

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO ELIMINATING THE
5 OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES; ESTABLISHING A CAMPAIGN PRACTICES
6 AND ETHICS REVIEW BOARD APPOINTED BY THE PRESIDENT OF THE SENATE, THE SPEAKER OF
7 THE HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADERS; TRANSFERRING DUTIES
8 RELATED TO THE FILING OF CERTAIN ETHICS, LOBBYING, AND CAMPAIGN FINANCE REPORTS,
9 STATEMENTS, FORMS, AND OTHER DOCUMENTS TO THE SECRETARY OF STATE; TRANSFERRING
10 INVESTIGATIVE DUTIES FOR ETHICS, LOBBYING, AND CAMPAIGN PRACTICES TO THE SECRETARY
11 OF STATE; TRANSFERRING ENFORCEMENT DUTIES FOR ETHICS, LOBBYING, AND CAMPAIGN
12 PRACTICES COMPLAINTS TO THE CAMPAIGN PRACTICES AND ETHICS REVIEW BOARD, COUNTY
13 ATTORNEYS, AND THE ATTORNEY GENERAL; PROVIDING THAT CAMPAIGN FINANCE VIOLATIONS
14 MUST BE BROUGHT IN THE STATE DISTRICT COURT FOR THE COUNTY IN WHICH A VIOLATION HAS
15 OCCURRED; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-2-104, 2-2-106, 2-2-131,
16 2-2-136, 2-2-140, 2-2-144, 2-2-145, 2-15-401, 5-7-102, 5-7-103, 5-7-108, 5-7-111, 5-7-112, 5-7-201, 5-7-202,
17 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, 13-27-112, 13-27-113,
18 13-35-225, 13-35-226, 13-35-240, 13-35-302, 13-37-101, 13-37-111, 13-37-113, 13-37-114, 13-37-115, 13-37-
19 117, 13-37-118, 13-37-119, 13-37-120, 13-37-121, 13-37-123, 13-37-124, 13-37-126, 13-37-127, 13-37-128,
20 13-37-129, 13-37-131, 13-37-201, 13-37-216, 13-37-218, 13-37-225, 13-37-227, 13-37-229, 13-37-231, 13-37-
21 232, 13-37-240, 13-37-250, 13-37-401, 13-37-402, 13-37-403, 13-37-502, 13-37-602, 13-37-603, 13-37-605,
22 AND 13-37-606, MCA; REPEALING SECTIONS 2-15-411, 13-37-102, 13-37-103, 13-37-104, 13-37-105, 13-
23 37-106, 13-37-107, 13-37-108, 13-37-112, AND 13-37-116, MCA; AND PROVIDING AN EFFECTIVE DATE
24 AND AN APPLICABILITY DATE."

25

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

27

28 NEW SECTION. **Section 1. Campaign practices and ethics review board -- duties.** (1) There is a

1 campaign practices and ethics review board.

2 (2) (a) The board consists of four members appointed as provided in subsection (3). A member of the
3 board serves a term of 6 years.

4 (b) A person who is a candidate for a public office or who is currently serving in a public office,
5 including a legislator, may not be appointed to the board.

6 (3) (a) By July 1 of every sixth year, the president of the senate, the speaker of the house of
7 representatives, and the minority leaders of the senate and the house of representatives shall each appoint one
8 individual to the board.

9 (b) A vacancy on the board must be filled by the same appointing authority as the original
10 appointment. The board may not take action on matters referred to the board while there is a vacancy on the
11 board.

12 (4) A member may be removed by the appointing authority only for incompetence, malfeasance, or
13 neglect of duty. If an individual is removed, the appointing authority shall appoint a replacement as provided in
14 subsection (3)(b).

15 (5) The board shall elect a presiding officer and vice presiding officer and by vote determine its rules
16 of operation. The commission shall meet at the call of the presiding officer, who shall determine meeting times
17 in consultation with the secretary of state.

18 (6) Members of the board serve without compensation but must be paid expenses as provided in 2-
19 18-501 through 2-18-503.

20 (7) The board is attached to the office of the secretary of state for administrative purposes only as
21 provided in 2-15-121.

22

23 **Section 2.** Section 2-2-104, MCA, is amended to read:

24 **"2-2-104. Rules of conduct for public officers, legislators, and public employees.** (1) Proof of
25 commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A
26 public officer, legislator, or public employee may not:

27 (a) disclose or use confidential information acquired in the course of official duties in order to further
28 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
8 received for private services rendered at a rate substantially exceeding the fair market value of the services.
9 Campaign 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
14 employee is absent for the salary paid for performing the function from which the officer, legislator, or employee
15 is absent; 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

1 **Section 3.** Section 2-2-106, MCA, is amended to read:

2 **"2-2-106. Disclosure.** (1) (a) Prior to December 15 of each even-numbered year, each state officer,
 3 holdover senator, supreme court justice, and district court judge shall file with the ~~commissioner of political~~
 4 ~~practices~~ secretary of state a business disclosure statement on a form provided by the ~~commissioner~~ secretary
 5 of state. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection
 6 (1)(a) during the same period.

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

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

13 (2) Except as provided in subsection (4), the statement must provide the following information:

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

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

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

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

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

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

25 (4) An individual required to file a business disclosure statement may certify that the information
 26 required by subsection (2) has not changed from the most recent statement filed by the individual. The
 27 ~~commissioner~~ secretary of state shall provide a certification form.

28 (5) The ~~commissioner of political practices~~ secretary of state shall make the business disclosure

1 statements and certification forms available to any individual upon request."

2

3 **Section 4.** Section 2-2-131, MCA, is amended to read:

4 **"2-2-131. Disclosure.** A public officer or public employee shall, prior to acting in a manner that may
5 impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private
6 interest that creates the conflict. The public officer or public employee shall make the disclosure in writing to the
7 ~~commissioner of political practices~~ secretary of state, listing the amount of private interest, if any, the purpose
8 and duration of the person's services rendered, if any, and the compensation received for the services or other
9 information that is necessary to describe the interest. If the public officer or public employee then performs the
10 official act involved, the officer or employee shall state for the record the fact and summary nature of the
11 interest disclosed at the time of performing the act."

12

13 **Section 5.** Section 2-2-136, MCA, is amended to read:

14 **"2-2-136. Enforcement for state officers, legislators, and state employees -- referral of**
15 **complaint involving county attorney.** (1) (a) A person alleging a violation of this part by a state officer,
16 legislator, or state employee may file a complaint with the ~~commissioner of political practices~~ secretary of state.
17 The ~~commissioner~~ secretary of state does not have jurisdiction for a complaint concerning a legislator if a
18 legislative act is involved in the complaint. The ~~commissioner~~ secretary of state also has jurisdiction over
19 complaints against a county attorney that are referred by a local government review panel pursuant to 2-2-144
20 or filed by a person directly with the ~~commissioner~~ secretary of state pursuant to 2-2-144(6). If a complaint is
21 filed against the ~~commissioner~~ secretary of state or another individual employed in the office of the
22 ~~commissioner~~ secretary of state, the complaint must be resolved in the manner provided for in 13-37-111(5).

23 (b) The ~~commissioner~~ secretary of state may request additional information from the complainant or
24 the person who is the subject of the complaint to make an initial determination of whether the complaint states a
25 potential violation of this part.

26 (c) The ~~commissioner~~ secretary of state may dismiss a complaint that is frivolous, does not state a
27 potential violation of this part, or does not contain sufficient allegations to enable the ~~commissioner~~ secretary of
28 state to determine whether the complaint states a potential violation of this part.

1 (d) When a complaint is filed, the ~~commissioner~~ secretary of state may issue statements or respond
 2 to inquiries to confirm that a complaint has been filed, to identify against whom it has been filed, and to describe
 3 the procedural aspects and status of the case.

4 (2) ~~(a)~~ If the ~~commissioner~~ secretary of state determines that the complaint states a potential
 5 violation of this part, the ~~commissioner~~ secretary of state shall refer the matter to the campaign practices and
 6 ethics review board provided for in [section 1].

7 (3) (a) After receiving a matter referred by the secretary of state, the campaign practices and ethics
 8 review board shall meet and hold an informal contested case hearing on the complaint as provided in Title 2,
 9 chapter 4, part 6. The campaign practices and ethics review board may sit empaneled to hear the case or it
 10 may appoint a hearings examiner as provided in 2-4-611 to hear the case on its behalf. However, if the issues
 11 presented in a complaint have been addressed and decided in a prior decision and the ~~commissioner~~ campaign
 12 practices and ethics review board determines that no additional factual development is necessary, the
 13 ~~commissioner~~ campaign practices and ethics review board may issue a summary decision without holding an
 14 informal contested case hearing on the complaint.

