

# **50-State Survey Results: Handling Campaign, Lobbying, and Ethics Complaints**

## **HJR 1: Study of the Office of Commissioner of Political Practices**

For the  
State Administration and Veterans' Affairs Interim Committee

*Prepared by Sheri Scurr, Research Analyst  
Montana Legislative Services Division*

DRAFT - December 10, 2012  
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**Legislative  
Services  
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*REVISED - January 27, 2014*  
*Revisions Noted in Addendum*

### Study purpose

The State Administration and Veterans' Affairs Interim Committee was tasked under HJR 1 passed by the 2013 Legislature to examine:

"(1) the process for selecting a Commissioner of Political Practices;  
(2) the structure, composition, and duties of the Office of Commissioner of Political Practices; and  
(3) the enforcement authority of the Office of Commissioner of Political Practices, including options for ensuring more immediate consequences for violating campaign laws." The study resolution also requested "that the examination include a review of practices in other states, analysis of options, consideration of stakeholder concerns, and the development of recommendations to improve confidence in the integrity, objectivity, and capabilities of the Office of Commissioner of Political Practices."

### Survey

To fulfill the request to examine practices in other states, staff, under the guidance and direction of the Committee, developed a survey that was sent to legislative research contacts in the other 49 states. The survey was divided into three sections: campaigns, lobbying, and ethics. The questions in each section were aimed at determining:

(1) whether the process used to initially handle the stated type of complaint was binding or non-binding;  
(2) the selection process for the commission or official that handled the complaint;  
(3) whether the state's statute required the commission or official to have certain qualifications; and  
(4) how the salary for the commission or official was set.

In 10 states, further questions were asked concerning caseload, staffing, and budget.

The survey was sent November 19, 2013, with instructions to complete as much of the survey as possible before December 1 with the understanding that more complete responses could be provided later. The survey was conducted using a web-based software program called SurveyMonkey.

### Highlights of results

Sixteen states responded as of December 1. Most of the states responding did not complete the entire survey and many provided only basic contact information rather than substantive answers to the survey questions.

The attached tables present the survey findings. It is impossible to draw conclusions about what the majority of other states do because of the limited number of responses so far. However, below are some responses that stand out.

#### Commission or single official

- Idaho indicated that a single official rather than a commission, board, or panel, handles campaign complaints, which would make Idaho the only other state known so far that may be similar to Montana in this respect.

#### Campaign complaints

- Only 3 of the states (AK, CO, OH) hold a quasi-judicial hearing (i.e., a contested case hearing) for both campaign and lobbying complaints. Two of these states also use a quasi-judicial hearing for ethics complaints. The other 9 responding states use a process similar to Montana's that results in an administrative decision without a quasi-judicial hearing.
- Responses concerning whether the decision was binding were incomplete, but 3 states (AR, NE, OR) indicate their administrative decisions (i.e., made without a quasi-judicial hearing) are binding. Texas, however, is similar to Montana in that the administrative decision is not binding.
- New Hampshire indicated that they have no process for handling a campaign (or lobbying) complaint other than referring the complaint directly to the county attorney or prosecutor.

### Lobbying complaints

- Two states (AK and MD) reported they hold a quasi-judicial hearing for lobbying complaints. The other eight respondents reported a decision is issued without a quasi-judicial hearing.
- Of the four states that responded to the question about whether the decision issued was binding, AR and OR reported their administrative decisions were binding, while NE and TX reported their administrative decisions were not binding.

### Ethics complaints

- Six states, AR, CO, CT, OH, OR, and TX issue administrative decisions without a quasi-judicial hearing and the decision is binding in only three of those states (AR, CO, and OR).
- Two states (ME and NE) reported they have no ethics commission or administrative process for handling ethics complaints.

### Appointments

- Only 4 states provided details on how the commission or board members are appointed.
- Of the reporting states, three states (MN, NE, and TX) provide that the governor makes the appointments. The other state, AR, allows officials other than the governor to make appointments.
  - In NE and TX, the appointments are from a list of nominees.
  - In MN, the appointments are not from a list of nominations, but must be confirmed by three-fifths of the members of the state senate and state house.

## ADDENDUM

Revisions as of January 27, 2014  
Based on New or Modified Survey Responses

On December 13, 2014, staff emailed a reminder to each state contact urging the states who had not yet responded or who had responded with incomplete surveys to complete and return the survey by January 1.

Four additional states responded: Hawaii, New Mexico, North Dakota, and South Carolina. One state, Oregon, updated its previous responses.

Staff was able to clarify responses from several states concerning the question of who set the salary of board or commission members handling complaints. The states had responded "other". The explanation of "other" is that board or commission members in these states are not paid a salary, but are entitled to reimbursement for expenses. These state are Arkansas, Hawaii, Oregon, South Carolina, and Texas.

All of the attached tables have been updated with the new or updated information.

