

1 HOUSE BILL NO. 340

2 INTRODUCED BY D. SKEES, F. ANDERSON, D. BARTEL, S. BERGLEE, B. BROWN, A. DOANE,
3 W. GALT, C. GLIMM, S. GUNDERSON, B. HARRIS, S. HINEBAUCH, M. HOPKINS, J. KNOKEY,
4 C. KNUDSEN, D. LOGE, T. MANZELLA, D. MORTENSEN, J. O'HARA, R. OSMUNDSON, J. PATELIS,
5 A. REDFIELD, C. SMITH, J. TREBAS, B. TSCHIDA, B. USHER, S. VINTON, K. WAGONER, P. WEBB,
6 R. WEBB, K. WHITE

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE OFFICE OF THE COMMISSIONER OF
9 POLITICAL PRACTICES; TRANSFERRING DUTIES RELATED TO FILING OF CERTAIN ETHICS, LOBBYING,
10 AND CAMPAIGN PRACTICES REPORTS, STATEMENTS, FORMS, AND OTHER DOCUMENTS TO THE
11 SECRETARY OF STATE; TRANSFERRING INVESTIGATIVE AND ENFORCEMENT DUTIES FOR ETHICS,
12 LOBBYING, AND CAMPAIGN PRACTICES COMPLAINTS TO THE ATTORNEY GENERAL; AMENDING
13 SECTIONS 2-2-104, 2-2-106, 2-2-131, 2-2-136, 2-2-144, 2-15-401, 5-7-102, 5-7-103, 5-7-108, 5-7-111, 5-7-112,
14 5-7-201, 5-7-202, 5-7-207, 5-7-208, 5-7-212, 5-7-305, 5-7-306, 5-13-304, 7-4-2611, 13-1-101, 13-27-111,
15 13-27-112, 13-27-113, 13-35-225, 13-35-226, 13-35-240, 13-35-302, 13-37-101, 13-37-111, 13-37-113,
16 13-37-114, 13-37-115, 13-37-117, 13-37-118, 13-37-119, 13-37-120, 13-37-121, 13-37-123, 13-37-124,
17 13-37-126, 13-37-127, 13-37-128, 13-37-129, 13-37-131, 13-37-201, 13-37-216, 13-37-218, 13-37-225,
18 13-37-226, 13-37-227, 13-37-229, 13-37-231, 13-37-232, 13-37-240, 13-37-250, 13-37-401, 13-37-402, AND
19 13-37-403, MCA; REPEALING SECTIONS 2-15-411, 13-37-102, 13-37-103, 13-37-104, 13-37-105, 13-37-106,
20 13-37-107, 13-37-108, 13-37-112, AND 13-37-116, MCA; PROVIDING A TRANSITION; AND PROVIDING AN
21 EFFECTIVE DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 **Section 1.** Section 2-2-104, MCA, is amended to read:

26 **"2-2-104. Rules of conduct for public officers, legislators, and public employees.** (1) Proof of
27 commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A
28 public officer, legislator, or public employee may not:

29 (a) disclose or use confidential information acquired in the course of official duties in order to further
30 substantially the individual's personal economic interests; or

1 (b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

2 (i) that would tend improperly to influence a reasonable person in the person's position to depart from
3 the faithful and impartial discharge of the person's public duties; or

4 (ii) that the person knows or that a reasonable person in that position should know under the
5 circumstances is primarily for the purpose of rewarding the person for official action taken.

6 (2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest
7 substantially lower than the commercial rate then currently prevalent for similar loans and compensation received
8 for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign
9 contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

10 (3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not
11 receive salaries from two separate public employment positions that overlap for the hours being compensated,
12 unless:

13 (i) the public officer, legislator, or public employee reimburses the public entity from which the employee
14 is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent;
15 or

16 (ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the
17 amount of salary received from the other public employer in order to avoid duplicate compensation for the
18 overlapping hours.

19 (b) Subsection (3)(a) does not prohibit:

20 (i) a public officer, legislator, or public employee from receiving income from the use of accrued leave
21 or compensatory time during the period of overlapping employment; or

22 (ii) a public school teacher from receiving payment from a college or university for the supervision of
23 student teachers who are enrolled in a teacher education program at the college or university if the supervision
24 is performed concurrently with the school teacher's duties for a public school district.

25 (c) In order to determine compliance with this subsection (3), a public officer, legislator, or public
26 employee subject to this subsection (3) shall disclose the amounts received from the two separate public
27 employment positions to the ~~commissioner of political practices~~ secretary of state."

28

29 **Section 2.** Section 2-2-106, MCA, is amended to read:

30 **"2-2-106. Disclosure.** (1) (a) Prior to December 15 of each even-numbered year, each state officer,

1 holdover senator, supreme court justice, and district court judge shall file with the ~~commissioner of political~~
 2 ~~practices~~ secretary of state a business disclosure statement on a form provided by the ~~commissioner~~ secretary
 3 of state. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection
 4 (1)(a) during the same period.

5 (b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time
 6 that the candidate files for office, file a business disclosure statement with the ~~commissioner of political practices~~
 7 secretary of state on a form provided by the ~~commissioner~~ secretary of state.

8 (c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is
 9 required to file the business disclosure statement at the earlier of the time of submission of the person's name
 10 for confirmation or the assumption of the office.

11 (2) The statement must provide the following information:

12 (a) the name, address, and type of business of the individual;

13 (b) each present or past employing entity from which benefits, including retirement benefits, are currently
 14 received by the individual;

15 (c) each business, firm, corporation, partnership, and other business or professional entity or trust in
 16 which the individual holds an interest;

17 (d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or
 18 director, regardless of whether or not the entity is organized for profit; and

19 (e) all real property, other than a personal residence, in which the individual holds an interest. Real
 20 property may be described by general description.

21 (3) An individual may not assume or continue to exercise the powers and duties of the office to which
 22 that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

23 (4) The ~~commissioner of political practices~~ secretary of state shall make the business disclosure
 24 statements available to any individual upon request."
 25

26 **Section 3.** Section 2-2-131, MCA, is amended to read:

27 **"2-2-131. Disclosure.** A public officer or public employee shall, prior to acting in a manner that may
 28 impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private
 29 interest that creates the conflict. The public officer or public employee shall make the disclosure in writing to the
 30 ~~commissioner of political practices~~ secretary of state, listing the amount of private interest, if any, the purpose and

1 duration of the person's services rendered, if any, and the compensation received for the services or other
 2 information that is necessary to describe the interest. If the public officer or public employee then performs the
 3 official act involved, the officer or employee shall state for the record the fact and summary nature of the interest
 4 disclosed at the time of performing the act."

5

6 **Section 4.** Section 2-2-136, MCA, is amended to read:

7 **"2-2-136. Enforcement for state officers, legislators, and state employees -- referral of complaint**

8 **involving county attorney.** (1) (a) A person alleging a violation of this part by a state officer, legislator, or state
 9 employee may file a complaint with the ~~commissioner of political practices~~ attorney general. The ~~commissioner~~
 10 attorney general does not have jurisdiction for a complaint concerning a legislator if a legislative act is involved
 11 in the complaint. The ~~commissioner~~ attorney general also has jurisdiction over complaints against a county
 12 attorney that are referred by a local government review panel pursuant to 2-2-144 or filed by a person directly
 13 with the ~~commissioner~~ attorney general pursuant to 2-2-144(6). If a complaint is filed against the ~~commissioner~~
 14 attorney general or another individual employed in the office of the ~~commissioner~~ attorney general, the complaint
 15 must be resolved in the manner provided for in 13-37-111(5). The ~~commissioner~~ attorney general may request
 16 additional information from the complainant or the person who is the subject of the complaint to make an initial
 17 determination of whether the complaint states a potential violation of this part.

18 (b) The ~~commissioner~~ attorney general may dismiss a complaint that is frivolous, does not state a
 19 potential violation of this part, or does not contain sufficient allegations to enable the ~~commissioner~~ attorney
 20 general to determine whether the complaint states a potential violation of this part. If the issues presented in a
 21 complaint have been addressed and decided in a prior decision and the ~~commissioner~~ attorney general
 22 determines that no additional factual development is necessary, the ~~commissioner~~ attorney general may issue
 23 a summary decision without holding an informal contested case hearing on the complaint.

24 (c) Except as provided in subsection (1)(b), if the ~~commissioner~~ attorney general determines that the
 25 complaint states a potential violation of this part, the ~~commissioner~~ attorney general shall hold an informal
 26 contested case hearing on the complaint as provided in Title 2, chapter 4, part 6. The ~~commissioner~~ attorney
 27 general shall issue a decision based upon the record established before the ~~commissioner~~ attorney general.

28 (2) (a) Except as provided in subsection (2)(b), if the ~~commissioner~~ attorney general determines that a
 29 violation of this part has occurred, the ~~commissioner~~ attorney general may impose an administrative penalty of
 30 not less than \$50 or more than \$1,000.

1 (b) If the ~~commissioner~~ attorney general determines that a violation of 2-2-121(4)(b) has occurred, the
2 ~~commissioner~~ attorney general may impose an administrative penalty of not less than \$500 or more than \$10,000.

3 (c) If the violation was committed by a state employee, the ~~commissioner~~ attorney general may also
4 recommend that the employing state agency discipline the employee. The employing entity of a state employee
5 may take disciplinary action against an employee for a violation of this part, regardless of whether the
6 ~~commissioner~~ attorney general makes a recommendation for discipline. The ~~commissioner~~ attorney general may
7 assess the costs of the proceeding against the person bringing the charges if the ~~commissioner~~ attorney general
8 determines that a violation did not occur or against the officer or employee if the ~~commissioner~~ attorney general
9 determines that a violation did occur.

10 (3) A party may seek judicial review of the ~~commissioner's~~ attorney general's decision, as provided in
11 Title 2, chapter 4, part 7, ~~of this title~~, after a hearing, a dismissal, or a summary decision issued pursuant to
12 subsection (1)(b).

13 (4) Except for records made public in the course of a hearing held under subsection (1) and records that
14 are open for public inspection pursuant to Montana law, a complaint and records obtained or prepared by the
15 ~~commissioner~~ attorney general in connection with an investigation or complaint are confidential documents and
16 are not open for public inspection. The complainant and the person who is the subject of the complaint shall
17 maintain the confidentiality of the complaint and any related documents released to the parties by the
18 ~~commissioner~~ attorney general until the ~~commissioner~~ attorney general issues a decision. However, the person
19 who is the subject of a complaint may waive, in writing, the right of confidentiality provided in this subsection. If
20 a waiver is filed with the ~~commissioner~~ attorney general, the complaint and any related documents must be open
21 for public inspection. The ~~commissioner's~~ attorney general's decision issued after a hearing is a public record
22 open to inspection.

23 (5) When a complaint is filed, the ~~commissioner~~ attorney general may issue statements or respond to
24 inquiries to confirm that a complaint has been filed, to identify against whom it has been filed, and to describe the
25 procedural aspects and status of the case.

26 (6) The ~~commissioner~~ attorney general may adopt rules to carry out the responsibilities and duties
27 assigned by this part."