15 (b) Except as provided in 2-3-203, an informal contested case proceeding must be open to the public.
 16 Except as provided in Title 2, chapter 6, part 10, documents submitted to the ~~commissioner~~ secretary of state or
 17 the campaign practices and ethics review board for the informal contested case proceeding are presumed to be
 18 public information.

19 (c) The ~~commissioner~~ campaign practices and ethics review board shall issue a decision based on
 20 the record established before ~~the commissioner~~ it. The decision issued after a hearing is public information
 21 open to inspection.

22 ~~(3)(4)~~ (a) Except as provided in subsection ~~(3)(b)~~ (4)(b), if the ~~commissioner~~ campaign practices and
 23 ethics review board determines that a violation of this part has occurred, the ~~commissioner~~ campaign practices
 24 and ethics review board may impose an administrative penalty of not less than \$50 or more than \$1,000.

25 (b) If the ~~commissioner~~ campaign practices and ethics review board determines that a violation of 2-2-
 26 121(4)(b) has occurred, the ~~commissioner~~ campaign practices and ethics review board may impose an
 27 administrative penalty of not less than \$500 or more than \$10,000.

28 (c) If the violation was committed by a state employee, the ~~commissioner~~ campaign practices and

1 ethics review board may also recommend that the employing state agency discipline the employee. The
 2 employing entity of a state employee may take disciplinary action against an employee for a violation of this
 3 part, regardless of whether the ~~commissioner~~ hearings examiner makes a recommendation for discipline.

4 (d) The ~~commissioner~~ hearings examiner may assess the costs of the proceeding against the person
 5 bringing the charges if the ~~commissioner~~ hearings examiner determines that a violation did not occur or against
 6 the officer or employee if the ~~commissioner~~ hearings examiner determines that a violation did occur.

7 ~~(4)~~(5) A party may seek judicial review of the ~~commissioner's~~ hearing examiner's decision, as
 8 provided in Title 2, chapter 4, part 7, after a hearing, a dismissal, or a summary decision issued pursuant to this
 9 section.

10 ~~(5)~~(6) The ~~commissioner~~ secretary of state and the campaign practices and ethics review board may
 11 adopt rules to carry out ~~the~~ their respective responsibilities and duties assigned by this part."

12

13 **Section 6.** Section 2-2-140, MCA, is amended to read:

14 **"2-2-140. Complaint -- confidentiality.** (1) A complaint filed under this part alleging a violation by an
 15 elected public officer is public information open to inspection.

16 (2) (a) If a complaint is filed under this part alleging a violation by a public employee or an unelected
 17 public officer, the complaint and related documents are confidential and may not be considered open for
 18 inspection.

19 (b) The complainant and the person who is the subject of the complaint shall maintain the
 20 confidentiality of the complaint and any related documents released to the parties by the enforcement officer
 21 until the enforcement officer issues an initial decision as to whether the complaint states a potential violation of
 22 this part.

23 (c) The person who is the subject of a complaint may waive, in writing, the right of confidentiality
 24 provided in this section. If a waiver is filed with the enforcement officer, the complaint and any related
 25 documents are public information open to inspection.

26 (3) If a complaint alleges a violation under this part by more than one person and at least one person
 27 is an elected public officer and at least one person is a public employee or an unelected public officer, the
 28 enforcement officer ~~must~~ shall release the portions of the complaint that relate to the elected public officer as

1 provided by subsection (1) and ~~must~~ shall maintain the confidentiality of the portions of the complaint relating to
 2 the public employee or unelected public officer as provided by subsection (2). A complainant shall likewise
 3 maintain the confidentiality of the complaint and any related documents concerning the public employee or
 4 unelected public officer as provided by subsection (2).

5 (4) For the purposes of this section, the following definitions apply:

6 (a) "Elected" means chosen by vote or acclamation or appointed to a vacancy in an otherwise elected
 7 position.

8 (b) "Enforcement officer" means:

9 (i) ~~the commissioner of political practices~~ secretary of state and the campaign practices and ethics
 10 review board for actions brought under 2-2-136 or 2-2-144(6);

11 (ii) except as provided in subsection (4)(b)(i) or (4)(b)(iii), the county attorney for actions brought under
 12 2-2-144; and

13 (iii) if a local government has established a three-member panel pursuant to 2-2-144(5), the three-
 14 member panel for actions brought under 2-2-144.

15 (c) "Unelected" means appointed to or employed in a position not subject to election."
 16

17 **Section 7.** Section 2-2-144, MCA, is amended to read:

18 **"2-2-144. Enforcement for local government.** (1) Except as provided in subsections (5) and (6), a
 19 person alleging a violation of this part by a local government officer or local government employee shall notify
 20 the county attorney of the county where the local government is located. The county attorney shall request from
 21 the complainant or the person who is the subject of the complaint any information necessary to make a
 22 determination concerning the validity of the complaint.

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

27 (3) If the county attorney declines to bring an action under this section, the person alleging a violation
 28 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

1 an action filed under this subsection, the court may assess the costs and attorney fees against the person
2 bringing the charges if the court determines that a violation did not occur or against the officer or employee if
3 the court determines that a violation did occur. The court may impose sanctions if the court determines that the
4 action was frivolous or intended for harassment.

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

7 (5) (a) A local government may establish a three-member panel to review complaints alleging
8 violations of this part by officers or employees of the local government. The local government shall establish
9 procedures and rules for the panel. The members of the panel may not be officers or employees of the local
10 government. The panel shall review complaints and may refer to the county attorney complaints that appear to
11 be substantiated. If the complaint is against the county attorney, the panel shall refer the matter to the
12 ~~commissioner of political practices~~ secretary of state and the complaint must then be processed by the
13 ~~commissioner~~ secretary of state pursuant to 2-2-136.

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

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

19

20 **Section 8.** Section 2-2-145, MCA, is amended to read:

21 **"2-2-145. Retaliation unlawful -- civil liability -- remedies -- statute of limitations -- definitions.**

22 (1) It is unlawful for a state agency, state officer, public officer, or public employee to retaliate against, or to
23 condone or threaten retaliation against, an individual who, in good faith, alleges waste, fraud, or abuse.

24 (2) A person who violates a provision of this section is liable in a civil action in a court of competent
25 jurisdiction. The provisions of 2-9-305 apply if the person is being sued in a civil action for actions taken within
26 the course and scope of the person's employment and the person is a state officer, public officer, or public
27 employee.

28 (3) For purposes of this section:

- 1 (a) "person" has the meaning provided in 2-5-103;
- 2 (b) "retaliate" means to take any of the following actions against an individual because the individual,
- 3 in good faith, alleged waste, fraud, or abuse:
 - 4 (i) terminate employment;
 - 5 (ii) demote;
 - 6 (iii) deny overtime, benefits, or promotion;
 - 7 (iv) discipline;
 - 8 (v) decline to hire or rehire;
 - 9 (vi) threaten or intimidate;
 - 10 (vii) reassign to a position that hurts future career prospects;
 - 11 (viii) reduce pay, work hours, or benefits; or
 - 12 (ix) take another adverse personnel action; and
- 13 (c) "state agency" has the meaning provided in 1-2-116.
- 14 (4) Remedies available to an aggrieved individual for a violation may include:
 - 15 (a) reinstatement to a lost position;
 - 16 (b) compensation for lost benefits, including service credit;
 - 17 (c) compensation for lost wages;
 - 18 (d) payment of reasonable attorney fees;
 - 19 (e) payment of court costs;
 - 20 (f) injunctive relief; and
 - 21 (g) compensatory damages.
- 22 (5) A lawsuit alleging a violation of this section must be brought within 2 years of the alleged violation.
- 23 (6) If a state agency maintains written internal procedures under which an individual may appeal an
- 24 action described in subsection (3)(b) within the agency's organizational structure, the individual shall first
- 25 exhaust those procedures before filing an action under this section. The individual's failure to initiate or exhaust
- 26 available internal procedures is a defense to an action brought under this section.
- 27 (7) For purposes of this subsection, if the state agency's internal procedures are not completed within
- 28 90 days from the date the individual may file an action under this section, the agency's internal procedures are

1 considered exhausted. The limitation period in subsection (5) is tolled until the procedures are exhausted. The
 2 provisions of the agency's internal procedures may not in any case extend the limitation period in subsection (5)
 3 more than 240 days.

4 (8) If the state agency maintains written internal procedures described in subsection (6), the agency
 5 shall, within 7 days of receiving written notice from the complaining individual of the action described in
 6 subsection (3)(b), notify the individual of the existence of the written procedures and supply the individual with a
 7 copy. If the agency fails to comply with this subsection, the individual is relieved from compliance with
 8 subsection (6).

9 (9) ~~The commissioner of political practices is~~ secretary of state and the campaign practices and ethics
 10 review board are not required or authorized to enforce this section."
 11

12 **Section 9.** Section 2-15-401, MCA, is amended to read:

13 **"2-15-401. Duties of secretary of state -- authority.** (1) In addition to the duties prescribed by the
 14 constitution, the secretary of state shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) Title 5, chapter 7; and

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

19 (2) The secretary of state may:

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

21 (b) adopt rules for the effective administration of the secretary of state's duties relating to the Montana
22 Administrative Procedure Act established in Title 2, chapter 4."