To provide the Committee with some additional information on selected states, staff has attached at the end of this document actual statutory language from the following states:

1. Hawaii
2. Idaho
3. New Mexico
4. South Carolina
5. Utah
6. Wyoming

## Tables Attached

### Overview

#### Section 1 - Campaign practices complaints

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Table 1.2 - How appointed

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Table 1.5 - Qualifications of commissioner members

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Table 3.2 - States with administrative decisions

Table 3.3 - States with quasi-judicial hearings

Table 3.4 - Qualifications of commissioner members

Table 3.5 - Caseload and Staffing

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## OVERVIEW OF SURVEY RESULTS

State:	Campaign			Lobbying			Ethics		
	Agency or board/commission decision	Hearing	Binding? Yes or No	Agency or board/commission decision	Hearing	Binding? Yes or No	Agency or board/commission decision	Hearing	Binding? Yes or No
AK		x			x			x	
AR	x		Yes	x		Yes	x		Yes
CO		x	Yes	No reply			x		Yes
CT	x			x			x		
DE						Yes			Yes
*HI	x		No	No reply			No reply		
ID	x			No reply			No reply		
MD	No reply				x	Yes		x	Yes
ME	x			x			No Board of Ethics		
MN	x			x			No reply		
*ND	x		No	x		No	x		No
NE	x		Yes	x		No	No Board of Ethics		
NH	x			x			No reply		
*NM	x		No	x		No	x		No
OH		x		No reply			x		
*SC		x	Yes		x	Yes		x	Yes
*OR		x	Yes		x	Yes		x	Yes
TX	x		No	x		No	x		No
19	11	5	5 yes, 4 no	9	4	5 yes, 4 no	8	4	6 yes, 3 no
MT	x		No	x		No		x	No

### NOTES

\* = new or updated responses (for 2/6/14 report)

#### Campaign:

AR and NE have boards that issue a binding decision without a quasi-judicial hearing.

#### Lobbying:

AR and OR have boards that issue a binding decision without a quasi-judicial hearing.

#### Ethics:

AR, CO, and OR have boards that issue a binding decision without a quasi-judicial hearing.

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

## SECTION 1 - CAMPAIGN PRACTICES - PAGE 1

**TABLE 1.1: Process for Handling Campaign Practices Complaints**

State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No		x			Complaint received, respondent has 15 days to respond. Staff conducts investigation, reports within 30 days. If probable violation, quasi-judicial hearing held by Commission. Provisions for expedited process.
AL	No						
AR	Yes	Yes	x				
CO	Yes	No		x			Quasi-judicial hearing is held before an administrative law judge
CT	No		x				
*HI	No	No				x	<b>Campaign Spending Commission must receive complaint, then determines: (1) to dismiss, (2) investigate, (3) make non-binding preliminary determination, (4) refer complaint to prosecuting attorney. If respondent contests a preliminary finding then there is a quasi-judicial contested case hearing.</b>
DE	No						
ID	Yes	Yes	x				
MD	No						
ME	No	No				x	Commission on Governmental Ethics and Election Practices investigates allegations by an person, or may initiate own investigation. Apparent violations are referred to the AG.
MN	No	Yes	x				
ND	No						
NE	No	Yes	x				
NH	No	No			x		
*NM	No	No	x				<b>Secretary of State is enforcement authority</b>
OH	No	No		x			Ohio Elections Commission holds a hearing, Commission may impose fine, refer matter to appropriate prosecutor, or enter finding of good cause to not impose a fine or refer matter for prosecution.
*OR	Yes	No		x			<b>Ethics Commission staff investigates, if probable violation, quasi-judicial hearing held by Commission, finding is binding NOTE: Sec of State handles election practice violations. Commission handles campaign finance matters.</b>
*SC	No	Yes		x			<b>State Ethics Commission staff investigates, issues finding. Commission considers, may hold quasi-judicial hearing conducted by panel of 3 Commissioners. If decision appealed to court, penalties stayed. AG's office represents Commission.</b>
*ND	No	No			x		
TX	Yes	Yes	x				
Total: 20	5 yes, 15 no	6 yes, 9 no	7	5	2	2	
MT	No	No	x				

\* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014



SECTION 1 - CAMPAIGN PRACTICES - PAGE 2

TABLE 1.2: How is the official, commission, board, or panel appointed?	
State:	Comments
AR	<b>Commission:</b> 5 members, appointed 1 each by Governor, Attorney General, Lieutenant Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate.
*HI	<b>Commission:</b> 5 members appointed by Gov. from 10 nominees submitted by Judicial Council. Not subject to legislative confirmation.
MN	<b>Board:</b> 6 members. Gov. appoints with advice and consent of three-fifths of both the house and senate.
NE	<b>Commission:</b> 9 members, including the Secretary of State. 4 members appointed by the Governor as follows: 1 member from each of two lists submitted by the Legislature. Each list must have 5 names on it 4 members are appointed by the Secretary of State as follows: 1 member from a 5-person list of Democrats 1 member from a 5-person list of Republicans 2 members from the citizenry of the state at large. See Neb. Rev. Stat. sec. 49-14,105.
*OR	<b>Commission:</b> appointed by Gov. - 4 appointments based on recommendations by Republican and Democratic leadership in each house of the Legislative Assembly. 3 appointed at large but must be different parties.
*SC	<b>Commission:</b> 9 members appointed by Gov. based on advice and consent of General Assembly. 7 members must be from the 7 congressional districts, 2 must be from the State at large.
TX	<b>Commission:</b> 8 members, 4 appointed by Gov., 4 appointed by Lt. Gov., from list of at least 10 names submitted by house and 10 names submitted by senate, must be from each political party required to hold a primary for balanced representation from each political party.
MT	<b>Commissioner:</b> appointed by the governor, subject to confirmation by a majority of the senate. A four-member selection committee composed of the speaker of the house, the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the selection committee shall agree upon each nomination.