28
29 **Section 5.** Section 2-2-144, MCA, is amended to read:

30 **"2-2-144. Enforcement for local government.** (1) Except as provided in subsections (5) and (6), a

1 person alleging a violation of this part by a local government officer or local government employee shall notify the
2 county attorney of the county where the local government is located. The county attorney shall request from the
3 complainant or the person who is the subject of the complaint any information necessary to make a determination
4 concerning the validity of the complaint.

5 (2) If the county attorney determines that the complaint is justified, the county attorney may bring an
6 action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney
7 determines that the complaint alleges a criminal violation, the county attorney shall bring criminal charges against
8 the officer or employee.

9 (3) If the county attorney declines to bring an action under this section, the person alleging a violation
10 of this part may file a civil action in district court seeking a civil fine of not less than \$50 or more than \$1,000. In
11 an action filed under this subsection, the court may assess the costs and attorney fees against the person
12 bringing the charges if the court determines that a violation did not occur or against the officer or employee if the
13 court determines that a violation did occur. The court may impose sanctions if the court determines that the action
14 was frivolous or intended for harassment.

15 (4) The employing entity of a local government employee may take disciplinary action against an
16 employee for a violation of this part.

17 (5) (a) A local government may establish a three-member panel to review complaints alleging violations
18 of this part by officers or employees of the local government. The local government shall establish procedures
19 and rules for the panel. The members of the panel may not be officers or employees of the local government. The
20 panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated.
21 If the complaint is against the county attorney, the panel shall refer the matter to the ~~commissioner of political~~
22 ~~practices~~ attorney general and the complaint must then be processed by the ~~commissioner~~ attorney general
23 pursuant to 2-2-136.

24 (b) In a local government that establishes a panel under this subsection (5), a complaint must be referred
25 to the panel prior to making a complaint to the county attorney.

26 (6) If a local government review panel has not been established pursuant to subsection (5), a person
27 alleging a violation of this part by a county attorney shall file the complaint with the ~~commissioner of political~~
28 ~~practices~~ attorney general pursuant to 2-2-136."

29

30 **Section 6.** Section 2-15-401, MCA, is amended to read:

1 **"2-15-401. Duties of secretary of state -- authority.** (1) In addition to the duties prescribed by the
2 constitution, the secretary of state shall:

3 (a) attend at every session of the legislature for the purpose of receiving bills and resolutions and to
4 perform other duties as may be devolved upon the secretary of state by resolution of the two houses or either
5 of them;

6 (b) keep a register of and attest the official acts of the governor, including all appointments made by the
7 governor, with date of commission and names of appointees and predecessors;

8 (c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other public
9 instruments to which the official signature of the governor is required;

10 (d) record in proper books all articles of incorporation filed in the secretary of state's office;

11 (e) take and file receipts for all books distributed by the secretary of state and direct the county clerk of
12 each county to take and file receipts for all books distributed by the county clerk;

13 (f) certify to the governor the names of those persons who have received at any election the highest
14 number of votes for any office, the incumbent of which is commissioned by the governor;

15 (g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law,
16 record, or other instrument filed, deposited, or recorded in the secretary of state's office;

17 (h) keep a fee book in which must be entered all fees, commissions, and compensation earned,
18 collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case,
19 which must be verified annually by the secretary of state's affidavit entered in the fee book;

20 (i) file in the secretary of state's office descriptions of seals in use by the different state officers;

21 (j) discharge the duties of a member of the board of examiners and of the board of land commissioners
22 and all other duties required by law;

23 (k) register marks as provided in Title 30, chapter 13, part 3;

24 (l) report annually to the legislative services division all watercourse name changes received pursuant
25 to 85-2-134 for publication in the Laws of Montana;

26 (m) keep a register of all applications for pardon or for commutation of any sentence, with a list of the
27 official signatures and recommendations in favor of each application;

28 (n) establish and maintain a central filing system that complies with the requirements of a central filing
29 system pursuant to 7 U.S.C. 1631 and use the information in the central filing system for the purposes of 7 U.S.C.
30 1631; and

1 (o) accept the records and perform the duties required in:

2 (i) Title 2, chapter 2, part 1;

3 (ii) Title 5, chapter 7; and

4 (iii) Title 13, chapters 27, 35, and 37.

5 (2) The secretary of state may:

6 (a) develop and implement a statewide electronic filing system as described in 2-15-404;

7 (b) adopt rules for the effective administration of the secretary of state's duties relating to the Montana

8 Administrative Procedure Act established in Title 2, chapter 4."

9

10 **Section 7.** Section 5-7-102, MCA, is amended to read:

11 **"5-7-102. Definitions.** The following definitions apply in this chapter:

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

13 (a) to public office in state government by the governor or the chief justice of the Montana supreme court

14 and who is subject to confirmation by the Montana senate;

15 (b) by the board of regents of higher education to serve either as the commissioner of higher education

16 or as the chief executive officer of a campus of the Montana university system; or

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

18 (2) "Business" means:

19 (a) a holding or interest whose fair market value is greater than \$1,000 in a corporation, partnership, sole

20 proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock

21 company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit

22 organizations; and

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

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

25 ~~(4)~~(3) "Docket" means the register of lobbyists and principals maintained by the ~~commissioner~~ secretary

26 of state pursuant to 5-7-201.

27 ~~(5)~~(4) "Elected federal official" means a person elected to a federal office, including but not limited to a

28 member of the United States senate or house of representatives. The term includes an individual appointed to

29 fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but

30 who has not yet been sworn in.

1 ~~(6)~~(5) "Elected local official" means an elected officer of a county, a consolidated government, an
 2 incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill
 3 the unexpired term of an elected local official and an individual who has been elected to a local office but who
 4 has not yet been sworn in.

5 ~~(7)~~(6) (a) "Elected state official" means an individual holding a state office filled by a statewide vote of
 6 all the electors of Montana or a state district office, including but not limited to public service commissioners and
 7 district court judges. The term includes an individual appointed to fill the unexpired term of an elected state official
 8 and an individual who has been elected to a statewide office but who has not yet been sworn in.

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

10 ~~(8)~~(7) "Elected tribal official" means an elected member of a tribal council or other elected office filled
 11 by a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected
 12 tribal official and an individual who has been elected to a tribal office but who has not yet been sworn in.

13 ~~(9)~~(8) "Individual" means a human being.

14 ~~(10)~~(9) "Legislator" means an individual holding public office as a representative or a senator in the
 15 Montana legislature. The term includes an individual who has been elected to the legislature but who has not yet
 16 been sworn in.

17 ~~(11)~~(10) (a) "Lobbying" means:

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

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

21 (b) The term does not include actions described in subsections ~~(11)(a)(i)~~ (10)(a)(i) and ~~(11)(a)(ii)~~
 22 (10)(a)(ii) when performed by a public official, an elected local official, an elected federal official, or an elected
 23 tribal official while acting in an official governmental capacity.

24 ~~(12)~~(11) (a) "Lobbyist" means a person who engages in the practice of lobbying.

25 (b) Lobbyist does not include:

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

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

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

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

3 ~~(13)~~(12) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made
4 or to be made of money, property, or anything of value:

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

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

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

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

12 (i) personal and necessary living expenses; or

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

14 ~~(14)~~(13) "Person" means an individual, corporation, association, firm, partnership, state or local
15 government or subdivision of state or local government, or other organization or group of persons.

16 ~~(15)~~(14) "Principal" means a person who employs a lobbyist or a person required to report pursuant to
17 5-7-208.

18 ~~(16)~~(15) (a) "Public official" means an elected state official or an appointed state official acting in an
19 official capacity for state government or a legislator.

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

22 ~~(17)~~(16) "Unprofessional conduct" means:

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

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

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

27 (i) promising financial support; or

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

30 (d) attempting to knowingly deceive a public official or the legislature with regard to the pertinent facts

1 of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a public official
2 or the legislature."
3

4 **Section 8.** Section 5-7-103, MCA, is amended to read:

5 **"5-7-103. Licenses -- fees -- eligibility -- waiver.** (1) Any adult of good moral character who is
6 otherwise qualified under this chapter may be licensed as a lobbyist. The ~~commissioner~~ secretary of state shall
7 provide a license application form. The application form may be obtained from and must be filed in the office of
8 the ~~commissioner~~ secretary of state. Upon approval of the application and receipt of the license fee by the
9 ~~commissioner~~ secretary of state, a license must be issued that entitles the licensee to practice lobbying on behalf
10 of one or more enumerated principals. The license fee is \$150 for each lobbyist except as provided in subsection
11 (5) or unless the fee is waived for hardship reasons under this subsection. Each license expires on December
12 31 of each even-numbered year or may be terminated at the request of the lobbyist. A lobbyist who believes that
13 payment of the license fee may constitute a hardship may apply to the ~~commissioner~~ secretary of state for a
14 waiver of the fee required by this section. The ~~commissioner~~ secretary of state may waive all or a portion of the
15 license fee upon proof by the lobbyist that payment of the fee constitutes a hardship.

16 (2) (a) Except as provided in subsection (2)(b), an application may not be disapproved without affording
17 the applicant a hearing. The hearing must be held and the decision entered within 10 business days of the date
18 of the filing of the application, excluding the date on which the application is filed.

19 (b) An application may not be approved if a principal has failed to file reports required under 5-7-208.

20 (3) The fines collected under this chapter must be deposited in the state treasury.

21 (4) The ~~commissioner~~ secretary of state shall deposit the license fee provided for in subsection (1) as
22 follows:

23 (a) \$50 in the general fund; and

24 (b) \$100 in the state special revenue account provided for in 5-11-1112.

25 (5) A lobbyist who receives payments from one or more principals that total less than the amount
26 specified under 5-7-112 in a calendar year is not required to pay the license fee or file an application form as
27 provided for in subsection (1).

28 (6) The ~~commissioner~~ secretary of state may adopt rules to implement the waiver provisions of
29 subsections (1) and (5)."
30

1 **Section 9.** Section 5-7-108, MCA, is amended to read:

2 **"5-7-108. Inspection of applications and reports -- order of noncompliance -- notification.** (1) Each
3 application and report filed with the ~~commissioner~~ secretary of state must be inspected by the attorney general
4 within 10 days after it is filed. If a person has not satisfied the provisions of this chapter, the ~~commissioner~~
5 attorney general shall immediately notify the person of the noncompliance.

6 (2) An order of noncompliance may be issued when:

7 (a) it is determined by the attorney general that an application or report filed with the ~~commissioner~~
8 secretary of state does not conform to the requirements of this chapter; or

9 (b) a person has failed to file an application or report required by law.

10 (3) The person notified of noncompliance shall submit the necessary information to the secretary of state
11 and the attorney general within 5 days after receiving the notice of noncompliance. If the person notified of
12 noncompliance fails to submit the required information within 5 days, the ~~commissioner~~ attorney general may
13 initiate a civil action pursuant to the procedures contained in 5-7-305."

14

15 **Section 10.** Section 5-7-111, MCA, is amended to read:

16 **"5-7-111. ~~Commissioner~~ Secretary of state to make rules.** (1) The ~~commissioner~~ secretary of state
17 shall promulgate and publish rules necessary to carry out the provisions of this chapter in conformance with the
18 Montana Administrative Procedure Act and, in particular, shall provide rules necessary to allocate salary,
19 expenses, and any other payments between lobbying activities and other activities not connected with lobbying
20 for any person whose activities are not solely limited to lobbying.