23

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

25 **"5-7-102. Definitions.** The following definitions apply in this chapter:

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

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

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

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

4 (2) "Business" means:

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

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

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

11 ~~(4)(3)~~ "Docket" means the register of lobbyists and principals maintained by the ~~commissioner~~
12 secretary of state pursuant to 5-7-201.

13 ~~(5)(4)~~ "Elected federal official" means a person elected to a federal office, including but not limited to
14 a member of the United States senate or house of representatives. The term includes an individual appointed to
15 fill the unexpired term of an elected federal official and an individual who has been elected to a federal office
16 but who has not yet been sworn in.

17 ~~(6)(5)~~ "Elected local official" means an elected officer of a county, a consolidated government, an
18 incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill
19 the unexpired term of an elected local official and an individual who has been elected to a local office but who
20 has not yet been sworn in.

21 ~~(7)(6)~~ (a) "Elected state official" means an individual holding a state office filled by a statewide vote of
22 all the electors of Montana or a state district office, including but not limited to public service commissioners and
23 district court judges. The term includes an individual appointed to fill the unexpired term of an elected state
24 official and an individual who has been elected to a statewide office but who has not yet been sworn in.

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

26 ~~(8)(7)~~ "Elected tribal official" means an elected member of a tribal council or other elected office filled
27 by a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected
28 tribal official and an individual who has been elected to a tribal office but who has not yet been sworn in.

1 ~~(9)(8)~~ "Individual" means a human being.

2 ~~(10)(9)~~ "Legislator" means an individual holding public office as a representative or a senator in the
3 Montana legislature. The term includes an individual who has been elected to the legislature but who has not
4 yet been sworn in.

5 ~~(11)(10)~~ (a) "Lobbying" means:

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

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

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

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

13 (b) Lobbyist does not include:

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

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

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

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

21 ~~(13)(12)~~ (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering
22 made or to be made of money, property, or anything of value:

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

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

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

- 1 (b) The term does not include payments or reimbursements for:
2 (i) personal and necessary living expenses; or
3 (ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.

4 ~~(44)(13)~~ "Person" means an individual, corporation, association, firm, partnership, state or local
5 government or subdivision of state or local government, or other organization or group of persons.

6 ~~(45)(14)~~ "Principal" means a person who employs a lobbyist or a person required to report pursuant to
7 5-7-208.

8 ~~(46)(15)~~ (a) "Public official" means an elected state official or an appointed state official acting in an
9 official capacity for state government or a legislator.

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

12 ~~(47)(16)~~ "Unprofessional conduct" means:

- 13 (a) violating any of the provisions of this chapter;
14 (b) instigating action by a public official or the legislature for the purpose of obtaining employment;
15 (c) attempting to influence the action of a public official or the legislature on a measure pending or to
16 be proposed by:

17 (i) promising financial support; or

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

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

23

24 **Section 11.** Section 5-7-103, MCA, is amended to read:

25 **"5-7-103. Licenses -- fees -- eligibility -- waiver.** (1) Any adult of good moral character who is
26 otherwise qualified under this chapter may be licensed as a lobbyist. The ~~commissioner~~ secretary of state shall
27 provide a license application form. The application form may be obtained from and must be filed in the office of
28 the ~~commissioner~~ secretary of state. Upon approval of the application and receipt of the license fee by the

1 ~~commissioner~~ secretary of state, a license must be issued that entitles the licensee to practice lobbying on
 2 behalf of one or more enumerated principals. The license fee is \$150 for each lobbyist except as provided in
 3 subsection (5) or unless the fee is waived for hardship reasons under this subsection. Each license expires on
 4 December 31 of each even-numbered year or may be terminated at the request of the lobbyist. A lobbyist who
 5 believes that payment of the license fee may constitute a hardship may apply to the ~~commissioner~~ secretary of
 6 state for a waiver of the fee required by this section. The ~~commissioner~~ secretary of state may waive all or a
 7 portion of the license fee upon proof by the lobbyist that payment of the fee constitutes a hardship.

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

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

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

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

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

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

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

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

22

23 **Section 12.** Section 5-7-108, MCA, is amended to read:

24 **"5-7-108. Inspection of applications and reports -- order of noncompliance -- notification.** (1)

25 Each application and report filed with the ~~commissioner~~ secretary of state must be inspected within 10 days
 26 after it is filed. If a person has not satisfied the provisions of this chapter, the ~~commissioner~~ secretary of state
 27 shall immediately notify the person of the noncompliance.

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

1 (a) it is determined that an application or report filed with the ~~commissioner~~ secretary of state does
 2 not conform to the requirements of this chapter; or

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

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

8

9 **Section 13.** Section 5-7-111, MCA, is amended to read:

10 **"5-7-111. ~~Commissioner~~ Secretary of state to make rules.** (1) The ~~commissioner~~ secretary of state
 11 shall promulgate and publish rules necessary to carry out the provisions of this chapter in conformance with the
 12 Montana Administrative Procedure Act and, in particular, shall provide rules necessary to allocate salary,
 13 expenses, and any other payments between lobbying activities and other activities not connected with lobbying
 14 for any person whose activities are not solely limited to lobbying.

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

17

18 **Section 14.** Section 5-7-112, MCA, is amended to read:

19 **"5-7-112. Payment threshold -- inflation adjustment.** For calendar year 2004, the payment
 20 threshold referred to in 5-7-102, 5-7-103, and 5-7-208 is \$2,150. The ~~commissioner~~ secretary of state shall
 21 adjust the threshold amount following a general election by multiplying the threshold amount valid for the year
 22 in which the general election was held by an inflation factor, adopted by the ~~commissioner~~ secretary of state by
 23 rule. The rule must be written to reflect the annual average change in the consumer price index from the prior
 24 year to the year in which the general election is held. The resulting figure must be rounded up or down to the
 25 nearest \$50 increment. The ~~commissioner~~ secretary of state shall adopt the adjusted amount by rule."

26

27 **Section 15.** Section 5-7-201, MCA, is amended to read:

28 **"5-7-201. Docket -- contents.** The ~~commissioner~~ secretary of state shall make available to the public

1 the information required by this chapter, including but not limited to the name and business address of each
2 lobbyist, the name and business address of the lobbyist's principal, and the subject or subjects to which the
3 employment relates or a statement that the employment relates to all matters in which the principal has an
4 interest. The docket entry for each principal must also indicate the date of receipt of the principal's lobbying
5 reports as required by 5-7-208."

6

7 **Section 16.** Section 5-7-202, MCA, is amended to read:

8 **"5-7-202. Docket -- public record.** ~~Such~~The docket shall be is a public record and is open to the
9 inspection of any individual upon demand at any time during the regular business hours of the office of the
10 ~~commissioner~~ secretary of state."

11

12 **Section 17.** Section 5-7-207, MCA, is amended to read:

13 **"5-7-207. Report to legislature.** Beginning with the first Tuesday following the beginning of any
14 regular or special session of the legislature and on the first Tuesday of every month thereafter during which the
15 legislature is in session, the ~~commissioner~~ secretary of state shall make available from the ~~commissioner's~~
16 secretary of state's records a report to each member of each house of the legislature containing the names of
17 lobbyists registered under this chapter, not previously reported, the names of the principals whom they
18 represent as lobbyists, and the subjects of legislation in which each principal is interested."

19

20 **Section 18.** Section 5-7-208, MCA, is amended to read:

21 **"5-7-208. Principals to file report.** (1) A principal subject to this chapter shall file with the
22 ~~commissioner~~ secretary of state a report of payments made for the purpose of lobbying. A principal is subject to
23 the reporting requirements of this section only if the principal makes total payments for the purpose of lobbying
24 that exceed the amount specified under 5-7-112 during a calendar year.

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

26 (a) by February 15th of any year the legislature is in session and must include all payments made in
27 that calendar year prior to February 1;

28 (b) by the 15th day of the calendar month following a calendar month in which the principal spent

1 \$5,000 or more and must include all payments made during the prior calendar month; and

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

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

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

8 (b) by the 15th day of the calendar month following a calendar month in which the principal spent
9 \$5,000 or more and must include all payments made during the prior calendar month.