\*= new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 1 - CAMPAIGN PRACTICES - PAGE 3

<b>TABLE 1.3: Administrative decisions without a quasi-judicial hearing</b>					
<b>State</b>	<b>Is Finding Binding?</b>	<b>Single official</b>	<b>Board/ Commission</b>	<b>Who sets salary?</b>	<b>Certain Qualifications Required?</b>
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
*HI	No		x	Expenses only	No
ID	Yes	x		Statute	No
MN			x	Statute	Yes
NE	No		x	Appointing authority	Yes
*NM	No	x		State Pay Plan	Must be the Secretary of State
*TX	No		x	Expenses only	Yes
Total: 8	2 yes, 4 no	2	6		4 yes, 1 no
MT	No	x		Appointing authority	Yes

<b>TABLE 1.4: Quasi-judicial hearings</b>					
<b>State</b>	<b>Is Finding Binding?</b>	<b>Single official</b>	<b>Board/ Commission</b>	<b>Who sets salary?</b>	<b>Certain Qualifications Required?</b>
AK			x		
CO	Yes		x		
*HI	No		x	Expenses only	No
*OR	Yes		x	Expenses only	No
*SC	Yes		x	Statutory - same as for any other boards created by statute	No
Total: 5	3 yes, 1 no		5		3 no

\* = new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 1 - CAMPAIGN PRACTICES - PAGE 4

Table 1.5: Qualifications - What qualifications are required by statute for official or board/commission member?	
State	Comments
AR	<b>Board:</b> The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
MN	<b>Board:</b> Two members must be former members of the legislature who support different political parties; two members must be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members must support different political parties. No more than three of the members of the board may support the same political party. No member of the board may currently serve as a lobbyist. Minnesota Statutes section 10A.02.
NE	<b>Board:</b> No more than 4 of the 8 appointed members can be from the same political party. Neb. Rev. Stat, secs, 49-14,105 to 49-14,140 govern the commission.
*NM	<b>Single Official: The Secretary of State</b>
TX	<b>Board:</b> A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	<b>Commissioner:</b> Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.

Table 1.6: Caseload and Staffing					
State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
AK					
DE					
ID					
ND					
*NM	Lobbying and Ethics		5	\$ 860,000	data on caseload not readily available for this survey
NV					
RI					
SD					
VT					
WY					

\* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

## SECTION 2 - LOBBYING - PAGE 1

TABLE 2.1: Process for Handling Lobbying Complaints							
State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No	x				Commission investigates claim by any person, if sufficient grounds, investigation ensues. Commission may initiate investigation. Apparent violations referred to AG.
AR	Yes	Yes	x				
CT	No		x				
<b>*HI</b>	<b>No</b>	<b>Yes</b>				<b>x</b>	<b>Ethics Commission conducts initial confidential investigation, issues informal advisory opinion, may make a formal charge, may hold quasi-judicial hearing, case then public record, binding decision.</b>
MD	No	Yes		x			
ME	No	No				x	Commission on Governmental Ethics and Election Practices conducts investigations, may apply penalties prescribed by law. Commission may refer matter to AG.
MN	No	Yes	x				
<b>*ND</b>	<b>No</b>	<b>No</b>			x		
NE	No	Yes	x				
NH	No	No			x		
<b>*NM</b>	<b>No</b>	<b>No</b>	<b>x</b>				<b>Secretary of State is enforcement authority</b>
OH	Yes	Yes				x	Joint Legislative Ethics Committee may investigate complaints. AG also may investigate. If cause of action found, matter referred to prosecuting attorney, who must institute appropriate proceedings.
<b>*OR</b>	<b>No</b>	<b>No</b>		x			<b>Oregon Government Ethics Commission receives, investigates, and adjudicates all lobbyists complaints.</b>
<b>*SC</b>	<b>No</b>	<b>Yes</b>		x			<b>Commission staff investigates, issues probable cause finding. Commission considers, by majority vote, may hold quasi-judicial hearing conducted by a panel of 3 commissioners. Finding is binding, but if appealed to court, penalties stayed. AG's office represents Commission.</b>
TX	Yes	Yes	x				
Total: 15	3 yes, 12 no	8 yes, 6 no	7	3	2	3	
MT	No	No	x				

\* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

## SECTION 2 - LOBBYING - PAGE 2

TABLE 2.2: Administrative decisions					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
AK			x		
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
*DE	Yes		x	Statute	No
*HI	No		x	Expenses only	No
MN			x	Statute	
NE	No		x	Appointing authority	
*NM	No	x		State Pay Plan	Must be the Secretary of State
*TX	No		x	Expenses only	Yes
Total: 9	2 yes, 4 no	1	8		2 yes, 2 no
MT	No	x		Appointing authority	Yes

\* Note: Delaware did not answer previous questions on lobbying, so was not included in Table 2.1.