21 (2) ~~Such~~ The rules ~~shall~~ must be designed to effect and promote the purposes of this chapter, express
22 or implied. ~~Such~~ The rules ~~shall~~ must be as simple and easily complied with as possible."

23

24 **Section 11.** Section 5-7-112, MCA, is amended to read:

25 **"5-7-112. Payment threshold -- inflation adjustment.** For calendar year 2004, the payment threshold
26 referred to in 5-7-102, 5-7-103, and 5-7-208 is \$2,150. The ~~commissioner~~ secretary of state shall adjust the
27 threshold amount following a general election by multiplying the threshold amount valid for the year in which the
28 general election was held by an inflation factor, adopted by the ~~commissioner~~ secretary of state by rule. The rule
29 must be written to reflect the annual average change in the consumer price index from the prior year to the year
30 in which the general election is held. The resulting figure must be rounded up or down to the nearest \$50

1 increment. The ~~commissioner~~ secretary of state shall adopt the adjusted amount by rule."

2

3 **Section 12.** Section 5-7-201, MCA, is amended to read:

4 **"5-7-201. Docket -- contents.** The ~~commissioner~~ secretary of state shall make available to the public
5 the information required by this chapter, including but not limited to the name and business address of each
6 lobbyist, the name and business address of the lobbyist's principal, and the subject or subjects to which the
7 employment relates or a statement that the employment relates to all matters in which the principal has an
8 interest. The docket entry for each principal must also indicate the date of receipt of the principal's lobbying
9 reports as required by 5-7-208."

10

11 **Section 13.** Section 5-7-202, MCA, is amended to read:

12 **"5-7-202. Docket -- public record.** ~~Such~~ The docket ~~shall be~~ is a public record and open to the
13 inspection of any individual upon demand at any time during the regular business hours of the office of the
14 ~~commissioner~~ secretary of state."

15

16 **Section 14.** Section 5-7-207, MCA, is amended to read:

17 **"5-7-207. Report to legislature.** Beginning with the first Tuesday following the beginning of any regular
18 or special session of the legislature and on the first Tuesday of every month thereafter during which the
19 legislature is in session, the ~~commissioner~~ secretary of state shall make available from the ~~commissioner's~~
20 secretary of state's records a report to each member of each house of the legislature containing the names of
21 lobbyists registered under this chapter, not previously reported, the names of the principals whom they represent
22 as lobbyists, and the subjects of legislation in which each principal is interested."

23

24 **Section 15.** Section 5-7-208, MCA, is amended to read:

25 **"5-7-208. Principals to file report.** (1) A principal subject to this chapter shall file with the ~~commissioner~~
26 secretary of state a report of payments made for the purpose of lobbying. A principal is subject to the reporting
27 requirements of this section only if the principal makes total payments for the purpose of lobbying that exceed
28 the amount specified under 5-7-112 during a calendar year.

29 (2) If payments are made solely to influence legislative action, a report must be made:

30 (a) by February 15th of any year the legislature is in session and must include all payments made in that

1 calendar year prior to February 1;

2 (b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000
3 or more and must include all payments made during the prior calendar month; and

4 (c) no later than 30 days following adjournment of a legislative session and must include all payments
5 made during the session, except as previously reported.

6 (3) If payments are made to influence any other official action by a public official or made to influence
7 other action and legislative action, a report must be made:

8 (a) by February 15th of the calendar year following the payments and must include all payments made
9 during the prior calendar year; and

10 (b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000
11 or more and must include all payments made during the prior calendar month.

12 (4) If payments are not made during the reporting periods provided in subsections (2)(a), (2)(c), and
13 (3)(a), the principal shall file a report stating that fact.

14 (5) Each report filed under this section must:

15 (a) list all payments for lobbying in each of the following categories:

16 (i) printing;

17 (ii) advertising, including production costs;

18 (iii) postage;

19 (iv) travel expenses;

20 (v) salaries and fees, including allowances, rewards, and contingency fees;

21 (vi) entertainment, including all foods and refreshments;

22 (vii) telephone and telegraph; and

23 (viii) other office expenses;

24 (b) itemize, identifying the payee and the beneficiary:

25 (i) each separate payment conferring \$25 or more benefit to any public official when the payment was
26 made for the purpose of lobbying; and

27 (ii) each separate payment conferring \$100 or more benefit to more than one public official, regardless
28 of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner
29 or other function to which all senators or all representatives have been invited, the beneficiary may be listed as
30 all members of that group without listing separately each person who attended;

1 (c) list each contribution and membership fee that amounts to \$250 or more when aggregated over the
2 period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each payer and
3 the issue area, if any, for which the payment was earmarked;

4 (d) list each official action on which the principal or the principal's agents exerted a major effort to
5 support, oppose, or modify, together with a statement of the principal's position for or against the action; and

6 (e) be kept by the ~~commissioner~~ secretary of state for a period of 10 years."
7

8 **Section 16.** Section 5-7-212, MCA, is amended to read:

9 **"5-7-212. Audit of lobbying reports.** (1) The ~~commissioner~~ attorney general may audit the reports filed
10 under 5-7-208 and shall investigate any irregularities and report any apparent violations of this chapter to the
11 attorneys having authority to prosecute. The lobbyist is required to provide and the principal is required to obtain
12 and keep for a period of 3 years from the date of filing all records supporting the reports filed under 5-7-208.

13 (2) All records under subsection (1) must be open to inspection on request of the ~~commissioner~~ attorney
14 general or an attorney having authority to prosecute violations of this chapter. The ~~commissioner~~ attorney general
15 and the attorneys are given the power to:

16 (a) subpoena and compel attendance;

17 (b) issue enforceable civil investigative demands;

18 (c) take evidence; and

19 (d) require the production of any books, correspondence, memoranda, bank account statements, or other
20 records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions
21 of this chapter."
22

23 **Section 17.** Section 5-7-305, MCA, is amended to read:

24 **"5-7-305. Penalties and enforcement.** (1) A person who violates any of the provisions of this chapter
25 is subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the
26 district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter must
27 have the lobbyist's license suspended or revoked according to the discretion of the court. Any public official
28 holding elective office adjudged in violation of the provisions of this chapter is additionally subject to recall under
29 the Montana Recall Act, Title 2, chapter 16, part 6, and the violation constitutes an additional basis for recall to
30 those mentioned in 2-16-603(3).

1 (2) The attorney general,~~the commissioner~~, or the county attorney of the county in which the violation
2 takes place may bring a civil action in the name of the state for any appropriate civil remedy.

3 (3) If a civil penalty action is undertaken by the attorney general ~~or the commissioner~~, all costs
4 associated with the prosecution must be paid by the state of Montana.

5 (4) (a) Any individual who has notified the attorney general,~~the commissioner~~, and the appropriate
6 county attorney in writing that there is reason to believe that some portion of this chapter is being violated may
7 bring in the name of the state an action (referred to as a citizen's action) authorized under this chapter if:

8 (i) the attorney general,~~the commissioner~~, or the appropriate county attorney has failed to commence
9 an action within 90 days after notice; and

10 (ii) the attorney general,~~the commissioner~~, or the county attorney fails to commence an action within 10
11 days after receiving a written notice that a citizen's action will be brought if the attorney general,~~the
12 commissioner~~, or the county attorney does not bring an action.

13 (b) Each notification tolls the applicable statute of limitations until the expiration of the waiting period.

14 (c) If the individual who brings the citizen's action prevails, the individual is entitled to be reimbursed by
15 the state of Montana for costs and attorney fees incurred. However, in the case of a citizen's action that is
16 dismissed and that the court also finds was brought without reasonable cause, the court may order the individual
17 commencing the action to pay all costs of trial and reasonable attorney fees incurred by the defendant.

18 (5) A civil action may not be brought under this section more than 3 years after the occurrence of the
19 facts that give rise to the action.

20 (6) All civil penalties imposed pursuant to this section must be deposited in the state general fund.

21 (7) A hearing under this chapter must be held by the court unless the defendant-licensee demands a
22 jury trial. The trial must be held as soon as possible but at least 20 days after the filing of the charges and must
23 take precedence over all other matters pending before the court.

24 (8) If the court finds for the plaintiff, judgment must be rendered revoking or suspending the license and
25 the clerk of court shall file a certified copy of the judgment with the ~~commissioner~~ secretary of state."

26

27 **Section 18.** Section 5-7-306, MCA, is amended to read:

28 **"5-7-306. Civil penalties for delays in filing -- option for hearing -- suspension of penalty.** (1) In
29 addition to any other penalties or remedies established by this chapter, a person who fails to file a report with the
30 secretary of state within the time required by this chapter is subject to a civil penalty of \$50 for each working day

1 that the report is late until the report is filed or until the penalties reach a maximum of \$2,500 for each late report.

2 (2) The penalty imposed in subsection (1) is not subject to the procedural requirements of 5-7-305 and
3 must be applied if a person fails to meet the requirements of 5-7-108(3).

4 (3) A person against whom a civil penalty is imposed pursuant to subsection (1) may request, within 10
5 days of receiving a notice of imposition of a civil penalty, a hearing before the ~~commissioner~~ attorney general.
6 Upon receipt of a timely request, the ~~commissioner~~ attorney general shall hold an informal contested case hearing
7 as provided in Title 2, chapter 4, part 6. Upon the filing of a timely request for a hearing, the imposition of the daily
8 civil penalty provided for in this section must be suspended until the ~~commissioner~~ attorney general issues a
9 decision. At the hearing, the ~~commissioner~~ attorney general shall consider any factors or circumstances in
10 mitigation and may reduce or waive the civil penalty.

11 (4) All civil penalties imposed pursuant to this section must be deposited in the state general fund."
12

13 **Section 19.** Section 5-13-304, MCA, is amended to read:

14 **"5-13-304. Powers and duties.** The legislative auditor shall:

15 (1) conduct a financial and compliance audit of every state agency every 2 years covering the 2-year
16 period since the last audit, unless otherwise required by state law;

17 (2) conduct an audit to meet the standards and accomplish the objectives required in 5-13-308 whenever
18 the legislative auditor determines it necessary and shall advise the members of the legislative audit committee;

19 (3) make a complete written report of each audit. A copy of each report must be furnished to the
20 department of administration, the state agency that was audited, each member of the committee, and the
21 legislative services division.

22 (4) report immediately in writing to the attorney general and the governor any apparent violation of penal
23 statutes disclosed by the audit of a state agency and furnish the attorney general with all information available
24 relative to the violation;

25 (5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or
26 nonfeasance by a state officer or employee disclosed by the audit of a state agency;

27 (6) report immediately to the ~~commissioner of political practices~~ attorney general any instances of
28 apparent violations of the state code of ethics provided for in Title 2, chapter 2, part 1;

29 (7) report immediately to the surety upon the bond of an official or employee when an audit discloses
30 a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from

1 any obligation under the bond.