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

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

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

14 (i) printing;

15 (ii) advertising, including production costs;

16 (iii) postage;

17 (iv) travel expenses;

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

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

20 (vii) telephone and telegraph; and

21 (viii) other office expenses;

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

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

25 (ii) each separate payment conferring \$100 or more benefit to more than one public official, regardless
26 of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner
27 or other function to which all senators or all representatives have been invited, the beneficiary may be listed as
28 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
2 the period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each
3 payer and 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 19.** Section 5-7-212, MCA, is amended to read:

9 **"5-7-212. Audit of lobbying reports.** (1) The ~~commissioner~~ secretary of state may audit the reports
10 filed under 5-7-208 and shall investigate any irregularities and report any apparent violations of this chapter to
11 the attorneys having authority to prosecute. The lobbyist is required to provide and the principal is required to
12 obtain and keep for a period of 3 years from the date of filing all records supporting the reports filed under 5-7-
13 208.

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

17 (a) subpoena and compel attendance;

18 (b) issue enforceable civil investigative demands;

19 (c) take evidence; and

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

23

24 **Section 20.** Section 5-7-305, MCA, is amended to read:

25 **"5-7-305. Penalties and enforcement.** (1) A person who violates any of the provisions of this chapter
26 is subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the
27 district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter must
28 have the lobbyist's license suspended or revoked according to the discretion of the court. Any public official

1 holding elective office adjudged in violation of the provisions of this chapter is additionally subject to recall
2 under the Montana Recall Act, Title 2, chapter 16, part 6, and the violation constitutes an additional basis for
3 recall to those mentioned in 2-16-603(3).

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

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

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

12 (i) the attorney general, the ~~commissioner~~ secretary of state, or the appropriate county attorney has
13 failed to commence an action within 90 days after notice; and

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

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

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

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

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

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

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

3

4 **Section 21.** Section 5-7-306, MCA, is amended to read:

5 **"5-7-306. Civil penalties for delays in filing -- option for hearing -- suspension of penalty.** (1) In
6 addition to any other penalties or remedies established by this chapter, a person who fails to file a report with
7 the secretary of state within the time required by this chapter is subject to a civil penalty of \$50 for each working
8 day that the report is late until the report is filed or until the penalties reach a maximum of \$2,500 for each late
9 report.

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

12 (3) A person against whom a civil penalty is imposed pursuant to subsection (1) may request, within
13 10 days of receiving a notice of imposition of a civil penalty, a hearing before the ~~commissioner~~ secretary of
14 state. Upon receipt of a timely request, the ~~commissioner~~ secretary of state shall hold an informal contested
15 case hearing as provided in Title 2, chapter 4, part 6. Upon the filing of a timely request for a hearing, the
16 imposition of the daily civil penalty provided for in this section must be suspended until the ~~commissioner~~
17 secretary of state issues a decision. At the hearing, the ~~commissioner~~ secretary of state shall consider any
18 factors or circumstances in mitigation and may reduce or waive the civil penalty.

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

21 **Section 22.** Section 5-13-304, MCA, is amended to read:

22 **"5-13-304. Powers and duties.** The legislative auditor shall:

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

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

28 (3) make a complete written report of each audit. A copy of each report must be furnished to the

1 department of administration, the state agency that was audited, each member of the committee, and the
2 legislative services division.

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

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

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

10 (7) report immediately to the surety upon the bond of an official or employee when an audit discloses
11 a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety
12 from any obligation under the bond.

13 (8) have the authority to audit records of organizations and individuals receiving grants from or on
14 behalf of the state to determine that the grants are administered in accordance with the grant terms and
15 conditions. Whenever a state agency enters into an agreement to grant resources under its control to others,
16 the agency shall obtain the written consent of the grantee to the audit provided for in this subsection."
17

18 **Section 23.** Section 7-4-2611, MCA, is amended to read:

19 **"7-4-2611. Role and duties of county clerk and election administrator.** (1) The county clerk of a
20 county is also clerk of the county commissioners and ex officio recorder. A duty imposed by law upon the
21 officer, whether as county clerk, clerk of the county commissioners, or recorder, must be performed by the
22 county clerk, and any official act performed or certified by the county clerk is as valid and effectual as if
23 performed and certified by the clerk of the county commissioners or the recorder.

24 (2) The county clerk shall:

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

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

28 (c) make full entries of all its resolutions and decisions on all questions concerning the raising of

1 money for and the allowance of accounts against the county;

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

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

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

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

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

10 (i) record all orders levying taxes;

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

13 (k) when a new township is organized or the boundaries of a township are altered, immediately make
14 out and transmit to the secretary of state a certified statement of the names and boundaries of the township
15 organized or altered;

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

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

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

24

25 **Section 24.** Section 13-1-101, MCA, is amended to read:

26 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
27 following definitions apply:

28 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to

1 failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

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

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

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

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

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

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

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

20 (8) "Candidate" means:

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

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

28 (i) solicitation is made;

1 (ii) contribution is received and retained; or

2 (iii) expenditure is made; or

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

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

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

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

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

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

12 (b) The term does not mean services provided without compensation by individuals volunteering a
13 portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by
14 individuals in their private residences for a candidate or other individual.

15 (c) This definition does not apply to Title 13, chapter 37, part 6.

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

19 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not
20 trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant
21 enforcement as a campaign practices violation under Title 13, chapter 37.

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

24 (13) (a) "Election administrator" means, except as provided in subsection (13)(b), the county clerk and
25 recorder or the individual designated by a county governing body to be responsible for all election
26 administration duties, except that with regard to school elections not administered by the county, the term
27 means the school district clerk.

28 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or

1 the individual designated by a county governing body to be responsible for all election administration duties
2 even if the school election is administered by the school district clerk.

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

- 5 (i) a paid advertisement broadcast over radio, television, cable, or satellite;
- 6 (ii) paid placement of content on the internet or other electronic communication network;
- 7 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;
- 8 (iv) a mailing; or
- 9 (v) printed materials.

10 (b) The term does not mean:

- 11 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to
12 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;
- 13 (ii) a communication that does not support or oppose a candidate or ballot issue;
- 14 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
15 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
16 circulation;
- 17 (iv) a communication by any membership organization or corporation to its members, stockholders, or
18 employees; or
- 19 (v) a communication that the ~~commissioner~~ secretary of state determines by rule is not an election
20 communication.

21 (15) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to
22 perform duties as specified by law.

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

- 28 (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
7 circulation 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~~ secretary of state determines by rule is not an
15 electioneering communication.

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

17 (18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or
18 gift 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) The term does not mean:

23 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
24 (9);

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

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

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

3 (c) This definition does not apply to Title 13, chapter 37, part 6.

4 (19) "Federal election" means an election in even-numbered years in which an elector may vote for
5 individuals for the office of president of the United States or for the United States congress.

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

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

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

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

14 (b) For the purpose of this subsection (23), the primary purpose is determined by the ~~commissioner~~
15 secretary of state by rule and includes criteria such as the allocation of budget, staff, or members' activity or the
16 statement of purpose or goal of the person or individuals that form the committee.

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

21 (25) "Independent expenditure" means an expenditure for an election communication to support or
22 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue
23 committee.

24 (26) "Individual" means a human being.

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

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

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

4 (30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-
5 307 for a mail ballot election conducted under Title 13, chapter 19.

6 (31) (a) "Political committee" means a combination of two or more individuals or a person other than
7 an individual who receives a contribution or makes an expenditure:

8 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a
9 petition for nomination;

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

11 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
12 independent expenditure.

13 (b) Political committees include ballot issue committees, incidental committees, independent
14 committees, and political party committees.

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

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

19 (32) "Political party committee" means a political committee formed by a political party organization
20 and includes all county and city central committees.

21 (33) "Political party organization" means a political organization that:

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

23 or

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

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

28 (35) "Polling place election" means an election primarily conducted at polling places rather than by

1 mail under the provisions of Title 13, chapter 19.

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

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

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

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

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

12 (41) "Registrar" means the county election administrator and any regularly appointed deputy or
13 assistant election administrator.

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

15 (43) "School election" has the meaning provided in 20-1-101.

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

18 (45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
19 duties in school elections.

20 (46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is
21 designed to:

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

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

25 (47) "Special election" means an election held on a day other than the day specified for a primary
26 election, general election, or regular school election.

27 (48) "Special purpose district" means an area with special boundaries created as authorized by law for
28 a specialized and limited purpose.

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

3 (50) "Support or oppose", including any variations of the term, means:

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

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

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

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

15 (a) deposited in the ballot box at a polling place;

16 (b) received at the election administrator's office; or

17 (c) returned to a place of deposit.

18 (53) "Voter interface device" means a voting system that:

19 (a) is accessible to electors with disabilities;

20 (b) communicates voting instructions and ballot information to a voter;

21 (c) allows the voter to select and vote for candidates and issues and to verify and change selections;

22 and

23 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's
24 accuracy and that may be manually counted.

25 (54) "Voting system" or "system" means any machine, device, technology, or equipment used to
26 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."
27

28 **Section 25.** Section 13-27-111, MCA, is amended to read:

1 **"13-27-111. Definitions.** As used in 13-27-112, 13-27-113, and this section, unless otherwise
 2 indicated by the context, the following definitions apply:

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

4 ~~(2)~~(1) "Paid signature gatherer" means a signature gatherer who is compensated in money for the
 5 collection of signatures.