TABLE 2.3: Quasi-judicial hearings					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*HI	No		x	N/A Expenses only	No
MD	Yes	x		N/A Expenses only	No
*OR	Yes		x	N/A Expenses only	No
*SC	Yes		x	Statutory - same as for any other board created by statute	No

\* = new response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 2 - LOBBYING - PAGE 3

**Table 2.4: Qualifications - What qualifications are required by statute for official or board/commission member?**

State	Comments
AR	<b>Board:</b> The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
*DE	<b>Board:</b> 7 citizens appointed by the Governor for 7 year terms
*NM	<b>Single Official: The Secretary of State</b>
TX	<b>Board:</b> A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	<b>Commissioner:</b> Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.

\*Note: Delaware answered "No" to qualifications, but then filled in the comment block on what qualifications, so is included in this table.

**Table 2.5: Caseload and Staffing**

State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
DE	Ethics	0	2	\$ 188,500	
*NM	Campaign and Ethics		5	\$ 860,000	data on caseload not readily available for this survey

\* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

TABLE 3.1: Process for Handling Lobbying Complaints							
State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No		x			Complaint received. Agency staff conducts investigation, makes report within 30 days. Respondant has 15 days to respond, may request hearing. Commission then holds quasi-judicial hearing. Provisions for expedited handling.
AR	Yes	Yes	x				
CO	No	Yes				x	Colorado constitution created Independent Ethics Commission ("IEC") to hear complaints, issue findings, and assess penalties. May also issue advisory opinions. IEC may dismiss complaints deemed frivolous IEC is required to maintain the confidentiality of complaints dismissed as frivolous.
CT	No	Yes	x				
DE	No	Yes	x				
<b>*HI</b>	<b>No</b>	<b>Yes</b>				<b>x</b>	<b>State Ethics Commission conducts initial confidential investigation, issues informal advisory opinion, may make a formal charge and hold quasi-judicial hearing that renders case public record. Decision is binding.</b>
MD	No	Yes		x			
ME					x		No specific statutory provisions governing ethics or code of conduct violations by Executive Branch.
MN	No					x	General conflict of interest provision (Minn. Stat. 43A.38) that applies to all exec branch employees. No complaint or investigation procedure.
<b>*ND</b>	<b>No</b>	<b>No</b>			<b>x</b>		
NE						x	We do not have any Ethics Board/Commission.
NH	No	No				x	Complaints submitted to Executive Branch Ethics Committee.
<b>*NM</b>	<b>No</b>	<b>No</b>	<b>x</b>				<b>Secretary of State is enforcement authority</b>
OH	No	Yes				x	The appropriate ethics commission investigates complaints received, and, if it finds the complaint is not frivolous, must hold a hearing on the complaint. The commission may refer matters to a prosecutor, dismiss the complaint, or compromise or settle the complaint.
OR	No	No		x			<b>Oregon Government Ethics Commission is responsible for investigating and adjudicating the complaint</b>
<b>*SC</b>	<b>No</b>	<b>Yes</b>		<b>x</b>			<b>State Ethics Commission staff investigates, issues probable cause finding. If Commission agrees by majority vote, quasi-judicial hearing is conducted by panel of 3 commissioners. Finding is binding, but if appealed to court, any penalties are stayed. AG's office represents Commission.</b>
TX	Yes	Yes	x				
Totals:17	2 yes, 13 no	9 yes, 5 no	5	4	2	6	
MT	No	No		x			

\* = new response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 3 -ETHICS - PAGE 2

<b>TABLE 3.2: Administrative decisions</b>					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
DE	Yes		x	Statute	No
*HI	No		x	Expenses only	No
*NM	No	x		State Pay Plan	Must be the Secretary of State
TX	No		x	Other	Yes
Totals: 4	2 yes, 3 no	1	5		3 yes, 1 no
MT	No	x		Appointing authority	Yes

<b>TABLE 3.3: Quasi-judicial hearings</b>					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*HI	No		x	Expenses only	No
MD	Yes		x	Expenses only	
*OR	Yes		x	Expenses only	No
*SC	Yes		x	Statutory - same as for any other board created by statute	No

\* = new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014



SECTION 3 - ETHICS - PAGE 3

**Table 3.4: Qualifications - What qualifications are required by statute for official or board/commission member?**

State	Comments
AR	<b>Board:</b> The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
*DE	<b>Board:</b> 7 citizens appointed by the Governor for 7 year terms
*HI	<b>State Ethics Commission. 5 members. Members must be selected in a manner which assures their independence and impartiality in accordance with Article XIV of the Hawaii State Constitution. The Judicial Council (a state board attached to the Hawaii Supreme Court) nominates two individuals for each vacancy on the Commission. The nominees' names are sent to the Governor, who selects one of the nominees for appointment to the Commission. Senate confirmation is not required.</b>
TX	<b>Board:</b> A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	<b>Commissioner:</b> Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.
<u>Notes:</u>	
*Deleware did not answer the previous question, so was not included in Table 3.2.	
**Connecticut answered "Yes" to qualifications required by statute but did not fill out the comment on what qualifications.	

