitations in subsections (1) and (3) by multiplying each limit

1 by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the
2 year in which a general election is held by the consumer price index for June 2002.

3 (b) The resulting figure must be rounded up or down to the nearest:

4 (i) \$10 increment for the limits established in subsection (1); and

5 (ii) \$50 increment for the limits established in subsection (3).

6 (c) The commissioner shall publish the revised limitations as a rule.

7 (5) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits
8 in this section.

9 (6) For purposes of this section, "election" means the general election or a primary election that involves
10 two or more candidates for the same nomination. If there is not a contested primary, there is only one election
11 to which the contribution limits apply. If there is a contested primary, then there are two elections to which the
12 contribution limits apply."

13

14 **Section 6.** Section 13-37-225, MCA, is amended to read:

15 **"13-37-225. Reports of contributions and expenditures required.** (1) Except as provided in
16 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures
17 made by or on the behalf of a candidate or political committee. Except as provided in subsection (3), all reports
18 required by this chapter must be filed with the commissioner and with the election administrator of the county in
19 which a candidate is a resident or the political committee has its headquarters. However, where residency within
20 a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports must be filed with
21 the election administrator of the county in which the election is to be held or, if the election is to be held in more
22 than one county, with the election administrator in the county that the commissioner specifies.

23 (2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall
24 accept copies of the reports filed by candidates for congress and president of the United States and their political
25 committees pursuant to the requirements of federal law.

26 (3) Reports required by this chapter for candidates for a state district office, including but not limited to
27 candidates for the legislature, ~~the public service commission,~~ or district court judge, and candidates for a state
28 office filled by a statewide vote must be filed with the commissioner and do not have to be filed with the election
29 administrator of a county."

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1 **Section 7.** Section 13-37-226, MCA, is amended to read:

2 **"13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the
3 electors of Montana and political committees that are organized to support or oppose a particular statewide
4 candidate shall file reports electronically as follows:

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

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

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

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

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

13 (f) on the 10th day of March and September of each year following an election until the candidate or
14 political committee files a closing report as specified in 13-37-228(3).

15 (2) Political committees organized to support or oppose a particular statewide ballot issue shall file
16 reports:

17 (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in
18 which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the
19 year or years prior to the election year that an issue is or is expected to be on the ballot;

20 (b) on the 10th day of March and on the 10th day of each subsequent month through September in each
21 year that an election is to be held;

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

23 (d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before
24 the election and the day of the election;

25 (e) within 20 days after the election; and

26 (f) on the 10th day of March and September of each year following an election until the political
27 committee files a closing report as specified in 13-37-228(3).

28 (3) Candidates for a state district office, including but not limited to candidates for the legislature, ~~the~~
29 ~~public service commission~~, or a district court judge, and political committees that are specifically organized to
30 support or oppose a particular state district candidate or issue shall file reports:

- 1 (a) on the 12th day preceding the date on which an election is held;
- 2 (b) within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before
3 the election and the day of the election. The report under this subsection (3)(b) must be made by mail or by
4 electronic communication to the commissioner pursuant to 13-37-225.
- 5 (c) not more than 20 days after the date of the election; and
- 6 (d) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).
- 7 (4) Candidates for any other public office and political committees that are specifically organized to
8 support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount
9 of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing
10 fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.
- 11 (5) For the purposes of this subsection, a committee that is not specifically organized to support or
12 oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in
13 conjunction with an election is an independent committee. For the purpose of reporting, a political party committee
14 is an independent committee. An independent committee shall file:
- 15 (a) a report on the 12th day preceding the date of an election in which it participates by making an
16 expenditure;
- 17 (b) a report within 24 hours of making an expenditure or incurring a debt or obligation of \$500 or more
18 for election material described in 13-35-225(1) if made between the 17th day before the election and the day of
19 the election;
- 20 (c) a report not more than 20 days after the date of the election in which it participates by making an
21 expenditure; and
- 22 (d) a report on a date to be prescribed by the commissioner for a closing report at the close of each
23 calendar year.
- 24 (6) The commissioner may promulgate rules regarding the extent to which organizations that are
25 incidental political committees shall report their politically related activities in accordance with this chapter.
- 26 (7) Except as provided in subsections (1)(d), (2)(d), (3)(b), and (5)(b), all reports required by this section
27 must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."
28

29 **Section 8.** Section 13-37-240, MCA, is amended to read:

30 "**13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the

1 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.
 2 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the
 3 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide
 4 elected or legislative office ~~or for public service commissioner~~ may establish a constituent services account as
 5 provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the
 6 commissioner showing the disposition of any surplus campaign funds.