6 ~~(3)~~(2) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes
 7 a political committee.

8 ~~(4)~~(3) "Signature gatherer" means an individual who collects signatures on a petition for the purpose
 9 of an initiative, a referendum, or the calling of a constitutional convention."
 10

11 **Section 26.** Section 13-27-112, MCA, is amended to read:

12 **"13-27-112. Required reports -- time and manner of reporting -- exceptions -- penalty.** (1) Except
 13 as provided in this section, a person who employs a paid signature gatherer shall file with the ~~commissioner~~
 14 secretary of state reports containing those matters required by Title 13, chapter 37, part 2, for a political
 15 committee organized to support or oppose a ballot issue or for an independent committee that receives
 16 contributions and makes expenditures in connection with a ballot issue, as applicable. If a person who employs
 17 a paid signature gatherer is required by Title 13, chapter 37, part 2, to file a report pursuant to those provisions,
 18 the person need not file a duplicate report pursuant to this section, but shall report the matter required by
 19 subsection (2) as part of that report. As used in this section, "a person who employs a paid signature gatherer"
 20 means a political party, political committee, or other person seeking to place a ballot issue before the electors
 21 and does not mean an individual who is part of the same signature gathering company, partnership, or other
 22 business organization that directly hires, supervises, and pays an individual who is a signature gatherer.

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

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

28 (4) A person who violates subsection (1) is guilty of a misdemeanor and upon conviction shall be

1 punished as provided by law."

2

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

4 **"13-27-113. Powers and duties of ~~commissioner~~ secretary of state.** (1) The ~~commissioner~~
5 secretary of state has the same powers and duties regarding the regulation of signature gatherers, as provided
6 in 13-27-112 and this section, as the ~~commissioner~~ secretary of state has regarding the control of campaign
7 practices as provided in Title 13, chapter 37, including the investigation of alleged violations of 13-27-112 and
8 the issuance of orders of noncompliance ~~for and prosecution of violations of 13-27-112.~~ Signature gathering
9 regulations are subject to the referral and enforcement procedures provided in 13-37-124 and 13-37-125.

10 (2) The ~~commissioner~~ secretary of state may adopt rules to implement 13-27-112."

11

12 **Section 28.** Section 13-35-225, MCA, is amended to read:

13 **"13-35-225. Election materials not to be anonymous -- notice -- penalty.** (1) All election
14 communications, electioneering communications, and independent expenditures must clearly and
15 conspicuously include the attribution "paid for by" followed by the name and address of the person who made
16 or financed the expenditure for the communication. The attribution must contain:

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

19 (b) for election communications, electioneering communications, or independent expenditures
20 financed by a political committee, the name of the committee, the name of the committee treasurer, deputy
21 treasurer, secretary, vice chairperson, or chairperson, as designated pursuant to 13-37-201(2)(b), and the
22 address of the committee or the named committee officer; and

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

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

28 (3) If a document or other article of advertising is too small for the requirements of subsections (1)

1 and (2) to be conveniently included, the candidate responsible for the material or the person financing the
 2 communication shall file a copy of the article with the ~~commissioner of political practices~~ secretary of state,
 3 together with the required information or statement, at the time of its public distribution.

4 (4) If information required in subsections (1) and (2) is omitted or not printed or if the information
 5 required by subsection (3) is not filed with the ~~commissioner~~ secretary of state, upon discovery of or notification
 6 about the omission, the candidate responsible for the material or the person financing the communication shall:

7 (a) file notification of the omission with the ~~commissioner of political practices~~ secretary of state within
 8 2 business days of the discovery or notification;

9 (b) bring the material into compliance with subsections (1) and (2) or file the information required by
 10 subsection (3) with the ~~commissioner~~ secretary of state; and

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

12 (5) Whenever the ~~commissioner~~ secretary of state receives a complaint alleging any violation of
 13 subsections (1) and (2), the ~~commissioner~~ secretary of state shall as soon as practicable assess the merits of
 14 the complaint.

15 (6) (a) If the ~~commissioner~~ secretary of state determines that the complaint has merit, the
 16 ~~commissioner~~ secretary of state shall notify the complainant and the candidate or political committee of the
 17 ~~commissioner~~ secretary of state's determination. The notice must state that the candidate or political committee
 18 shall bring the material into compliance as required under this section:

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

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

23 (b) When notifying the candidate or campaign committee under subsection (6)(a), the ~~commissioner~~
 24 secretary of state shall include a statement that if the candidate or political committee fails to bring the material
 25 into compliance as required under this section, the candidate or political committee is subject to a civil penalty
 26 pursuant to 13-37-128."

27

28 **Section 29.** Section 13-35-226, MCA, is amended to read:

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

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

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

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

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

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

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

15 (3) A person may not coerce, command, or require a public employee to support or oppose any
 16 political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

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

22 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the
 23 ~~commissioner of political practices or a county attorney~~ pursuant to the procedures provided in 13-37-124 and
 24 13-37-125."

25

26 **Section 30.** Section 13-35-240, MCA, is amended to read:

27 **"13-35-240. Voluntary filing of broadcast campaign materials -- affidavit -- penalty.** (1) (a) A
 28 political committee not organized by or on behalf of a candidate may file with the ~~commissioner of political~~

1 ~~practices~~ secretary of state a copy of a campaign script intended for broadcast advertising.

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

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

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

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

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

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

16 (4) A person filing an affidavit under this section is subject to the penalty for false swearing under 45-
17 7-202, except that the fine may not exceed \$5,000."

18

19 **Section 31.** Section 13-35-302, MCA, is amended to read:

20 **"13-35-302. Candidates to be given opportunity to subscribe to campaign practices code. (1)**

21 The ~~commissioner of political practices~~ secretary of state shall prepare a form that sets forth the code of fair
22 campaign practices provided for in 13-35-301 and a place for a candidate to sign the form and to indicate that
23 the candidate endorses, subscribes to, and pledges to abide by the code.

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

28 (3) Any candidate not required to file with the ~~commissioner~~ secretary of state but wishing to

1 subscribe to the code may obtain the form from the ~~commissioner~~ secretary of state and may sign the form and
2 deliver it to the ~~commissioner~~ secretary of state."

3

4 **Section 32.** Section 13-37-101, MCA, is amended to read:

5 **"13-37-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the
6 following definitions apply:

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

8 ~~(2)~~ (1) "Public office" has the meaning provided in 13-1-101.

9 ~~(3)~~ (2) "Recusal" means disqualification from a matter by reason of prejudice or conflict of interest.

10 (4) ~~(3)~~ "Relative" means a family member who is within the second degree of consanguinity or affinity
11 to the ~~commissioner~~ secretary of state."

12

13 **Section 33.** Section 13-37-111, MCA, is amended to read:

14 **"13-37-111. Investigative powers and duties -- recusal.** (1) ~~Except as provided in 13-35-240 and~~
15 ~~this section, the commissioner~~ The secretary of state is responsible for investigating all of the alleged violations
16 of the election laws contained in chapter 35 of this title or this chapter, for issuing orders of noncompliance, and
17 ~~in conjunction with the county attorneys is responsible for enforcing these~~ for referring potential violations of the
18 election laws for enforcement as provided in 13-37-124.

19 (2) The ~~commissioner~~ secretary of state may:

20 (a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter
21 and shall investigate alleged failures to file any statement or the alleged falsification of any statement filed
22 pursuant to the provisions of chapter 35 of this title or this chapter. Upon the submission of a written complaint
23 by any individual, the ~~commissioner~~ secretary of state shall investigate any other alleged violation of the
24 provisions of chapter 35 of this title, this chapter, or any rule adopted pursuant to chapter 35 of this title or this
25 chapter.

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

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

5 (3) (a) If the commissioner secretary of state determines that considering a matter would give rise to
6 the appearance of impropriety or a conflict of interest, the commissioner secretary of state is recused from
7 participating in the matter.

8 (b) The secretary of state may not participate in a matter that:

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

11 (ii) involves a relative of the secretary of state.

12 (4) The commissioner secretary of state is recused from participating in any decision in which the
13 commissioner secretary of state is accused of violating ~~13-37-108~~ or any other an ethical standard.

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

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

25 (c) If a complaint is filed against the commissioner secretary of state, another employee in the office
26 of the commissioner secretary of state may not provide the commissioner secretary of state with any
27 information or documents concerning a complaint against the commissioner secretary of state beyond that
28 information or those documents normally provided to persons in matters before the commissioner secretary of

1 state.

2 (6) (a) If the ~~commissioner~~ secretary of state is recused pursuant to this section, the ~~commissioner~~
 3 secretary of state shall, except as provided in subsection (5), appoint a deputy, subject to subsection (6)(b).