2 (8) have the authority to audit records of organizations and individuals receiving grants from or on behalf
3 of the state to determine that the grants are administered in accordance with the grant terms and conditions.
4 Whenever a state agency enters into an agreement to grant resources under its control to others, the agency
5 shall obtain the written consent of the grantee to the audit provided for in this subsection."
6

7 **Section 20.** Section 7-4-2611, MCA, is amended to read:

8 **"7-4-2611. Role and duties of county clerk and election administrator.** (1) The county clerk of a
9 county is also clerk of the county commissioners and ex officio recorder. A duty imposed by law upon the officer,
10 whether as county clerk, clerk of the county commissioners, or recorder, must be performed by the county clerk,
11 and any official act performed or certified by the county clerk is as valid and effectual as if performed and certified
12 by the clerk of the county commissioners or the recorder.

13 (2) The county clerk shall:

14 (a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records
15 that may be filed or deposited in the county clerk's office;

16 (b) record all the proceedings of the board;

17 (c) make full entries of all its resolutions and decisions on all questions concerning the raising of money
18 for and the allowance of accounts against the county;

19 (d) record the vote of each member on a question upon which there is a division or at the request of any
20 member present;

21 (e) sign all orders made and warrants issued by order of the board for the payment of money and certify
22 the orders and warrants to the county treasurer;

23 (f) record the reports of the county treasurer of the receipts and disbursements of the county;

24 (g) preserve and file all accounts acted upon by the board;

25 (h) preserve and file all petitions and applications for franchises and record the action of the board on
26 the petitions and applications;

27 (i) record all orders levying taxes;

28 (j) designate upon each account allowed by the board the amount allowed and deliver to any person who
29 may demand it a certified copy of any record or any account on file in the county clerk's office;

30 (k) when a new township is organized or the boundaries of a township are altered, immediately make

1 out and transmit to the secretary of state a certified statement of the names and boundaries of the township
2 organized or altered;

3 (l) keep other records and books and perform other duties that are prescribed by law or by rule or order
4 of the board.

5 (3) An election administrator shall file, code, and cross-index all reports and statements filed as
6 prescribed by the ~~commissioner of political practices~~ secretary of state.

7 (4) An election administrator shall make statements and other information filed under the provisions of
8 Title 13, chapters 35, 36, and 37, available for public inspection and copying during the office hours determined
9 by the governing body by resolution after a public hearing and make copying facilities available free of charge
10 or at a charge not to exceed actual cost."
11

12 **Section 21.** Section 13-1-101, MCA, is amended to read:

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

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

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

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

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

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

25 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval
26 or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall
27 question, school levy question, bond issue question, or ballot question.

28 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the
29 proper official that the legal procedure necessary for its qualification and placement on the ballot has been
30 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the

1 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

2 (7) "Ballot issue committee" means a political committee specifically organized to support or oppose a
3 ballot issue.

4 (8) "Candidate" means:

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

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

12 (i) solicitation is made;

13 (ii) contribution is received and retained; or

14 (iii) expenditure is made; or

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

16 (9) (a) "Contribution" means:

17 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit,
18 payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

19 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot
20 issue committee and is reportable by the candidate or ballot issue committee as a contribution;

21 (iii) the receipt by a political committee of funds transferred from another political committee; or

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

24 (b) "Contribution" does not mean services provided without compensation by individuals volunteering
25 a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by
26 individuals in their private residences for a candidate or other individual.

27 (10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation
28 with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a
29 candidate or political committee.

30 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger

1 registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant
2 enforcement as a campaign practices violation under Title 13, chapter 37.

3 (12) "Election" means a general, special, or primary election held pursuant to the requirements of state
4 law, regardless of the time or purpose.

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

8 (14) (a) "Election communication" means the following forms of communication to support or oppose a
9 candidate or ballot issue:

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

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

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

13 (iv) a mailing; or

14 (v) printed materials.

15 (b) The term does not mean:

16 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote,
17 if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

18 (ii) a communication that does not support or oppose a candidate or ballot issue;

19 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
20 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

21 (iv) a communication by any membership organization or corporation to its members, stockholders, or
22 employees; or

23 (v) a communication that the ~~commissioner~~ attorney general determines by rule is not an election
24 communication.

25 (15) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio,
26 television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of
27 printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or
28 oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the
29 candidate or ballot issue, and that:

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

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

3 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

4 (b) The term does not mean:

5 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
6 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation
7 unless the facilities are owned or controlled by a candidate or political committee;

8 (ii) a communication by any membership organization or corporation to its members, stockholders, or
9 employees;

10 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the
11 candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

12 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate
13 debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

14 (v) a communication that the ~~commissioner~~ attorney general determines by rule is not an electioneering
15 communication.

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

17 (17) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
18 of money or anything of value:

19 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

20 (ii) used or intended for use in making independent expenditures or in producing electioneering
21 communications.

22 (b) "Expenditure" does not mean:

23 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

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

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

28 (iv) the cost of any communication by any membership organization or corporation to its members or
29 stockholders or employees.

30 (18) "Federal election" means an election in even-numbered years in which an elector may vote for

1 individuals for the office of president of the United States or for the United States congress.

2 (19) "General election" means an election that is held for offices that first appear on a primary election
3 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

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

6 (21) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

7 (22) (a) "Incidental committee" means a political committee that is not specifically organized or operating
8 for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become
9 a political committee by receiving a contribution or making an expenditure.

10 (b) For the purpose of this subsection (22), the primary purpose is determined by the ~~commissioner~~
11 attorney general by rule and includes criteria such as the allocation of budget, staff, or members' activity or the
12 statement of purpose or goal of the person or individuals that form the committee.

13 (23) "Independent committee" means a political committee organized for the primary purpose of receiving
14 contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that
15 does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits
16 set forth in 13-37-216(1).

17 (24) "Independent expenditure" means an expenditure for an election communication to support or
18 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue
19 committee.

20 (25) "Individual" means a human being.

21 (26) "Legally registered elector" means an individual whose application for voter registration was
22 accepted, processed, and verified as provided by law.

23 (27) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing
24 ballots to all active electors.

25 (28) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,
26 including a political committee, club, union, or other organization or group of individuals or a candidate as defined
27 in subsection (8).

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

30 (30) (a) "Political committee" means a combination of two or more individuals or a person other than an

1 individual who receives a contribution or makes an expenditure:

2 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a
3 petition for nomination;

4 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

5 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
6 independent expenditure.

7 (b) Political committees include ballot issue committees, incidental committees, independent committees,
8 and political party committees.

9 (c) A candidate and the candidate's treasurer do not constitute a political committee.

10 (d) A political committee is not formed when a combination of two or more individuals or a person other
11 than an individual makes an election communication, an electioneering communication, or an independent
12 expenditure of \$250 or less.

13 (31) "Political party committee" means a political committee formed by a political party organization and
14 includes all county and city central committees.

15 (32) "Political party organization" means a political organization that:

16 (a) was represented on the official ballot in either of the two most recent statewide general elections; or

17 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

18 (33) "Political subdivision" means a county, consolidated municipal-county government, municipality,
19 special purpose district, or any other unit of government, except school districts, having authority to hold an
20 election.

21 (34) "Polling place election" means an election primarily conducted at polling places rather than by mail
22 under the provisions of Title 13, chapter 19.

23 (35) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate
24 candidates for offices filled at a general election.

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

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

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

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

3 (40) "Registrar" means the county election administrator and any regularly appointed deputy or assistant
4 election administrator.

5 (41) "Regular school election" means the school trustee election provided for in 20-20-105(1).

6 (42) "School election" has the meaning provided in 20-1-101.

7 (43) "School election filing officer" means the filing officer with whom the declarations for nomination for
8 school district office were filed or with whom the school ballot issue was filed.

9 (44) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties
10 in school elections.

11 (45) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is
12 designed to:

13 (a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot
14 is being submitted by someone who is in fact a qualified elector and who has not already voted; and

15 (b) allow it to be used in the United States mail.

16 (46) "Special election" means an election held on a day other than the day specified for a primary
17 election, general election, or regular school election.

18 (47) "Special purpose district" means an area with special boundaries created as authorized by law for
19 a specialized and limited purpose.

20 (48) "Statewide voter registration list" means the voter registration list established and maintained
21 pursuant to 13-2-107 and 13-2-108.

22 (49) "Support or oppose", including any variations of the term, means:

23 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or
24 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election
25 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters
26 in an election; or

27 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot
28 issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination,
29 election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or
30 defeat of the ballot issue or other question submitted to the voters in an election.

1 (50) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector
2 to transfer the elector's registration when the elector's residence address has changed within the county.

3 (51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in
4 13-15-206.

5 (52) "Voted ballot" means a ballot that is:

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

9 (53) "Voting system" or "system" means any machine, device, technology, or equipment used to
10 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

11

12 **Section 22.** Section 13-27-111, MCA, is amended to read:

13 "**13-27-111. Definitions.** As used in 13-27-112, 13-27-113, and this section, unless otherwise indicated
14 by the context, the following definitions apply:

15 ~~(1) "Commissioner" means the commissioner of political practices provided for in 13-37-102.~~

16 ~~(2)~~(1) "Paid signature gatherer" means a signature gatherer who is compensated in money for the
17 collection of signatures.

18 ~~(3)~~(2) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes
19 a political committee.

20 ~~(4)~~(3) "Signature gatherer" means an individual who collects signatures on a petition for the purpose of
21 an initiative, a referendum, or the calling of a constitutional convention."

22

23 **Section 23.** Section 13-27-112, MCA, is amended to read:

24 "**13-27-112. Required reports -- time and manner of reporting -- exceptions -- penalty.** (1) Except
25 as provided in this section, a person who employs a paid signature gatherer shall file with the ~~commissioner~~
26 secretary of state reports containing those matters required by Title 13, chapter 37, part 2, for a political
27 committee organized to support or oppose a ballot issue or for an independent committee that receives
28 contributions and makes expenditures in connection with a ballot issue, as applicable. If a person who employs
29 a paid signature gatherer is required by Title 13, chapter 37, part 2, to file a report pursuant to those provisions,
30 the person need not file a duplicate report pursuant to this section, but shall report the matter required by

1 subsection (2) as part of that report. As used in this section, "a person who employs a paid signature gatherer"
 2 means a political party, political committee, or other person seeking to place a ballot issue before the electors
 3 and does not mean an individual who is part of the same signature gathering company, partnership, or other
 4 business organization that directly hires, supervises, and pays an individual who is a signature gatherer.

5 (2) The reports required by subsection (1) must include the amount paid to a paid signature gatherer.

6 (3) Reports filed pursuant to this section must be filed at the same time, in the same manner, including
 7 the certification required by 13-37-231, and upon the same forms as required for reports filed pursuant to Title
 8 13, chapter 37, part 2, except as the rules of the ~~commissioner~~ secretary of state may otherwise provide.

9 (4) A person who violates subsection (1) is guilty of a misdemeanor and upon conviction shall be
 10 punished as provided by law."
 11

12 **Section 24.** Section 13-27-113, MCA, is amended to read:

13 **"13-27-113. Powers and duties of ~~commissioner~~ attorney general -- rulemaking.** (1) The
 14 ~~commissioner~~ attorney general has the same powers and duties regarding the regulation of signature gatherers,
 15 as provided in 13-27-112 and this section, as the ~~commissioner~~ attorney general has regarding the control of
 16 campaign practices as provided in Title 13, chapter 37, including the investigation of alleged violations of
 17 13-27-112 and the issuance of orders of noncompliance for and prosecution of violations of 13-27-112.