**Table 3.5: Caseload and Staffing**

State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
DE	Lobbying	26	2	\$ 188,500	Not all decisions are based upon complaints. The Commission also issues advisory opinions at the request of an employee or employer.
*NM	Campaigns and Lobbying		5	\$ 860,000	data on caseload not readily available for this survey

\* = new response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

## STATUTES FROM SELECTED STATES

1. Hawaii
2. Idaho
3. New Mexico
4. South Carolina
5. Utah
6. Wyoming

### 1. Hawaii

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#### B. Campaign Spending Commission

**§11-311 Campaign spending commission established; composition.** (a) There is established a campaign spending commission, which shall be placed within the department of accounting and general services for administrative purposes.

(b) The commission shall consist of five members representing the general public and who are appointed by the governor from a list of ten nominees submitted by the judicial council. A vacancy on the commission shall be filled from the list of nominees or by the reappointment of a commissioner whose term has expired, subject to the limit on length of service imposed by section 26-34. The judicial council shall meet and expeditiously select additional persons for the list of nominees whenever the number of the eligible nominees falls below five. Notwithstanding section 26-34, appointments to the commission shall not be subject to the advice and consent of the senate.

(c) The judicial council may solicit applications for the list of nominees through community organizations and advertisements in any newspaper. [L 2010, c 211, pt of §2]

**§11-312 Terms of office.** The term of each commissioner shall be four years. [L 2010, c 211, pt of §2]

**§11-313 No compensation.** The commissioners shall serve without compensation but shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties. [L 2010, c 211, pt of §2]

**§11-314 Duties of the commission.** The duties of the commission under this part are to:

- (1) Develop and adopt forms required by this part;
- (2) Adopt and publish a manual for all candidates, candidate committees, and noncandidate committees, describing the requirements of this part, including uniform and simple methods of recordkeeping;
- (3) Preserve all reports required by this part for at least ten years from the date of receipt by the commission;
- (4) Permit the inspection, copying, or duplicating of any report required by this part pursuant to rules adopted by the commission under chapter 91;

provided that this paragraph shall not apply to the sale or use of information under section 11-344;

- (5) Ascertain whether any candidate, candidate committee, noncandidate committee, or party has failed to file a report required by this part or has filed a substantially defective or deficient report. The commission shall notify these persons by first class mail that a fine may be assessed for the failure to file or the filing of a substantially defective or deficient report, and the defective or deficient report shall be corrected and explained. All fines collected under this section as authorized by section 11-410 shall be deposited in the general fund of the State;
- (6) Hold public hearings;
  - (7) Investigate and hold hearings for receiving evidence of any violations pursuant to subpart I of this part;
- (8) Adopt rules pursuant to chapter 91;
  - (9) Request the initiation of prosecution for the violation of this part pursuant to section 11-411;
- (10) Administer and monitor the distribution of public funds under this part; (11) Suggest accounting methods for candidates, candidate committees, or noncandidate committees in connection with reports and records required by this part;
  - (12) Employ or contract with, without regard to chapters 76, 78, and 89, persons it finds necessary for the performance of its functions, including a full-time executive director, and to fix their compensation; provided that the commission shall have the authority, at its discretion, to dismiss persons employed by or contracted with the commission;
- (13) Conduct random audits and field investigations, as necessary; and
- (14) File for injunctive relief when indicated. [L 2010, c 211, pt of §2]

**§11-315 Advisory opinions.** The commission may render written advisory opinions upon the request of any candidate, candidate committee, noncandidate committee, or other person or entity subject to this part, as to whether the facts and circumstances of a particular case constitute or will constitute a violation under this part. If no advisory opinion is rendered within ninety days after all information necessary to issue an opinion has been obtained, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation under this part. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the candidate, any candidate committee or noncandidate committee, or other person or entity subject to this part, who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by the requester in the request for an advisory opinion. Nothing in this section shall be construed to allow the commission to issue rules through an advisory opinion. [L 2010, c 211, pt of §2]

**§11-316 Political activities prohibited.** (a) No commissioner or employee of the commission shall participate in any political campaign, including making a

contribution to a candidate, candidate committee, or noncandidate committee, during the commissioner's term of office or employee's term of employment.

(b) Each commissioner and employee of the commission shall retain the right to:

(1) Register and vote in any election;

(2) Participate in the nonpolitical activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(3) Be a member of a political party or other noncandidate political organization and participate in its activities to the extent consistent with law; and

(4) Otherwise participate fully in public affairs, except as prohibited by law, in a manner that does not materially compromise the commissioner's or the employee's efficiency or integrity as a commissioner or employee or the neutrality, efficiency, or integrity of the commission.