4 (b) The deputy:

5 (i) may not be an employee of the office of the ~~commissioner~~ secretary of state;

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

7 ~~(iii)~~ with respect to only the specific matter from which the ~~commissioner~~ secretary of state is recused,
 8 has the same authority, duties, and responsibilities as the ~~commissioner~~ secretary of state would have absent
 9 the recusal; and

10 ~~(iv)~~ (iii) may not exercise any powers of the office that are not specifically related to the matter for
 11 which the deputy is appointed.

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

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

21

22 **Section 34.** Section 13-37-113, MCA, is amended to read:

23 "**13-37-113. ~~Hiring of attorneys -- prosecutions~~ Prosecution -- venue.** ~~The commissioner may hire~~
 24 ~~or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to~~
 25 ~~prosecute violations of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the~~
 26 ~~powers of a special attorney general, and the attorney may prosecute, subject to the control and supervision of~~
 27 ~~the commissioner and the provisions of 13-35-240, 13-37-124, and 13-37-125, any criminal or civil action~~
 28 ~~arising out of a violation of any provision of chapter 35 of this title or this chapter. All prosecutions for violations~~

1 of chapter 35 of this title or this chapter must be brought in the state district court for the county in which a
 2 violation has occurred ~~or in the district court for Lewis and Clark County~~. The authority to prosecute violations of
 3 chapter 35 of this title or this chapter by as prescribed by this section a county attorney or the attorney general
 4 includes the authority to:

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

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

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

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

12 (5) do any other act necessary to successfully prosecute a violation of any provision of chapter 35 of
 13 this title or this chapter."
 14

15 **Section 35.** Section 13-37-114, MCA, is amended to read:

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

19 (2) The rules must:

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

21 and

22 (b) define what constitutes de minimis acts, contributions, or expenditures."
 23

24 **Section 36.** Section 13-37-115, MCA, is amended to read:

25 "**13-37-115. Orders of noncompliance.** The ~~commissioner~~ secretary of state may issue orders of
 26 noncompliance as prescribed by 13-37-121."
 27

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

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

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

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

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

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

13

14 **Section 38.** Section 13-37-118, MCA, is amended to read:

15 **"13-37-118. Information voluntarily supplied.** The ~~commissioner~~ secretary of state shall accept and
16 file any information voluntarily supplied that exceeds the requirements of chapter 35 of this title or this chapter."

17

18 **Section 39.** Section 13-37-119, MCA, is amended to read:

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

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

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

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

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Section 40. Section 13-37-120, MCA, is amended to read:

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

Section 41. 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 within 20 days after the statement or report is filed. A statement or report concerning Title 13, chapter 37, part 6, must be inspected within 20 days after filing. 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~~ secretary of state shall immediately notify the person of the noncompliance. Notification by the ~~commissioner~~ secretary of state may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the ~~commissioner~~ secretary of state 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~~ may initiate a civil or criminal action or the secretary of state may refer the matter to the campaign practices and ethics review board pursuant to the procedures outlined in 13-37-124 and 13-37-125.

1 (4) If an order of noncompliance is issued during any period other than that described in subsection
 2 (3), a candidate, political committee, or reporting entity as defined in 13-37-601 shall submit the necessary
 3 information within 10 days after receiving the order of noncompliance. Upon a failure to submit the required
 4 information within the time specified, the appropriate county attorney ~~or the commissioner~~ shall initiate a civil or
 5 criminal action or the secretary of state shall refer the matter to the campaign practices and ethics review board
 6 pursuant to the procedures outlined in 13-37-124 and 13-37-125.

7 (5) After a complaint is filed with the ~~commissioner~~ secretary of state pursuant to 13-37-111, the
 8 procedure described in this section regarding the provision of notice and issuance of orders of noncompliance
 9 is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this
 10 title or this chapter."
 11

12 **Section 42.** Section 13-37-123, MCA, is amended to read:

13 "**13-37-123. Examination of reports after election.** Within 120 days after the date of each election,
 14 the ~~commissioner~~ secretary of state shall examine and compare each statement or report filed with the
 15 ~~commissioner~~ secretary of state pursuant to the provisions of this chapter to determine whether the statement
 16 or report conforms to the provisions of the law. The examination ~~shall~~ must include a comparison of all reports
 17 and statements received by the ~~commissioner~~ secretary of state pursuant to the requirements of this chapter.
 18 The ~~commissioner~~ secretary of state may investigate the source and authenticity of any contribution or
 19 expenditure listed in any report or statement filed pursuant to this chapter or the alleged failure to report any
 20 contribution or expenditure required to be reported pursuant to this chapter."
 21

22 **Section 43.** Section 13-37-124, MCA, is amended to read:

23 "**13-37-124. ~~Consultation and cooperation with~~ Board review -- referral to attorney general or**
 24 **county attorney.** (1) ~~Except as provided in 13-35-240, whenever~~ Whenever the ~~commissioner~~ secretary of
 25 state determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under
 26 chapter 35 of this title or this chapter, the ~~commissioner~~ secretary of state shall ~~notify~~ present the findings of the
 27 investigation to the board.

28 (2) Within 15 business days of receiving a case from the secretary of state, the board shall determine,

1 pursuant to criteria adopted by the board in rule, whether there appears to be sufficient evidence to justify a civil
2 or criminal prosecution of an election or campaign practices violation under chapter 35 of this title or this
3 chapter.

4 (3) If the board cannot reach a decision by majority vote, the case may not be pursued.

5 (4) If the board determines by majority vote that a case may proceed, the secretary of state shall
6 notify the following entity and transmit all information relevant to the alleged violation:

7 (a) the attorney general if the alleged violation was committed by an officer of a statewide office, a
8 candidate for a statewide office, or a county attorney; or

9 (b) the county attorney of the county in which the alleged violation occurred for all other public offices
10 and candidates or ballot campaigns.

11 ~~and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If~~
12 ~~the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving~~
13 ~~notification of the alleged violation, the commissioner may then initiate the appropriate legal action.~~

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

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

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

24

25 **Section 44.** Section 13-37-126, MCA, is amended to read:

26 **"13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the
27 official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as
28 required by 2-2-106 or this chapter.

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

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

8 (b) The ~~commissioner~~ secretary of state shall document and provide the notification:

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

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

13 **Section 45.** Section 13-37-127, MCA, is amended to read:

14 **"13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election may
 15 not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and
 16 statements that must be filed pursuant to the provisions of this chapter. A candidate for an elective office may
 17 not assume the powers and duties of that office until the candidate has received a certificate of election as
 18 provided by law. A certificate of election may only be issued by the public official responsible for issuing a
 19 certificate or commission of election.

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

28 **Section 46.** Section 13-37-128, MCA, is amended to read:

1 **"13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the
 2 reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is
 3 liable in a civil action brought by ~~the commissioner~~ or a county attorney or the attorney general pursuant to the
 4 provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the
 5 unlawful contributions or expenditures, whichever is greater.

6 (2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-
 7 228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the ~~commissioner~~ secretary of
 8 state or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to
 9 \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

10 (3) A person who violates the provisions of 13-37-502 is liable in a civil action brought by the
 11 ~~commissioner~~ secretary of state or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-
 12 37-125 for an amount up to \$500 or three times the amount of the unlawful disbursement, contribution,
 13 expenditure, or promise, whichever is greater."

14

15 **Section 47.** Section 13-37-129, MCA, is amended to read:

16 **"13-37-129. Liability and disposition of fines.** In determining the amount of liability under 13-37-
 17 128, the court may take into account the seriousness of a violation and the degree of culpability of the
 18 defendant. If a judgment is entered against the defendant or defendants in an action brought by a county
 19 attorney in a court other than a justice's court, the county ~~shall~~ must receive 50% of the amount recovered. The
 20 remaining 50% ~~shall~~ must be deposited in the general fund of the state. In an action brought by the
 21 ~~commissioner~~ attorney general in a court other than a justice's court, the entire amount recovered ~~shall~~ must be
 22 paid to the general fund of the state."

23

24 **Section 48.** Section 13-37-131, MCA, is amended to read:

25 **"13-37-131. Misrepresentation of voting record.** (1) It is unlawful for a person to misrepresent a
 26 candidate's public voting record with knowledge that the assertion is false or with a reckless disregard of
 27 whether or not the assertion is false.

28 (2) It is unlawful for a person to misrepresent to a candidate another candidate's public voting record

1 with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

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

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

10

11 **Section 49.** Section 13-37-201, MCA, is amended to read:

12 "**13-37-201. Campaign treasurer.** (1) Except as provided in 13-37-206, each candidate and each
13 political committee shall appoint one campaign treasurer and certify the full name and complete address of the
14 campaign treasurer pursuant to this section.