18 (2) The ~~commissioner~~ attorney general and the secretary of state may adopt rules to implement
 19 13-27-112."
 20

21 **Section 25.** Section 13-35-225, MCA, is amended to read:

22 **"13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.**

23 (1) All election communications, electioneering communications, and independent expenditures must clearly and
 24 conspicuously include the attribution "paid for by" followed by the name and address of the person who made
 25 or financed the expenditure for the communication. The attribution must contain:

26 (a) for election communications or electioneering communications financed by a candidate or a
 27 candidate's campaign finances, the name and the address of the candidate or the candidate's campaign;

28 (b) for election communications, electioneering communications, or independent expenditures financed
 29 by a political committee, the name of the committee, the name of the committee treasurer, and the address of
 30 the committee or the committee treasurer; and

1 (c) for election communications, electioneering communications, or independent expenditures financed
2 by a political committee that is a corporation or a union, the name of the corporation or union, its chief executive
3 officer or equivalent, and the address of the principal place of business.

4 (2) Communications in a partisan election financed by a candidate or a political committee organized
5 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

6 (3) (a) Printed election material described in subsection (1) that includes information about another
7 candidate's voting record must include the following:

8 (i) a reference to the particular vote or votes upon which the information is based;

9 (ii) a disclosure of all votes made by the candidate on the same legislative bill or enactment; and

10 (iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the
11 statements made about the other candidate's voting record are accurate and true.

12 (b) The statement required under subsection (3)(a) must be signed:

13 (i) by the candidate if the election material was prepared for the candidate and includes information about
14 another candidate's voting record; or

15 (ii) by the person financing the communication or the person's agent if the election material was not
16 prepared for a candidate.

17 (4) If a document or other article of advertising is too small for the requirements of subsections (1)
18 through (3) to be conveniently included, the candidate responsible for the material or the person financing the
19 communication shall file a copy of the article with the ~~commissioner of political practices~~ secretary of state,
20 together with the required information or statement, at the time of its public distribution.

21 (5) If information required in subsections (1) through (3) is omitted or not printed or if the information
22 required by subsection (4) is not filed with the ~~commissioner~~ secretary of state, upon discovery of or notification
23 about the omission, the candidate responsible for the material or the person financing the communication shall:

24 (a) file notification of the omission with the ~~commissioner of political practices~~ secretary of state within
25 2 business days of the discovery or notification;

26 (b) bring the material into compliance with subsections (1) through (3) or file the information required by
27 subsection (4) with the ~~commissioner~~ secretary of state; and

28 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

29 (6) Whenever the ~~commissioner~~ attorney general receives a complaint alleging any violation of
30 subsections (1) through (3), the ~~commissioner~~ attorney general shall as soon as practicable assess the merits

1 of the complaint.

2 (7) (a) If the ~~commissioner~~ attorney general determines that the complaint has merit, the ~~commissioner~~
3 attorney general shall notify the complainant and the candidate or political committee of the ~~commissioner's~~
4 attorney general's determination. The notice must state that the candidate or political committee shall bring the
5 material into compliance as required under this section:

6 (i) within 2 business days after receiving the notification if the notification occurs more than 7 days prior
7 to an election; or

8 (ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an
9 election.

10 (b) When notifying the candidate or campaign committee under subsection (7)(a), the ~~commissioner~~
11 attorney general shall include a statement that if the candidate or political committee fails to bring the material
12 into compliance as required under this section, the candidate or political committee is subject to a civil penalty
13 pursuant to 13-37-128."

14

15 **Section 26.** Section 13-35-226, MCA, is amended to read:

16 **"13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying
17 employees the salary or wages due them, to include with their pay the name of any candidate or any political
18 mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to
19 influence the political opinions or actions of the employees.

20 (2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may
21 be working any handbill or placard containing:

22 (a) any threat, promise, notice, or information that, in case any particular ticket or political party,
23 organization, or candidate is elected:

24 (i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or
25 increased;

26 (ii) the employer's place or establishment will be closed; or

27 (iii) the salaries or wages of the workers or employees will be reduced or increased; or

28 (b) other threats or promises, express or implied, intended or calculated to influence the political opinions
29 or actions of the employer's workers or employees.

30 (3) A person may not coerce, command, or require a public employee to support or oppose any political

1 committee, the nomination or election of any person to public office, or the passage of a ballot issue.

2 (4) A public employee may not solicit support for or opposition to any political committee, the nomination
3 or election of any person to public office, or the passage of a ballot issue while on the job or at the place of
4 employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform
5 activities properly incidental to another activity required or authorized by law or to express personal political views.

6 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the
7 ~~commissioner of political practices~~ attorney general or a county attorney pursuant to 13-37-124 and 13-37-125."

8

9 **Section 27.** Section 13-35-240, MCA, is amended to read:

10 "**13-35-240. Voluntary filing of broadcast campaign materials -- affidavit -- penalty.** (1) (a) A political
11 committee not organized by or on behalf of a candidate may file with the ~~commissioner of political practices~~
12 secretary of state a copy of a campaign script intended for broadcast advertising.

13 (b) The committee's authorized agent may sign an affidavit swearing that the content of the script is true
14 and verifiable and may file supporting documentation.

15 (2) (a) Scripts and affidavits must be filed in the manner prescribed by the ~~commissioner of political~~
16 ~~practices~~ secretary of state.

17 (b) The ~~commissioner of political practices~~ secretary of state shall file the scripts, affidavits, and any
18 documentation in a manner that allows for them to be readily inspected.

19 (3) (a) Any person who believes that the content of a script filed pursuant to this section is either untrue
20 or unverifiable may bring the matter to the attention of the county attorney of the county in which the person is
21 a resident.

22 (b) The county attorney may investigate the alleged falsification or unverifiability of the script and, if the
23 county attorney determines that sufficient evidence exists to justify a criminal prosecution, shall file a cause of
24 action.

25 (c) An allegation of violation of subsection (1) may not be filed with, investigated by, or prosecuted by
26 the ~~commissioner of political practices~~ attorney general.

27 (4) A person filing an affidavit under this section is subject to the penalty for false swearing under
28 45-7-202, except that the fine may not exceed \$5,000."

29

30 **Section 28.** Section 13-35-302, MCA, is amended to read:

1 **"13-35-302. Candidates to be given opportunity to subscribe to campaign practices code.** (1) The
 2 ~~commissioner of political practices~~ secretary of state shall prepare a form that sets forth the code of fair campaign
 3 practices provided for in 13-35-301 and a place for a candidate to sign the form and to indicate that the candidate
 4 endorses, subscribes to, and pledges to abide by the code.

5 (2) The ~~commissioner~~ secretary of state shall send a copy of the form to each candidate required to file
 6 reports or other information with the ~~commissioner~~ secretary of state. Signing the form is voluntary, and a failure
 7 or refusal to sign is not a violation of the election laws. A form must be sent for each election as soon as feasible.
 8 The signed form must be returned to the ~~commissioner~~ secretary of state.

9 (3) Any candidate not required to file reports or other information with the ~~commissioner~~ secretary of
 10 state but wishing to subscribe to the code may obtain the form from the ~~commissioner~~ secretary of state and may
 11 sign the form and deliver it to the ~~commissioner~~ secretary of state."

12

13 **Section 29.** Section 13-37-101, MCA, is amended to read:

14 **"13-37-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the
 15 following definitions apply:

16 ~~(1) "Commissioner" means the commissioner of political practices created by 13-37-102.~~

17 ~~(2)~~(1) "Public office" has the meaning provided in 13-1-101.

18 ~~(3)~~(2) "Recusal" means disqualification from a matter by reason of prejudice or conflict of interest.

19 ~~(4)~~(3) "Relative" means a family member who is within the second degree of consanguinity or affinity to
 20 the ~~commissioner~~ attorney general."

21

22 **Section 30.** Section 13-37-111, MCA, is amended to read:

23 **"13-37-111. Investigative powers and duties -- recusal.** (1) Except as provided in 13-35-240 and this
 24 section, the ~~commissioner~~ attorney general is responsible for investigating all of the alleged violations of the
 25 election laws contained in chapter 35 ~~of this title~~ or this chapter and in conjunction with the county attorneys is
 26 responsible for enforcing these election laws.

27 (2) The ~~commissioner~~ attorney general may:

28 (a) investigate all statements filed with the secretary of state pursuant to the provisions of chapter 35 ~~of~~
 29 ~~this title~~ or this chapter and shall investigate alleged failures to file any statement or the alleged falsification of any
 30 statement filed pursuant to the provisions of chapter 35 ~~of this title~~ or this chapter. Upon the submission of a

1 written complaint by any individual, the ~~commissioner~~ attorney general shall investigate any other alleged violation
 2 of the provisions of chapter 35 ~~of this title~~, this chapter, or any rule adopted pursuant to chapter 35 ~~of this title~~ or
 3 this chapter.

4 (b) inspect any records, accounts, or books that must be kept pursuant to the provisions of chapter 35
 5 ~~of this title~~ or this chapter that are held by any political committee or candidate, as long as the inspection is made
 6 during reasonable office hours; and

7 (c) administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and
 8 require the production of any books, papers, correspondence, memoranda, bank account statements of a political
 9 committee or candidate, or other records that are relevant or material for the purpose of conducting any
 10 investigation pursuant to the provisions of chapter 35 ~~of this title~~ or this chapter.

11 (3) If the ~~commissioner~~ attorney general determines that considering a matter would give rise to the
 12 appearance of impropriety or a conflict of interest, the ~~commissioner~~ attorney general is recused from participating
 13 in the matter.

14 (4) (a) The ~~commissioner~~ attorney general is recused from participating in any decision in which the
 15 ~~commissioner~~ attorney general is accused of violating 13-37-108 or any other ethical standard.

16 (b) The attorney general is recused from participating in a matter pertaining a campaign finance or ethics
 17 complaint that:

18 (i) is a conflict of interest or results in the appearance of a conflict of interest between public duty and
 19 private interest pursuant to Title 2, chapter 2; or

20 (ii) involves a relative of the attorney general.

21 (5) (a) If a campaign finance or ethics complaint is filed in the office of the ~~commissioner~~ attorney general
 22 against the ~~commissioner~~ attorney general, a supervisor within the ~~commissioner's~~ attorney general's office shall
 23 within 10 business days forward the complaint to the ~~attorney general~~ secretary of state, who shall within 45 days
 24 appoint a deputy in the case of a finance complaint or a deputy and a hearings officer in the case of an ethics
 25 complaint to make a determination in the matter of the complaint. The ~~attorney general~~ secretary of state shall,
 26 to the extent practicable, ensure that there is no conflict of interest in the appointment of the deputy or hearings
 27 officer ~~or in the provision of any legal advice to the office of the commissioner.~~

28 (b) A deputy appointed pursuant to this subsection must, in addition to complying with the requirements
 29 of subsection (6)(b), be an attorney licensed to practice law in Montana who is engaged in the private practice
 30 of law and who has liability insurance applicable to the purposes for which the deputy is appointed.