7 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect
 8 benefit of any kind to the candidate or any member of the candidate's immediate family."
 9

10 **Section 9.** Section 69-1-103, MCA, is amended to read:

11 **"69-1-103. Composition of commission.** (1) The commission shall consist consists of five members,
 12 who shall must be qualified electors of the district from which they are elected, with each such member elected
 13 from a separate district of the state.

14 (2) The members of the commission must be appointed by the governor and confirmed by the senate.
 15 Not more than two of the members may be members of the same political party."
 16

17 **Section 10.** Section 69-1-104, MCA, is amended to read:

18 **"69-1-104. Public service commission districts.** In this state there are five public service commission
 19 districts, with one commissioner ~~elected~~ appointed from each district, distributed as follows:

20 (1) first district: Blaine, Cascade, Chouteau, Daniels, Dawson, Fergus, Garfield, Hill, Judith Basin,
 21 Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Toole, Valley, and Wibaux Counties;

22 (2) second district: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Treasure,
 23 and Yellowstone Counties;

24 (3) third district: Beaverhead, Broadwater, Deer Lodge, Gallatin, Golden Valley, Jefferson, Madison,
 25 Meagher, Musselshell, Park, Silver Bow, Stillwater, Sweet Grass, and Wheatland Counties;

26 (4) fourth district: Granite, Lincoln, Mineral, Missoula, Powell, Ravalli, and Sanders Counties;

27 (5) fifth district: Flathead, Glacier, Lake, Lewis and Clark, Pondera, and Teton Counties."
 28

29 **Section 11.** Section 69-1-105, MCA, is amended to read:

30 **"69-1-105. Term of office -- term limits.** (1) A term is for a period of 4 years. ~~A commissioner~~ The

1 ~~commissioners when elected~~ appointed shall qualify at the time and in the manner provided by law ~~for other state~~
 2 ~~officers~~ and shall take office on the first Monday ~~of January after the election~~ their appointment.

3 (2) A commissioner shall serve until a successor is ~~elected and qualified~~ appointed and takes office.

4 ~~(3) The secretary of state or other authorized official may not certify a candidate's nomination or election~~
 5 ~~to the public service commission or print or cause to be printed on any ballot the name of a candidate for the~~
 6 ~~public service commission if, at the end of the current term of that office, the candidate will have served in that~~
 7 ~~office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years~~
 8 ~~in a 16-year period.~~

9 ~~———— (4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3)~~
 10 ~~do not apply to time served in terms that ended during or prior to January 1995."~~

11

12 **Section 12.** Section 69-1-106, MCA, is amended to read:

13 **"69-1-106. Vacancies.** Any vacancy occurring in the commission must be filled by appointment by the
 14 governor. ~~The appointee shall hold office until the next general election and until a successor is elected and~~
 15 ~~qualified. At the biennial election following the occurrence of any vacancy in the commission, there must be~~
 16 ~~elected one member to fill out~~ If the senate is not in session, the appointment is subject to confirmation during
 17 the next session. An appointment to fill a vacancy is for the unexpired term for which the vacancy exists."

18

19 **Section 13.** Section 69-1-107, MCA, is amended to read:

20 **"69-1-107. Presiding officer of commission.** A presiding officer must be selected by the commission
 21 from its membership at the first meeting of each odd-numbered year ~~after a general election."~~

22

23 NEW SECTION. **Section 14. Salaries of public service commissioners.** Before June 30 of each
 24 even-numbered year, the department of public service regulation shall conduct a salary survey of public service
 25 commissioners or officials with similar titles for the states of North Dakota, South Dakota, Wyoming, and Idaho.
 26 The department shall consider the current salary for the Montana commissioners in determining the average
 27 salary for the commissioners or officials with similar titles. If the average salary is greater than the salary for the
 28 commissioners in Montana, then beginning July 1 of the year following the year in which the survey is conducted,
 29 the average salary is the new salary for the commissioners.

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