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

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

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

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

24

25 **Section 50.** Section 13-37-216, MCA, is amended to read:

26 "**13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided
27 for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a
28 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as

1 follows:

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

3 (ii) 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 \$250;

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

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

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

13 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed
14 \$18,000;

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

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

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

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

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

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

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

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

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

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

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

5

6 **Section 51.** Section 13-37-218, MCA, is amended to read:

7 **"13-37-218. Limitations on receipts from political committees.** A candidate for the state senate
 8 may receive no more than \$2,150 in total combined monetary contributions from all political committees
 9 contributing to the candidate's campaign, and a candidate for the state house of representatives may receive no
 10 more than \$1,300 in total combined monetary contributions from all political committees contributing to the
 11 candidate's campaign. The limitations in this section must be multiplied by an inflation factor, which is
 12 determined by dividing the consumer price index for June of the year prior to the year in which a general
 13 election is held by the consumer price index for June 2003. The resulting figure must be rounded up or down to
 14 the nearest \$50 increment. The ~~commissioner~~ secretary of state shall publish the revised limitations as a rule.
 15 In-kind contributions must be included in computing these limitation totals. The limitation provided in this section
 16 does not apply to contributions made by a political party eligible for a primary election under 13-10-601."

17

18 **Section 52.** Section 13-37-225, MCA, is amended to read:

19 **"13-37-225. Reports of contributions and expenditures required -- electronic filing and**
 20 **publication.** (1) (a) Except as provided in 13-37-206, each candidate and political committee shall file with the
 21 ~~commissioner~~ secretary of state periodic electronic reports of contributions and expenditures made by or on the
 22 behalf of a candidate or political committee.

23 (b) The ~~commissioner~~ secretary of state may, for good cause shown in a written application by a
 24 candidate or political committee, grant a waiver to the requirement that reports be filed electronically.

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

26 (a) all reports filed under 13-37-226 within 7 business days of filing; and

27 (b) for each election, the calendar dates that correspond with the filing requirements of 13-37-226.

28 (3) In lieu of all contribution and expenditure reports required by this chapter, the ~~commissioner~~

1 secretary of state shall accept copies of the reports filed by candidates for congress and president of the United
2 States and their political committees pursuant to the requirements of federal law.

3 (4) A person who makes an election communication, electioneering communication, or independent
4 expenditure is subject to reporting and disclosure requirements as provided in chapters 35 and 37 of this title."
5

6 **Section 53.** Section 13-37-227, MCA, is amended to read:

7 **"13-37-227. Comprehensive report when several candidates or issues involved.** The
8 ~~commissioner~~ secretary of state shall adopt rules that will permit political committees, including political parties,
9 to file copies of a single comprehensive report when they support or oppose more than one candidate or issue.
10 The ~~commissioner~~ secretary of state shall adopt rules under which committees filing periodic reports with the
11 federal election commission and committees headquartered outside the state of Montana shall report in
12 accordance with this title."
13

14 **Section 54.** Section 13-37-229, MCA, is amended to read:

15 **"13-37-229. Disclosure requirements for candidates, ballot issue committees, political party**
16 **committees, and independent committees.** (1) The reports required under 13-37-225 through 13-37-227
17 from candidates, ballot issue committees, political party committees, and independent committees must
18 disclose the following information concerning contributions received:

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

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

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

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

- 1 (e) the name and address of each political committee or candidate from which the reporting
- 2 committee or candidate received any transfer of funds, together with the amount and dates of all transfers;
- 3 (f) each loan from any person during the reporting period, together with the full names, mailing
- 4 addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of
- 5 each loan;
- 6 (g) the amount and nature of debts and obligations owed to a political committee or candidate, in the
- 7 form prescribed by the ~~commissioner~~ secretary of state;
- 8 (h) an itemized account of proceeds that total less than \$35 from a person from mass collections
- 9 made at fundraising events;
- 10 (i) each contribution, rebate, refund, or other receipt not otherwise listed under subsections (1)(b)
- 11 through (1)(h) during the reporting period;
- 12 (j) the total sum of all receipts received by or for the committee or candidate during the reporting
- 13 period; and
- 14 (k) other information that may be required by the ~~commissioner~~ secretary of state to fully disclose the
- 15 sources of funds used to support or oppose candidates or issues.
- 16 (2) (a) Except as provided in subsection (2)(c), the reports required under 13-37-225 through 13-37-
- 17 227 from candidates, ballot issue committees, political party committees, and independent committees must
- 18 disclose the following information concerning expenditures made:
 - 19 (i) the full name, mailing address, occupation, and principal place of business, if any, of each person
 - 20 to whom expenditures have been made by the committee or candidate during the reporting period, including the
 - 21 amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;
 - 22 (ii) the full name, mailing address, occupation, and principal place of business, if any, of each person
 - 23 to whom an expenditure for personal services, salaries, and reimbursed expenses has been made, including
 - 24 the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;
 - 25 (iii) the total sum of expenditures made by a political committee or candidate during the reporting
 - 26 period;
 - 27 (iv) the name and address of each political committee or candidate to which the reporting committee or
 - 28 candidate made any transfer of funds, together with the amount and dates of all transfers;

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

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

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

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

13 (c) A candidate is required to report the information specified in this subsection (2) only if the
14 transactions involved were undertaken for the purpose of supporting or opposing a candidate."
15

16 **Section 55.** Section 13-37-231, MCA, is amended to read:

17 **"13-37-231. Reports to be certified as true, complete, and correct.** (1) A report required by this
18 chapter to be filed by a candidate or political committee must be verified as true, complete, and correct by the
19 oath or affirmation of the individual filing the report. The individual filing the report must be the candidate or an
20 officer of a political committee who is on file as an officer of the committee with the ~~commissioner~~ secretary of
21 state.

22 (2) A copy of a report or statement filed by a candidate or political committee must be preserved by
23 the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a
24 period of 4 years, whichever is longer."
25

26 **Section 56.** Section 13-37-232, MCA, is amended to read:

27 **"13-37-232. Disclosure requirements for incidental committees.** (1) The reports required under
28 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning

1 contributions to the committee that are designated by the contributor for a specified candidate, ballot issue, or
2 petition for nomination or that are made by the contributor in response to an appeal by the incidental committee
3 for contributions to support incidental committee election activity, including in-kind expenditures, independent
4 expenditures, election communications, or electioneering communications:

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

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

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

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

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

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

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

22 (a) the full name, mailing address, occupation, and principal place of business, if any, of each person
23 to whom expenditures have been made during the reporting period, including the amount, date, and purpose of
24 each expenditure and the total amount of expenditures made to each person;

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

- 1 (c) the total sum of expenditures made during the reporting period;
- 2 (d) the name and address of each political committee or candidate to which the reporting committee
- 3 made any transfer of funds together with the amount and dates of all transfers;
- 4 (e) the name of any person to whom a loan was made during the reporting period, including the full
- 5 name, mailing address, occupation, and principal place of business, if any, of that person, and the full names,
- 6 mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date
- 7 and amount of each loan;
- 8 (f) the amount and nature of debts and obligations owed by a political committee in the form
- 9 prescribed by the ~~commissioner~~ secretary of state; and
- 10 (g) other information that may be required by the ~~commissioner~~ secretary of state to fully disclose the
- 11 disposition of funds used to make expenditures.
- 12 (3) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person
- 13 that performs services for or on behalf of an incidental committee must be itemized and described in sufficient
- 14 detail to disclose the specific services performed by the entity to which payment or reimbursement was made.
- 15 (4) An incidental committee that does not receive contributions for a specified candidate, ballot issue,
- 16 or petition for nomination and that does not solicit contributions for incidental committee election activity,
- 17 including in-kind expenditures, independent expenditures, election communications, or electioneering
- 18 communications, is required to report only its expenditures."

19

20 **Section 57.** Section 13-37-240, MCA, is amended to read:

21 **"13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the

22 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.

23 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the

24 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide

25 elected or legislative office or for public service commissioner may establish a constituent services account as

26 provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the

27 ~~commissioner~~ secretary of state showing the disposition of any surplus campaign funds.

28 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect

1 benefit of any kind to the candidate or any member of the candidate's immediate family."

2

3 **Section 58.** Section 13-37-250, MCA, is amended to read:

4 **"13-37-250. Voluntary spending limits.** (1) (a) The following statement may be used in printed
5 matter and in broadcast advertisements and may appear in the voter information pamphlet prepared by the
6 secretary of state: "According to the Office of the ~~Commissioner of Political Practices~~ Secretary of State,
7 _____ is in compliance with the voluntary expenditure limits established under Montana law."

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

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

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

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

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

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

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

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

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 59.** 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
10 provisions of 13-37-402 and this section.

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

12

13 **Section 60.** 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
20 may not be used for personal benefit. Expenditures from a constituent services account may not be made when
21 the 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
27 disclose the source of all money deposited in the account and enumerate expenditures from the account. The
28 report must include the same information as required for a candidate required to report under 13-37-229. The

1 report must be certified as provided in 13-37-231.