1 (c) If a complaint is filed against the ~~commissioner~~ attorney general, another employee in the office of
 2 the ~~commissioner~~ attorney general may not provide the ~~commissioner~~ attorney general with any information or
 3 documents concerning a complaint against the ~~commissioner~~ attorney general beyond that information or those
 4 documents normally provided to persons in matters before the ~~commissioner~~ attorney general.

5 (6) (a) If the ~~commissioner~~ attorney general is recused pursuant to this section, the ~~commissioner~~
 6 attorney general shall, except as provided in subsection (5), appoint a deputy, subject to subsection (6)(b).

7 (b) The deputy:

8 (i) may not be an employee of the office of the ~~commissioner~~ attorney general;

9 ~~(ii) must have the same qualifications as specified for the commissioner in 13-37-107;~~

10 ~~(iii)~~(ii) with respect to only the specific matter from which the ~~commissioner~~ attorney general is recused,
 11 has the same authority, duties, and responsibilities as the ~~commissioner~~ attorney general would have absent the
 12 recusal; and

13 (iv) may not exercise any powers of the office that are not specifically related to the matter for which the
 14 deputy is appointed.

15 (7) (a) Except as provided in subsection (7)(b), the appointment of the deputy is effectuated by a contract
 16 between the ~~commissioner~~ attorney general and the deputy. A contract executed pursuant to this subsection (7)
 17 must specify the deputy's term of appointment, which must be temporary, the matter assigned to the deputy, the
 18 date on which the matter assigned must be concluded by the deputy, and any other items relevant to the deputy's
 19 appointment, powers, or duties.

20 (b) If a deputy is appointed pursuant to subsection (5), the appointment of the deputy is effectuated by
 21 a contract between the supervisor who forwarded the complaint to the ~~attorney general~~ secretary of state and
 22 the deputy or the deputy and the hearings officer, but the contract is construed to be with the office of the
 23 ~~commissioner~~ attorney general."

24

25 **Section 31.** Section 13-37-113, MCA, is amended to read:

26 **"13-37-113. Hiring of attorneys -- prosecutions.** The ~~commissioner~~ attorney general may hire or retain
 27 attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute
 28 violations of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the powers of a
 29 special attorney general, and the attorney may prosecute, subject to the control and supervision of the
 30 ~~commissioner~~ attorney general and the provisions of 13-35-240, 13-37-124, and 13-37-125, any criminal or civil

1 action arising out of a violation of any provision of chapter 35 ~~of this title~~ or this chapter. All prosecutions must
2 be brought in the state district court for the county in which a violation has occurred or in the district court for
3 Lewis and Clark County. The authority to prosecute as prescribed by this section includes the authority to:

4 (1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal
5 violations of chapter 35 ~~of this title~~ or this chapter;

6 (2) attend and give advice to a grand jury when cases involving criminal violations of chapter 35 ~~of this~~
7 ~~title~~ or this chapter are presented;

8 (3) draw and file indictments, informations, and criminal complaints;

9 (4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or
10 county from persons convicted of violating chapter 35 ~~of this title~~ or this chapter; and

11 (5) do any other act necessary to successfully prosecute a violation of any provision of chapter 35 ~~of this~~
12 ~~title~~ or this chapter."

13

14 **Section 32.** Section 13-37-114, MCA, is amended to read:

15 **"13-37-114. Rules.** (1) The ~~commissioner~~ secretary of state and the attorney general shall adopt rules
16 to carry out the provisions of chapter 35 ~~of this title~~ and this chapter in conformance with the Montana
17 Administrative Procedure Act.

18 (2) The rules adopted by the attorney general must:

19 (a) include the criteria and process used to determine the primary purpose of an incidental committee;

20 and

21 (b) define what constitutes de minimis acts, contributions, or expenditures."

22

23 **Section 33.** Section 13-37-115, MCA, is amended to read:

24 **"13-37-115. Orders of noncompliance.** The ~~commissioner~~ attorney general may issue orders of
25 noncompliance as prescribed by 13-37-121."

26

27 **Section 34.** Section 13-37-117, MCA, is amended to read:

28 **"13-37-117. ~~Commissioner~~ Secretary of state to provide forms, manuals, and election laws.** (1)

29 The ~~commissioner~~ secretary of state shall prescribe forms for reports and other information required to be filed
30 pursuant to chapter 35 and this chapter and provide forms and appropriate information to persons required to file

1 reports and other information.

2 (2) The ~~commissioner~~ secretary of state shall prepare and publish a manual prescribing a uniform
3 system for accounts for use by persons required to file reports pursuant to chapter 35 or this chapter.

4 (3) The ~~commissioner~~ secretary of state shall provide copies of the election laws relating to penalties,
5 campaign practices, campaign finances, and contested elections to candidates and to any other persons required
6 to file reports or other information pursuant to chapter 35 or this chapter.

7 (4) The ~~commissioner~~ secretary of state shall provide copies of forms, manuals, and election laws
8 referred to in this section electronically. Upon request, the ~~commissioner~~ secretary of state shall provide paper
9 copies."
10

11 **Section 35.** Section 13-37-118, MCA, is amended to read:

12 "**13-37-118. Information voluntarily supplied.** The ~~commissioner~~ secretary of state shall accept and
13 file any information voluntarily supplied that exceeds the requirements of chapter 35 ~~of this title~~ or this chapter."
14

15 **Section 36.** Section 13-37-119, MCA, is amended to read:

16 "**13-37-119. Availability of information.** (1) The ~~commissioner~~ secretary of state shall make statements
17 and other information filed with the ~~commissioner's~~ secretary of state's office available for public inspection and
18 copying during regular office hours and make copying facilities available free of charge or at a charge not to
19 exceed the actual cost.

20 (2) The ~~commissioner~~ secretary of state shall preserve statements and other information filed with the
21 ~~commissioner's~~ secretary of state's office for a period of 10 years from the date of receipt.

22 (3) The ~~commissioner~~ secretary of state shall prepare and publish summaries of the statements received
23 and other reports that the ~~commissioner~~ secretary of state considers appropriate.

24 (4) The ~~commissioner~~ secretary of state shall provide for wide public dissemination of summaries and
25 reports."
26

27 **Section 37.** Section 13-37-120, MCA, is amended to read:

28 "**13-37-120. Reports.** The ~~commissioner~~ secretary of state and the attorney general may report as
29 necessary on the matters within ~~the commissioner's jurisdiction~~ their respective jurisdictions that the legislature
30 may prescribe and shall also make recommendations for further legislation that may appear desirable."

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Section 38. Section 13-37-121, MCA, is amended to read:

"13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance. (1) Each statement and report filed with the ~~commissioner~~ secretary of state during an election or within 60 days after the election must be inspected by the attorney general within 20 days after the statement or report is filed. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied the provisions of this chapter, the ~~commissioner~~ attorney general shall immediately notify the person of the noncompliance. Notification by the ~~commissioner~~ attorney general may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the ~~commissioner~~ attorney general shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the ~~commissioner~~ secretary of state does not conform to the requirements of this chapter or that a person has failed to file a statement or report required by law.

(3) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the ~~commissioner~~ attorney general may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) If an order of noncompliance is issued during any period other than that described in subsection (3), a candidate or political committee shall submit the necessary information to the secretary of state within 10 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the ~~commissioner~~ attorney general shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) After a complaint is filed with the ~~commissioner~~ attorney general pursuant to 13-37-111, the procedure described in this section regarding the provision of notice and issuance of orders of noncompliance is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 ~~of this title~~ or this chapter."

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Section 39. Section 13-37-123, MCA, is amended to read:

"13-37-123. Examination of reports after election. Within 120 days after the date of each election, the ~~commissioner~~ attorney general shall examine and compare each statement or report filed with the ~~commissioner~~ secretary of state pursuant to the provisions of this chapter to determine whether the statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the ~~commissioner~~ secretary of state pursuant to the requirements of this chapter. The ~~commissioner~~ attorney general may investigate the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to this chapter or the alleged failure to report any contribution or expenditure required to be reported pursuant to this chapter."

Section 40. Section 13-37-124, MCA, is amended to read:

"13-37-124. Consultation and cooperation with county attorney. (1) Except as provided in 13-35-240, whenever the ~~commissioner~~ attorney general determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under chapter 35 ~~of this title~~ or this chapter, the ~~commissioner~~ attorney general shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving notification of the alleged violation, the ~~commissioner~~ attorney general may then initiate the appropriate legal action.

(2) A county attorney may, at any time prior to the expiration of the 30-day time period specified in subsection (1), waive the right to prosecute, and the waiver authorizes the ~~commissioner~~ attorney general to initiate the appropriate civil or criminal action.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the ~~commissioner~~ attorney general is authorized to directly prosecute any alleged violation of chapter 35 ~~of this title~~ or this chapter.

(4) If a prosecution is undertaken by the ~~commissioner~~ attorney general, all court costs associated with the prosecution must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the ~~commissioner~~ attorney general, except those paid to or imposed by a justice's court, must be deposited in the state general fund."

1 **Section 41.** Section 13-37-126, MCA, is amended to read:

2 **"13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the official
3 ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required
4 by 2-2-106 or this chapter.

5 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not
6 by the same candidate.

7 (3) (a) In carrying out the mandate of this section, the ~~commissioner~~ attorney general shall, by a written
8 statement, notify the secretary of state and the election administrator conducting an election when a candidate
9 or a candidate's treasurer has not complied with 2-2-106 or the provisions of this chapter and that the candidate's
10 name may not appear on the official ballot.

11 (b) The ~~commissioner~~ attorney general shall provide the notification:

12 (i) 2 calendar days before the certification deadline provided in 13-10-208 for statewide primary elections
13 and 20-20-401 for school district elections; and

14 (ii) 7 days before the certification deadline provided in 13-12-201 for general elections."
15

16 **Section 42.** Section 13-37-127, MCA, is amended to read:

17 **"13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election may
18 not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and
19 statements that must be filed with the secretary of state pursuant to the provisions of this chapter. A candidate
20 for an elective office may not assume the powers and duties of that office until the candidate has received a
21 certificate of election as provided by law. A certificate of election may only be issued by the public official
22 responsible for issuing a certificate or commission of election.

23 (2) In carrying out the mandate of this section, the ~~commissioner must~~ attorney general shall, by written
24 statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate
25 or the candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and
26 that a certificate of nomination or election may be issued."
27

28 **Section 43.** Section 13-37-128, MCA, is amended to read:

29 **"13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the
30 reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable

1 in a civil action brought by the ~~commissioner~~ attorney general or a county attorney pursuant to the provisions
2 outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful
3 contributions or expenditures, whichever is greater.

4 (2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228,
5 or this chapter or who violates 13-35-226 is liable in a civil action brought by the ~~commissioner~~ attorney general
6 or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500
7 or three times the amount of the unlawful contribution or expenditure, whichever is greater."
8

9 **Section 44.** Section 13-37-129, MCA, is amended to read:

10 **"13-37-129. Liability and disposition of fines.** In determining the amount of liability under 13-37-128,
11 the court may take into account the seriousness of a violation and the degree of culpability of the defendant. If
12 a judgment is entered against the defendant or defendants in an action brought by a county attorney in a court
13 other than a justice's court, the county shall receive 50% of the amount recovered. The remaining 50% shall be
14 deposited in the general fund of the state. In an action brought by the ~~commissioner~~ attorney general in a court
15 other than a justice's court, the entire amount recovered shall be paid to the general fund of the state."
16

17 **Section 45.** Section 13-37-131, MCA, is amended to read:

18 **"13-37-131. Misrepresentation of voting record.** (1) It is unlawful for a person to misrepresent a
19 candidate's public voting record with knowledge that the assertion is false or with a reckless disregard of whether
20 or not the assertion is false.