(c) Any commissioner or employee of the commission may request an advisory opinion from the state ethics commission to determine whether a particular activity constitutes or would constitute a violation of the code of ethics under part II of chapter 84 or this section. [L 2010, c 211, pt of §2]

**§11-317 Exemptions.** (a) The commission shall be exempt from section 26-35(a)(1), (4), and (5) and shall:

(1) Make direct communications with the governor and legislature;

(2) Make all decisions regarding employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the commission without the approval of the comptroller; and

(3) Purchase all supplies, equipment, or furniture without the approval of the comptroller.

(b) The commission shall follow and be subject to all applicable personnel laws. [L 2010, c 211, pt of §2]

## 2. Idaho

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TITLE 67

1STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 66

ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES --  
LOBBYISTS

**67-6615. Inspection by secretary of state.** The Secretary of State shall inspect each statement filed in his office under this act within two (2) days after the date it is filed. He shall notify a person required to file a statement under this act immediately if:

(a) it appears that the person has failed to file a statement as required by law or that a statement filed by the person does not conform to law; or

(b) a written complaint is filed with the Secretary of State by any registered voter alleging that a statement filed with the Secretary of State does not conform to law or to the truth or that a person has failed to file a statement required by law.

**67-6623. Duties of secretary of state.** The secretary of state is charged with enforcement of the provisions of this act, and in addition to duties otherwise prescribed herein, it shall be his duty: ...

(d) To make investigations with respect to statements filed under the provisions of this act, and with respect to alleged failures to file any statement required under the provisions of this act, and upon complaint by any person with respect to alleged violations of any part of this act;

(e) To report suspected violations of law to the appropriate law enforcement authorities; ...

### 3. New Mexico

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#### **1-19-34.6. Civil penalties. (1995)**

1A. If the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the Campaign Reporting Act [[1-19-25](#) to [1-19-36](#) NMSA 1978], the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.

B. The attorney general or district attorney may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. The attorney general or district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of fifty dollars (\$50.00) for each violation not to exceed five thousand dollars (\$5,000).

History: Laws 1995, ch. 153, § 19.

#### **1-19-36. Penalties; criminal enforcement. (1995)**

1A. Any person who knowingly and willfully violates any provision of the Campaign Reporting Act [[1-19-25](#) to [1-19-36](#) NMSA 1978] is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.

B. The Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides, where a political committee has its principal place of business or where the violation occurred.

History: 1978 Comp., § 1-19-36, enacted by Laws 1979, ch. 360, § 12; 1993, ch. 46, § 17; 1995, ch. 153, § 17.

## 4. South Carolina

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### ARTICLE 3.

#### STATE ETHICS COMMISSION

**SECTION 8-13-310. State Ethics Commission reconstituted; members; terms of office; officers; quorum requirements; meetings; per diem, mileage, and subsistence for members.**

(A) The State Ethics Commission as constituted under law in effect before July 1, 1992, is reconstituted to continue in existence with the appointment and qualification of the at-large members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to "this chapter" in Article 3 of Chapter 13 of Title 8 to "this chapter and Chapter 17 of Title 2".

(B) There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large. No member of the General Assembly or other public official must be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.

(C) The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission serving on this chapter's effective date may continue to serve until the expiration of their terms. These members may then be appointed to serve one full five-year term under the provisions of this chapter. Members representing the first, third, and sixth congressional districts on this chapter's effective date are eligible to be appointed for a full five-year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter's effective date are eligible to be appointed for a full five-year term in or after 1993. The initial appointments for the at-large members of the commission created by this chapter must be for a one-, two-, or three-year term, but these at-large members are eligible subsequently for a full five-year term. Under this section, the at-large members of the commission are to be appointed to begin service on or after July 1, 1992. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five-year term are not eligible for reappointment.

(D) The commission shall elect a chairman, a vice-chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2012 Act No. 279, Section 5, eff June 26, 2012.

### **SECTION 8-13-320. Duties and powers of State Ethics Commission.**

The State Ethics Commission has these duties and powers:

(1) to prescribe forms for statements required to be filed by this chapter and to furnish these forms to persons required to file them;

(2) to prepare and publish a manual setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter;

(3) to accept and file information voluntarily supplied that exceeds the requirements of this chapter;

(4) to develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter;

(5) to make the notices of registration and reports filed available for public inspection and copying as soon as may be practicable after receipt of them and to permit copying of a report or statement by hand or by duplicating machine, as requested by a person, at the expense of the person;

(6) to preserve the originals or copies of notices and reports for four years from date of receipt;

(7) to ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and promptly to notify the person to file the necessary notices and reports to satisfy the requirements of this chapter or regulations promulgated by the commission under this chapter;

(8) to request the Attorney General, in the name of the commission, to initiate, prosecute, defend, or appear in a civil or criminal action for the purpose of enforcing the provisions of this chapter, including a civil proceeding for injunctive relief and presentation to a grand jury;

(9) to initiate or receive complaints and make investigations, as provided in item (10), of statements filed or allegedly failed to be filed under the provisions of this chapter and Chapter 17 of Title 2 and, upon complaint by an individual, of an alleged violation of this chapter or Chapter 17 of Title 2 by a public official, public member, or public employee except members or staff, including staff elected to serve as officers of or candidates for the General Assembly unless otherwise provided for under House or Senate rules. Any person charged with a violation of this chapter or Chapter 17 of Title 2 is entitled to the administrative hearing process contained in this section.