2 (5) The holder of a constituent services account shall close the account within 120 days after the
3 account holder leaves public office."

4

5 **Section 61.** Section 13-37-403, MCA, is amended to read:

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

12

13 **Section 62.** Section 13-37-502, MCA, is amended to read:

14 **"13-37-502. Prohibition on foreign national interference in election.** (1) It is unlawful for a foreign
15 national, directly or through an intermediary, to make a disbursement for an electioneering communication, a
16 contribution, or an expenditure, or to make an express or implied promise to make a contribution or an
17 expenditure, in connection with any candidate election.

18 (2) It is unlawful for a person to solicit, accept, or receive a contribution, expenditure, or disbursement
19 described in subsection (1) from a foreign national.

20 (3) To the extent that a potential violation of this section also violates 52 U.S.C. 30121 or 11 CFR
21 110.20, investigation and enforcement of the matter must be referred to the federal election commission. ~~The~~
22 ~~commissioner or a~~ A county attorney may not bring an enforcement action regarding the portion of the matter
23 that also violates 52 U.S.C. 30121 or 11 CFR 110.20."

24

25 **Section 63.** Section 13-37-602, MCA, is amended to read:

26 **"13-37-602. Organization statement.** (1) Within 5 days of becoming a reporting entity, the reporting
27 entity shall certify its name and complete address with the ~~commissioner~~ secretary of state.

28 (2) A minor party qualification committee shall include the following additional information in the

1 certification:

- 2 (a) the name and address of the committee's treasurer;
- 3 (b) the name and address of all officers, if any;
- 4 (c) an organizational statement; and
- 5 (d) the name and address of the depository designated for depositing all contributions received and
- 6 disbursing all expenditures made by the minor party qualification committee.

7 (3) Only a bank, credit union, savings and loan association, or building and loan association
8 authorized to transact business in Montana may be designated as a depository under subsection (2)."

9

10 **Section 64.** Section 13-37-603, MCA, is amended to read:

11 **"13-37-603. Reporting entity -- reports required -- exception.** (1) A reporting entity shall keep
12 detailed records of all contributions received and expenditures made by or on behalf of the reporting entity. If
13 the reporting entity is a minor party qualification committee, the treasurer appointed pursuant to 13-37-602 shall
14 keep the records on behalf of the minor party qualification committee.

15 (2) A reporting entity may not knowingly report a contribution in the name of any person other than the
16 person by whom it was actually furnished.

17 (3) A reporting entity shall file periodic reports containing the information required by 13-37-605
18 pursuant to the dates required by 13-37-604.

19 (4) Records kept pursuant to this section must be preserved by the reporting entity for 4 years from
20 the date prescribed in 13-10-601(2)(c) on which the signatures were presented or otherwise would have been
21 presented to the election administrator.

22 (5) The ~~commissioner~~ secretary of state may inspect records or accounts that must be kept pursuant
23 to this part, as long as the inspection is made during reasonable office hours.

24 (6) If a reporting entity is otherwise required to file a report under Title 13, chapter 37, part 2,
25 concerning the same matters required to be reported under this part, the reporting entity may not be required to
26 file a duplicate report or duplicate information but shall file the information in one report."

27

28 **Section 65.** Section 13-37-605, MCA, is amended to read:

1 **"13-37-605. Content of reports.** (1) The periodic reports required by 13-37-603 must contain
2 information concerning contributions received or expenditures made by or on behalf of the reporting entity. The
3 reports must contain the following information:
4 (a) for contributions received:
5 (i) the amount of cash on hand at the beginning of the reporting period;
6 (ii) the full name, mailing address, occupation, and employer, if any, of each person who has made
7 aggregate contributions of \$35 or more;
8 (iii) for each person identified under subsection (1)(a)(ii), the aggregate amount of contributions made
9 by that person within the reporting period and the total amount of contributions made by that person for all
10 reporting periods;
11 (iv) the total sum of individual contributions made by the reporting entity and not reported under
12 subsections (1)(a)(ii) and (1)(a)(iii);
13 (v) the name and address of each person from which the reporting entity received any transfer of
14 funds for the purpose of furthering an effort to qualify a minor party for primary elections using a minor party
15 petition, together with the amount and dates of all transfers;
16 (vi) each loan of funds designated for use or used in furtherance of an effort to qualify a minor party for
17 primary elections using a minor party petition from any person during the reporting period, together with the full
18 names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the
19 date and amount of each loan;
20 (vii) the amount and nature of debts and obligations owed to a reporting entity relating to the reporting
21 entity's effort to qualify a minor party for primary elections using a minor party petition, in the form prescribed by
22 the ~~commissioner~~ secretary of state;
23 (viii) an itemized account of proceeds that total less than \$35 from a person from mass collections
24 made at fundraising events;
25 (ix) each contribution not otherwise listed under subsections (1)(a)(ii) through (1)(a)(viii) during the
26 reporting period;
27 (x) the total sum of all contributions received by or for the reporting entity during the reporting period;
28 and

1 (xi) other information that may be required by the ~~commissioner~~secretary of state to fully disclose the
2 sources of funds used in furtherance of an effort to qualify a minor party for primary elections using a minor
3 party petition;

4 (b) for expenditures made:

5 (i) the full name, mailing address, occupation, and principal place of business, if any, of each person
6 to whom expenditures have been made by the reporting entity during the reporting period, including the
7 amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

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

11 (iii) the total sum of expenditures made by the reporting entity during the reporting period;

12 (iv) the name and address of each person to which the reporting entity made any transfer of funds in
13 furtherance of an effort to qualify a minor party for primary elections using a minor party petition, together with
14 the amount and dates of all transfers;

15 (v) the name of any person to whom a loan was made during the reporting period using funds
16 designated for the purpose of furthering an effort to qualify a minor party for primary elections using a minor
17 party petition, including the full name, mailing address, occupation, and principal place of business, if any, of
18 that person and the full names, mailing addresses, occupations, and principal places of business, if any, of the
19 endorsers, if any, and the date and amount of each loan;

20 (vi) the amount and nature of debts and obligations owed by the reporting entity relating to the
21 reporting entity's effort to qualify a minor party for primary elections using a minor party petition in a form
22 prescribed by the ~~commissioner~~secretary of state; and

23 (vii) other information that may be required by the ~~commissioner~~secretary of state to fully disclose the
24 disposition of funds used in furtherance of an effort to qualify a minor party for primary elections using a minor
25 party petition.

26 (2) Reports of expenditures made to a consultant or other person that performs services for or on
27 behalf of a reporting entity must be itemized and described in sufficient detail to disclose the specific services
28 performed by the entity to which payment or reimbursement was made.

1 (3) Reports required by 13-37-603 must be verified as true, complete, and correct by the oath or
2 affirmation of the individual filing the report."

3

4 **Section 66.** Section 13-37-606, MCA, is amended to read:

5 **"13-37-606. Forms.** The ~~commissioner~~secretary of state shall prescribe reporting forms required for
6 submissions under this part."

7

8 NEW SECTION. **Section 67. Repealer.** The following sections of the Montana Code Annotated are
9 repealed:

- 10 2-15-411. Commissioner of political practices.
- 11 13-37-102. Creation of office -- nomination -- appointment -- removal.
- 12 13-37-103. Term of office.
- 13 13-37-104. Vacancy.
- 14 13-37-105. Impeachment and prosecution of commissioner.
- 15 13-37-106. Salary.
- 16 13-37-107. Commissioner of political practices -- qualifications.
- 17 13-37-108. Commissioner of political practices -- restrictions.
- 18 13-37-112. Personnel and budget.
- 19 13-37-116. Exercise of powers.

20

21 NEW SECTION. **Section 68. Transition.** (1) Within 15 days of [the effective date of this act], the
22 majority and minority leaders of each house of the legislature shall each appoint a board member.

23 (2) Except as provided in subsection (3), the provisions of 2-15-131 through 2-15-137 govern the
24 transfer of duties from the commissioner of political practices to the secretary of state and the attorney general.

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

28 (4) Rules promulgated by the commissioner of political practices must remain in effect until repealed

1 or amended by the secretary of state.

2

3 NEW SECTION. Section 69. Directions to code commissioner. Wherever a reference to the
4 commissioner of political practices appears in legislation enacted by the 2021 legislature, the code
5 commissioner is directed to change it to an appropriate reference to the secretary of state.

6

7 NEW SECTION. Section 70. Codification instruction. [Section 1] is intended to be codified as an
8 integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to [section 1].

9

10 NEW SECTION. Section 71. Saving clause. [This act] does not affect rights and duties that
11 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

12

13 NEW SECTION. Section 72. Effective date. [This act] is effective July 1, 2021.

14

15 NEW SECTION. Section 73. Applicability. The review processes performed by the campaign
16 practices and ethics review board required by [this act] apply to campaign finance complaints or ethics
17 complaints filed for the first time on or after July 1, 2021.

18

- END -