21 (2) It is unlawful for a person to misrepresent to a candidate another candidate's public voting record with
22 knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

23 (3) For the purposes of this section, the public voting record of a candidate who was previously a
24 member of the legislature includes a vote of that candidate recorded in committee minutes or in journals of the
25 senate or the house of representatives. Failure of a person to verify a public voting record is evidence of the
26 person's reckless disregard if the statement made by the person or the information provided to the candidate is
27 false.

28 (4) A person violating subsection (1) or (2) is liable in a civil action brought by the ~~commissioner~~ attorney
29 general or county attorney pursuant to 13-37-124 for an amount up to \$1,000. An action pursuant to this section
30 is subject to the provisions of 13-37-129 and 13-37-130."

1

2 **Section 46.** Section 13-37-201, MCA, is amended to read:

3 **"13-37-201. Campaign treasurer.** (1) Except as provided in 13-37-206, each candidate and each
4 political committee shall appoint one campaign treasurer and certify the full name and complete address of the
5 campaign treasurer pursuant to this section.

6 (2) (a) A candidate shall file the certification within 5 days after becoming a candidate.

7 (b) Except as provided in subsection (2)(c), a political committee shall file the certification, which must
8 include an organizational statement and the name and address of all officers, if any, within 5 days after it makes
9 an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first.

10 (c) A political committee that is seeking to place a ballot issue before the electors shall file the
11 certification, including the information required in subsection (2)(b), within 5 days after the issue becomes a ballot
12 issue, as defined in 13-1-101(6)(b).

13 (3) The certification of a candidate or political committee must be filed with the ~~commissioner~~ secretary
14 of state."

15

16 **Section 47.** Section 13-37-216, MCA, is amended to read:

17 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for
18 in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a
19 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as
20 follows:

21 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

22 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for
23 governor and lieutenant governor, not to exceed \$250;

24 (iii) for a candidate for any other public office, not to exceed \$130.

25 (b) A contribution to a candidate includes contributions made to any political committee organized on
26 the candidate's behalf. A political committee that is not independent of the candidate is considered to be
27 organized on the candidate's behalf.

28 (2) All political committees except those of political party organizations are subject to the provisions of
29 subsection (1). Political party organizations may form political committees that are subject to the following
30 aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all political party

1 committees:

2 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

3 (b) for a candidate to be elected for state office in a statewide election, other than the candidates for
4 governor and lieutenant governor, not to exceed \$6,500;

5 (c) for a candidate for public service commissioner, not to exceed \$2,600;

6 (d) for a candidate for the state senate, not to exceed \$1,050;

7 (e) for a candidate for any other public office, not to exceed \$650.

8 (3) (a) The ~~commissioner~~ secretary of state shall adjust the limitations in subsections (1) and (2) by
9 multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of
10 the year prior to the year in which a general election is held by the consumer price index for June 2002.

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

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

13 (ii) \$50 increment for the limits established in subsection (2).

14 (c) The ~~commissioner~~ secretary of state shall publish the revised limitations as a rule.

15 (4) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits
16 in this section.

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

21

22 **Section 48.** Section 13-37-218, MCA, is amended to read:

23 **"13-37-218. Limitations on receipts from political committees.** A candidate for the state senate may
24 receive no more than \$2,150 in total combined monetary contributions from all political committees contributing
25 to the candidate's campaign, and a candidate for the state house of representatives may receive no more than
26 \$1,300 in total combined monetary contributions from all political committees contributing to the candidate's
27 campaign. The limitations in this section must be multiplied by an inflation factor, which is determined by dividing
28 the consumer price index for June of the year prior to the year in which a general election is held by the consumer
29 price index for June 2003. The resulting figure must be rounded up or down to the nearest \$50 increment. The
30 ~~commissioner~~ secretary of state shall publish the revised limitations as a rule. In-kind contributions must be

1 included in computing these limitation totals. The limitation provided in this section does not apply to contributions
2 made by a political party eligible for a primary election under 13-10-601."

3

4 **Section 49.** Section 13-37-225, MCA, is amended to read:

5 **"13-37-225. Reports of contributions and expenditures required.** (1) Except as provided in
6 13-37-206, each candidate and political committee shall file with the ~~commissioner~~ secretary of state periodic
7 reports of contributions and expenditures made by or on the behalf of a candidate or political committee.

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

11 (3) A person who makes an election communication, electioneering communication, or independent
12 expenditure is subject to reporting and disclosure requirements as provided in Title 13, chapters 35 and 37 ~~of this~~
13 ~~title.~~"

14

15 **Section 50.** Section 13-37-226, MCA, is amended to read:

16 **"13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the
17 electors of Montana, statewide ballot issue committees, and political committees that receive a contribution or
18 make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file
19 reports electronically as follows:

20 (a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in
21 which:

22 (i) funds are received or expended during the year or years prior to the election year that the candidate
23 expects to be on the ballot; or

24 (ii) an issue becomes a ballot issue, as defined in 13-1-101(6)(b);

25 (b) on the 1st day of each month from March through November during a year in which an election is
26 held;

27 (c) on the 15th day preceding the date on which an election is held;

28 (d) within 2 business days after receiving a contribution of \$200 or more if received between the 20th
29 day before the election and the day of the election;

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

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

3 (2) Candidates for a state district office, including but not limited to candidates for the legislature, the
4 public service commission, or a district court judge, and political committees that receive contributions or make
5 expenditures to support or oppose a particular state district candidate or issue, unless the political committee is
6 already reporting under the provisions of subsection (1), shall file reports as follows:

7 (a) on the 35th and 12th days preceding the date on which an election is held;

8 (b) within 2 business days after receiving a contribution of \$100 or more if received between the 17th
9 day before the election and the day of the election;

10 (c) not more than 20 days after the date of the election; and

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

13 (3) Candidates for any other public office and political committees that receive contributions or make
14 expenditures to support or oppose a particular local issue shall file the reports specified in subsection (2) only
15 if the total amount of contributions received or the total amount of funds expended for all elections in a campaign,
16 excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

17 (4) Independent and political party committees not required to report under subsection (1) or (2) shall
18 file:

19 (a) a report on the 90th, 35th, and 12th days preceding the date of an election in which they participate
20 by making an expenditure;

21 (b) a report within 2 business days of receiving a contribution of \$500 or more if received between the
22 17th day before the election and the day of the election;

23 (c) a report within 2 business days of making an expenditure of \$500 or more for an electioneering
24 communication if the expenditure is made between the 17th day before the election and the day of the election;

25 (d) a report not more than 20 days after the date of the election in which they participate by making an
26 expenditure; and

27 (e) a report on a date to be prescribed by the ~~commissioner~~ secretary of state for a closing report at the
28 close of each calendar year.

29 (5) An incidental committee not required to report under subsection (1) or (2) shall file a report:

30 (a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making

1 an expenditure;

2 (b) within 2 business days of receiving a contribution as provided in 13-37-232(1) of \$500 or more if
3 received between the 17th day before an election and the day of the election;

4 (c) within 2 business days of making an expenditure of \$500 or more for an electioneering
5 communication if the expenditure is made between the 17th day before the election and the day of the election;

6 (d) not more than 20 days after the date of the election in which it participated; and

7 (e) on a date to be prescribed by the ~~commissioner~~ secretary of state for a closing report at the close
8 of each calendar year.

9 (6) The ~~commissioner~~ secretary of state shall post on the ~~commissioner's~~ secretary of state's website:

10 (a) all reports filed under this section within 7 business days of filing; and

11 (b) for each election the calendar dates that correspond with the filing requirements of subsections (1),
12 (2), (4), and (5).

13 (7) The ~~commissioner~~ secretary of state may require reports filed under this section to be submitted
14 electronically.

15 (8) Except as provided in subsections (1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), all reports required
16 by this section must be complete as of the 5th day before the date of filing as specified in 13-37-228(2) and this
17 section.

18 (9) A political committee may file a closing report prior to the date prescribed by rule or set in
19 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election
20 cycle."

21

22 **Section 51.** Section 13-37-227, MCA, is amended to read:

23 "**13-37-227. Comprehensive report when several candidates or issues involved.** The ~~commissioner~~
24 secretary of state shall adopt rules that will permit political committees, including political parties, to file copies
25 of a single comprehensive report when they support or oppose more than one candidate or issue. The
26 ~~commissioner~~ secretary of state shall adopt rules under which committees filing periodic reports with the federal
27 election commission and committees headquartered outside the state of Montana shall report in accordance with
28 this title."

29

30 **Section 52.** Section 13-37-229, MCA, is amended to read:

1 **"13-37-229. Disclosure requirements for candidates, ballot issue committees, political party**
2 **committees, and independent committees.** (1) The reports required under 13-37-225 through 13-37-227 from
3 candidates, ballot issue committees, political party committees, and independent committees must disclose the
4 following information concerning contributions received:

5 (a) the amount of cash on hand at the beginning of the reporting period;

6 (b) the full name, mailing address, occupation, and employer, if any, of each person who has made
7 aggregate contributions, other than loans, of \$35 or more to a candidate or political committee, including the
8 purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar fundraising events;

9 (c) for each person identified under subsection (1)(b), the aggregate amount of contributions made by
10 that person within the reporting period and the total amount of contributions made by that person for all reporting
11 periods;

12 (d) the total sum of individual contributions made to or for a political committee or candidate and not
13 reported under subsections (1)(b) and (1)(c);

14 (e) the name and address of each political committee or candidate from which the reporting committee
15 or candidate received any transfer of funds, together with the amount and dates of all transfers;

16 (f) each loan from any person during the reporting period, together with the full names, mailing
17 addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of
18 each loan;

19 (g) the amount and nature of debts and obligations owed to a political committee or candidate, in the
20 form prescribed by the ~~commissioner~~ secretary of state;

21 (h) an itemized account of proceeds that total less than \$35 from a person from mass collections made
22 at fundraising events;

23 (i) each contribution, rebate, refund, or other receipt not otherwise listed under subsections (1)(b) through
24 (1)(h) during the reporting period;

25 (j) the total sum of all receipts received by or for the committee or candidate during the reporting period;

26 and

27 (k) other information that may be required by the ~~commissioner~~ secretary of state to fully disclose the
28 sources of funds used to support or oppose candidates or issues.