(a) The commission may commence an investigation on the filing of a complaint by an individual or by the commission, as provided in item (10)(d), upon a majority vote of the total membership of the commission.

(b)(1) No complaint may be accepted by the commission concerning a candidate for elective office during the fifty-day period before an election in which he is a candidate. During this fifty-day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty-day period must be considered to be an



irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorneys fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:

(i) petition is being presented for an improper purpose such as harassment or to cause delay;

(ii) claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(iii) allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.

(2) Action on a complaint filed against a candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the commission at least thirty days before the election must be postponed until after the election.

(c) If an alleged violation is found to be groundless by the commission, the entire matter must be stricken from public record. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this item, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice.

(d) Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. The Attorney General may initiate an action to recover a fee, compensation, gift, or profit received by a person as a result of a violation of the chapter no later than one year after a determination by the commission that a violation of this chapter has occurred;

(10) to conduct its investigations, inquiries, and hearings in this manner:

(a) The commission shall accept from an individual, whether personally or on behalf of an organization or governmental body, a verified complaint, in writing, that states the name of a person alleged to have committed a violation of this chapter and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint.

(b) If the commission or its executive director determines that the complaint does not allege facts sufficient to constitute a violation, the commission must dismiss the complaint and notify the complainant and respondent. The entire matter must be stricken from public record unless the respondent, by written authorization to the State Ethics Commission, waives the confidentiality of the existence of the complaint and authorizes the release of information about the disposition of the complaint.

(c) If the commission or its executive director determines that the complaint alleges facts sufficient to constitute a violation, an investigation may be conducted of the alleged violation.

(d) If the commission, upon the receipt of any information, finds probable cause to believe that a violation of the chapter has occurred, it may, upon its own motion and an affirmative vote of the majority of the total membership of the commission, file a verified complaint, in writing, that states the name of the person alleged to have committed a violation of this chapter and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint.

(e) If the commission determines that assistance is needed in conducting an investigation, the commission shall request the assistance of appropriate agencies.

(f) The commission may order testimony to be taken in any investigation or hearing by deposition before a person who is designated by the commission and has the power to administer oaths and, in these instances, to compel testimony. The commission may administer oaths and affirmation for the testimony of witnesses and issue subpoenas by approval of the chairman, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency's investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before a commission panel or the commission for an order quashing a subpoena issued under this section.

(g) All investigations, inquiries, hearings, and accompanying documents must remain confidential until a finding of probable cause or dismissal unless the respondent waives the right to confidentiality. The wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.

(h) The commission must afford a public official, public member, public employee, lobbyist, or lobbyist's principal who is the subject of a complaint the opportunity to be heard on the alleged violation under oath, the opportunity to offer information, and the appropriate due process rights including, but not limited to, the right to counsel. The commission, in its discretion, may turn over to the Attorney General for prosecution apparent evidence of a violation of the chapter.

(i) At the conclusion of its investigation, the commission staff, in a preliminary written decision with findings of fact and conclusions of law, must make a recommendation whether probable cause exists to believe that a violation of this chapter has occurred. If the commission determines that probable cause does not exist, it shall send a written decision with findings of fact and conclusions of law to the respondent and the complainant. If the commission determines that there is probable cause to believe that a violation has been committed, its preliminary decision may contain an order setting forth a date for a hearing before a panel of three commissioners, selected at random, to determine whether a violation of the chapter has occurred. If the commission finds probable cause to believe that a violation of this chapter has occurred, the commission may waive further proceedings if the respondent takes action to remedy or correct the alleged violation.

(j) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the commission's possession relating to the charges. The same discovery techniques which are available to the commission must be equally available to the respondent, including the right to request the commission to subpoena witnesses or materials and the right to conduct depositions as prescribed by subitem (f). A panel of three commissioners must

conduct a hearing in accordance with Chapter 23 of Title 1 (Administrative Procedures Act), except as otherwise expressly provided. Panel action requires the participation of the three panel members. During a commission panel hearing conducted to determine whether a violation of the chapter has occurred, the respondent must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. All evidence, including records the commission considers, must be offered fully and made a part of the record in the proceedings. The hearings must be held in executive session unless the respondent requests an open hearing.

(k) No later than sixty days after the conclusion of a hearing to determine whether a violation of the chapter has occurred, the commission panel must set forth its determination in a written decision with findings of fact and conclusions of law. The commission panel, where appropriate, shall recommend disciplinary or administrative action, or in the case of an alleged criminal violation, refer the matter to the Attorney General for appropriate action. The Attorney General may seek injunctive relief or may take other appropriate action as necessary. In the case of a public employee, the commission panel shall file a report to the administrative department executive responsible for the activities of the employee. If the complaint is filed against an administrative department executive, the commission panel shall refer the case to the Governor.

(l) The written decision as provided for in subitem (k) may set forth an order:

- (i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each violation;
- (ii) requiring the forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of the chapter, voiding nonlegislative state action obtained in violation of the chapter; or
- (iii) requiring a combination of subitems (i) and (ii) above, as necessary and appropriate.