29 (2) (a) Except as provided in subsection (2)(c), the reports required under 13-37-225 through 13-37-227
30 from candidates, ballot issue committees, political party committees, and independent committees must disclose

1 the following information concerning expenditures made:

2 (i) the full name, mailing address, occupation, and principal place of business, if any, of each person to
3 whom expenditures have been made by the committee or candidate during the reporting period, including the
4 amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

5 (ii) the full name, mailing address, occupation, and principal place of business, if any, of each person to
6 whom an expenditure for personal services, salaries, and reimbursed expenses has been made, including the
7 amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

8 (iii) the total sum of expenditures made by a political committee or candidate during the reporting period;

9 (iv) the name and address of each political committee or candidate to which the reporting committee or
10 candidate made any transfer of funds, together with the amount and dates of all transfers;

11 (v) the name of any person to whom a loan was made during the reporting period, including the full
12 name, mailing address, occupation, and principal place of business, if any, of that person and the full names,
13 mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date
14 and amount of each loan;

15 (vi) the amount and nature of debts and obligations owed by a political committee or candidate in the form
16 prescribed by the ~~commissioner~~ secretary of state; and

17 (vii) other information that may be required by the ~~commissioner~~ secretary of state to fully disclose the
18 disposition of funds used to support or oppose candidates or issues.

19 (b) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that
20 performs services for or on behalf of a candidate or political committee must be itemized and described in
21 sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was
22 made.

23 (c) A candidate is required to report the information specified in this subsection (2) only if the transactions
24 involved were undertaken for the purpose of supporting or opposing a candidate."
25

26 **Section 53.** Section 13-37-231, MCA, is amended to read:

27 **"13-37-231. Reports to be certified as true, complete, and correct.** (1) A report required by this
28 chapter to be filed by a candidate or political committee must be verified as true, complete, and correct by the
29 oath or affirmation of the individual filing the report. The individual filing the report must be the candidate or an
30 officer of a political committee who is on file as an officer of the committee with the ~~commissioner~~ secretary of

1 state.

2 (2) A copy of a report or statement filed by a candidate or political committee must be preserved by the
3 individual filing it for a period coinciding with the term of office for which the person was a candidate or for a
4 period of 4 years, whichever is longer."

5

6 **Section 54.** Section 13-37-232, MCA, is amended to read:

7 **"13-37-232. Disclosure requirements for incidental committees.** (1) The reports required under
8 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning
9 contributions to the committee that are designated by the contributor for a specified candidate, ballot issue, or
10 petition for nomination or that are made by the contributor in response to an appeal by the incidental committee
11 for contributions to support incidental committee election activity, including in-kind expenditures, independent
12 expenditures, election communications, or electioneering communications:

13 (a) the full name, mailing address, occupation, and employer, if any, of each person who has made
14 aggregate contributions during the reporting period for a specified candidate, ballot issue, or petition for
15 nomination of \$35 or more;

16 (b) for each person identified under subsection (1)(a), the aggregate amount of contributions made by
17 that person for all reporting periods;

18 (c) each loan received from any person during the reporting period for a specified candidate, ballot issue,
19 or petition for nomination, together with the full names, mailing addresses, occupations, and employers, if any,
20 of the lender and endorsers, if any, and the date and amount of each loan;

21 (d) the amount and nature of debts and obligations owed to an incidental committee for a specified
22 candidate, ballot issue, or petition for nomination in the form prescribed by the ~~commissioner~~ secretary of state;

23 (e) an account of proceeds that total less than \$35 per person from mass collections made at fundraising
24 events sponsored by the incidental committee for a specified candidate, ballot issue, or petition for nomination;
25 and

26 (f) the total sum of all contributions received by or designated for the incidental committee for a specified
27 candidate, ballot issue, or petition for nomination during the reporting period.

28 (2) The reports required under 13-37-225 through 13-37-227 from incidental committees must disclose
29 the following information concerning expenditures made:

30 (a) the full name, mailing address, occupation, and principal place of business, if any, of each person

1 to whom expenditures have been made during the reporting period, including the amount, date, and purpose of
 2 each expenditure and the total amount of expenditures made to each person;

3 (b) the full name, mailing address, occupation, and principal place of business, if any, of each person
 4 to whom an expenditure for personal services, salaries, and reimbursed expenses has been made during the
 5 reporting period, including the amount, date, and purpose of that expenditure and the total amount of
 6 expenditures made to each person;

7 (c) the total sum of expenditures made during the reporting period;

8 (d) the name and address of each political committee or candidate to which the reporting committee
 9 made any transfer of funds together with the amount and dates of all transfers;

10 (e) the name of any person to whom a loan was made during the reporting period, including the full
 11 name, mailing address, occupation, and principal place of business, if any, of that person, and the full names,
 12 mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date
 13 and amount of each loan;

14 (f) the amount and nature of debts and obligations owed by a political committee in the form prescribed
 15 by the ~~commissioner~~ secretary of state; and

16 (g) other information that may be required by the ~~commissioner~~ secretary of state to fully disclose the
 17 disposition of funds used to make expenditures.

18 (3) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that
 19 performs services for or on behalf of an incidental committee must be itemized and described in sufficient detail
 20 to disclose the specific services performed by the entity to which payment or reimbursement was made.

21 (4) An incidental committee that does not receive contributions for a specified candidate, ballot issue,
 22 or petition for nomination and that does not solicit contributions for incidental committee election activity, including
 23 in-kind expenditures, independent expenditures, election communications, or electioneering communications,
 24 is required to report only its expenditures."
 25

26 **Section 55.** Section 13-37-240, MCA, is amended to read:

27 **"13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the
 28 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.
 29 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the
 30 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide

1 elected or legislative office or for public service commissioner may establish a constituent services account as
 2 provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the
 3 ~~commissioner~~ secretary of state showing the disposition of any surplus campaign funds.

4 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect
 5 benefit of any kind to the candidate or any member of the candidate's immediate family."
 6

7 **Section 56.** Section 13-37-250, MCA, is amended to read:

8 **"13-37-250. Voluntary spending limits.** (1) (a) The following statement may be used in printed matter
 9 and in broadcast advertisements and may appear in the voter information pamphlet prepared by the secretary
 10 of state: "According to the Office of the ~~Commissioner of Political Practices~~ Secretary of State, _____ is in
 11 compliance with the voluntary expenditure limits established under Montana law."

12 (b) The treasurer of each political committee, as defined in 13-1-101, who files a certification on a ballot
 13 issue pursuant to 13-37-201 may also file with the ~~commissioner~~ secretary of state a sworn statement that the
 14 committee will not exceed the voluntary expenditure limits of this section. If a sworn statement is made, it must
 15 be filed with the ~~commissioner~~ secretary of state within 30 days of the certification of the political committee.

16 (c) A political committee that has not filed a sworn statement with the ~~commissioner~~ secretary of state
 17 may not distribute any printed matter or pay for any broadcast claiming to be in compliance with the voluntary
 18 expenditure limits of this section.

19 (d) A political committee may not use evidence of compliance with the voluntary expenditure limits of this
 20 section to imply to the public that the committee has received endorsement or approval by the state of Montana.

21 (2) For the purposes of this section, the expenditures made by a political committee consist of the
 22 aggregate total of the following during the calendar year:

23 (a) all committee loans or expenditures made by check or cash; and

24 (b) the dollar value of all in-kind contributions made or received by the committee.

25 (3) In order to be identified as a political committee in compliance with the voluntary expenditure limits
 26 of this section, the committee's expenditures, as described in subsection (2), may not exceed \$195,000.

27 (4) A political committee that files with the ~~commissioner~~ secretary of state a sworn statement to abide
 28 by the voluntary expenditure limits of this section but that exceeds those limits shall pay a fine of \$6,500 to the
 29 ~~commissioner~~ attorney general. This money must be deposited in a separate fund to be used to support the
 30 enforcement programs of the office of the ~~commissioner~~ attorney general.

1 (5) After July 1, 2004, all limits on voluntary spending in this section must be multiplied by an inflation
2 factor, which is determined by dividing the consumer price index for June of the year prior to the year in which
3 the general election is held by the consumer price index for June 2003. The resulting figure must be rounded up
4 or down to the nearest \$50 increment."

5

6 **Section 57.** Section 13-37-401, MCA, is amended to read:

7 **"13-37-401. Definitions.** As used in 13-37-402 and this section, the following definitions apply:

8 (1) "Constituent services" means travel, mailing, and other expenses incurred to represent and serve
9 constituents and authorized in rules adopted by the ~~commissioner~~ secretary of state to implement the provisions
10 of 13-37-402 and this section.

11 (2) "Personal benefit" has the meaning provided in 13-37-240."

12

13 **Section 58.** Section 13-37-402, MCA, is amended to read:

14 **"13-37-402. Constituent accounts -- reports.** (1) A constituent services account may be established
15 to pay for constituent services by a successful candidate required to report under 13-37-229. A constituent
16 services account may be established by filing an appropriate form with the ~~commissioner~~ secretary of state.

17 (2) (a) A successful candidate may deposit only surplus campaign funds in a constituent services
18 account.

19 (b) The money in the account may be used only for constituent services. The money in the account may
20 not be used for personal benefit. Expenditures from a constituent services account may not be made when the
21 holder of the constituent services account also has an open campaign account.

22 (3) A person described in subsection (1) may not establish any account related to the public official's
23 office other than a constituent services account. This subsection does not prohibit a person from establishing a
24 campaign account.

25 (4) The holder of a constituent services account shall file a quarterly report with the ~~commissioner~~
26 secretary of state, by a date established by the ~~commissioner~~ secretary of state by rule. The report must disclose
27 the source of all money deposited in the account and enumerate expenditures from the account. The report must
28 include the same information as required for a candidate required to report under 13-37-229. The report must be
29 certified as provided in 13-37-231.

30 (5) The holder of a constituent services account shall close the account within 120 days after the account

1 holder leaves public office."

2

3 **Section 59.** Section 13-37-403, MCA, is amended to read:

4 **"13-37-403. Constituent services account -- prior contributions -- donation to charity.** A person
5 who established a constituent services account prior to May 14, 2007, shall donate any money remaining in the
6 account on April 24, 2009, to charity by July 1, 2009, or deposit the money by July 1, 2009, into a constituent
7 services account established after May 14, 2007, and shall close the old account. The holder of a constituent
8 services account subject to this section shall file a report with the ~~commissioner~~ secretary of state describing the
9 disposition of the money subject to this section."

10

11 NEW SECTION. **Section 60. Repealer.** The following sections of the Montana Code Annotated are
12 repealed:

13 2-15-411. Commissioner of political practices.
14 13-37-102. Creation of office -- nomination -- appointment -- removal.
15 13-37-103. Term of office.
16 13-37-104. Vacancy.
17 13-37-105. Impeachment and prosecution of commissioner.
18 13-37-106. Salary.
19 13-37-107. Commissioner of political practices -- qualifications.
20 13-37-108. Commissioner of political practices -- restrictions.
21 13-37-112. Personnel and budget.
22 13-37-116. Exercise of powers.

23

24 NEW SECTION. **Section 61. Transition -- intent.** (1) Except as provided in subsection (2), the
25 provisions of 2-15-131 through 2-15-137 govern the transfer of duties from the commissioner of political practices
26 to the secretary of state and the attorney general.

27 (2) The commissioner of political practices in office on [the effective date of this act] is entitled to rights
28 to vacation pay, sick pay, and leave, rights under any retirement or personnel plan, and rights to compensatory
29 time earned but is not entitled to rights of tenure in office.

30 (3) It is the intent of the legislature that the budget for the office of the commissioner of political practices

1 be shared between the office of the secretary of state and the attorney general.

2

3 NEW SECTION. **Section 62. Effective date.** [This act] is effective July 1, 2017.

4 - END -