(m) Within ten days after service of an order, report, or recommendation, a respondent may apply to the commission for a full commission review of the decision made by the commission panel. The review must be made on the record established in the panel hearings. This review is the final disposition of the complaint before the commission. An appeal to the court of appeals, pursuant to Section 1-23-380 and as provided in the South Carolina Appellate Court Rules, stays all actions and recommendations of the commission unless otherwise determined by the court.

(n) A fine imposed by the commission, disciplinary action taken by an appropriate authority, or a determination not to take disciplinary action made by an appropriate authority is public record. This section does not limit the power of either chamber of the General Assembly to impeach a public official or limit the power of a department to discipline its own officials or employees. This section does not preclude prosecution of public officials, public members, or public employees for violation of any law of this State.

(o) All actions taken by the commission on complaints, except on alleged violations which are found to be groundless by the commission, are a matter of public record upon final disposition;

(11) to issue, upon request from persons covered by this chapter, and publish advisory opinions on the requirements of this chapter, based on real or hypothetical sets of circumstances; provided, that an opinion rendered by the commission, until amended or revoked,

is binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. Advisory opinions must be in writing and are considered rendered when approved by five or more commission members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the commission, by majority vote of the total membership of the commission, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request;

(12) to promulgate and publish rules and regulations to carry out the provisions of this chapter. Provided, that with respect to complaints, investigations, and hearings the rights of due process as expressed in the Rules Governing the Practice of Law must be followed;

(13) on and after July 1, 1993, to administer Chapter 17 of Title 2 by use of the duties and powers listed in this section;

(14) to file, in the court of common pleas of the county in which the respondent of a complaint resides, a certified copy of an order or decision of the commission, whereupon the court must render judgment in accordance with the order or decision without charge to the commission and must notify the respondent of the judgment imposed. The judgment has the same effect as though it had been rendered in a case duly heard and determined by the court.

## 5. Utah

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### 20A-11-403. Failure to file -- Penalties.

(1) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

- (a) each officeholder that is required to file a summary report has filed one; and
- (b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (3)(a).

(4) Within 30 days after a deadline for the filing of an interim report by an officeholder under Subsection 20A-11-204(1)(c), 20A-11-303(1)(c), or 20A-11-1303(1)(c), the lieutenant governor shall review each filed interim report to ensure that each interim report contains the information required for the report.

(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any

interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005;  
and

(b) within five days after the day on which the violation is discovered or a written complaint is received, notify the officeholder of the violation or written complaint and direct the officeholder to file an interim report correcting the problem.

(6) (a) It is unlawful for any officeholder to fail to file or amend an interim report within seven days after the day on which the officeholder receives notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (6)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (6)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (6)(a).

### **20A-11-603. Criminal penalties -- Fines.**

(1) (a) Each political action committee that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each political action committee that fails to file the financial statement due before the regular primary election, on August 31, before the municipal general election, or before the regular general election is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one;  
and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any

statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political action committee that violates Subsection (4)(a).

## 6. Wyoming

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### **§ 22-25-108. Failure of candidate or committee to file statement. [Effective until January 1, 2015]**

(a) Candidates shall be given notice prior to an election that failure to file, within the time required, a full and complete itemized statement of receipts and a statement of receipts and expenditures shall subject the candidate to civil penalties as provided in subsection (e) of this section.

(b) A candidate who fails to file the statement of receipts required by the seventh day before the election shall have his name printed on a list drafted by the appropriate filing office specified under W.S. 22-25-107. The list shall immediately be posted in the filing office and made available to the public.

(c) In addition to any other penalty provided by law, a candidate who fails to file the statement required by W.S. 22-25-106 within thirty (30) days of the report due date is ineligible to run as a candidate for any state or local office for which a statement is required by W.S. 22-25-106 until:

(i) Five (5) years have elapsed from the date the statement was first due; or

(ii) The person has filed the required statement.

(d) Each political action committee shall be given notice prior to an election that failure to file the statement may result in the filing of criminal charges against the committee's officers responsible for the filing. Any officer of a political action committee who is responsible for filing a report and who knowingly and willfully fails to file a report as required or who knowingly and willfully subscribes to, makes or causes to be made a false report is guilty of a felony punishable by imprisonment not to exceed two (2) years.

(e) Any candidate failing to file the reports required by W.S. 22-25-106 within the times required by that section is subject to a civil penalty and costs, including reasonable attorney's fees not to exceed five hundred dollars (\$ 500.00), as hereinafter provided. An action to impose a civil penalty may be prosecuted by and in the name of any candidate adversely affected by the violation, any political party, any district attorney or the attorney general. No filing fee shall be charged for the filing of an action under this subsection nor shall a fee be charged for service of process. Civil penalties shall be paid to the clerk of court for deposit to the public school fund of the county in which the fine was assessed. The civil penalty imposed under this subsection shall be not more than one thousand dollars (\$ 1,000.00).

### **§ 22-25-109. Reporting candidates in violation.**

The secretary of state and the county clerks shall report the names of all candidates in violation of the Election Code of the state of Wyoming to the attorney general or to the district attorney, respectively, for appropriate action.