

2017 Montana Legislature

[Additional Bill Links](#) [PDF \(with line numbers\)](#)

SENATE BILL NO. 368

INTRODUCED BY T. RICHMOND, D. ANKNEY, D. BROWN, D. KARY, D. SANDS, J. SESSO, F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN PRACTICES LAWS; REVISING THE DEFINITION OF "EXPENDITURE"; INCREASING FILING FEES FOR LEGISLATIVE CANDIDATES; REVISING PROCEDURES USED BY THE COMMISSIONER TO ISSUE ORDERS OF NONCOMPLIANCE; REVISING LAWS RELATED TO INVESTIGATION OF CAMPAIGN PRACTICES AND ELECTION-RELATED COMPLAINTS; CREATING AN APPEAL PROCEDURE FOR A CANDIDATE, POLITICAL COMMITTEE, OR RESPONDENT TO APPEAL CERTAIN COMPLAINTS OR PRELIMINARY ORDERS OF NONCOMPLIANCE THAT ARE FILED OR ISSUED DURING CERTAIN TIME PERIODS; REVISING LIMITATIONS ON CAMPAIGN CONTRIBUTIONS; PROVIDING THAT THE COMMISSIONER MAY NOT INITIATE A CRIMINAL ACTION AGAINST A CANDIDATE FOR CERTAIN VIOLATIONS; REVISING THE AGGREGATE CONTRIBUTION AMOUNT THAT TRIGGERS DISCLOSURE OF CERTAIN CONTRIBUTOR INFORMATION; AND AMENDING SECTIONS 13-1-101, 13-10-202, 13-37-113, 13-37-115, 13-37-121, 13-37-124, 13-37-128, 13-37-206, 13-37-216, 13-37-218, 13-37-229, AND 13-37-232, MCA."

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

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

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

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

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

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

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

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

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

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

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

(8) "Candidate" means:

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

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

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

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

(9) (a) "Contribution" means:

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

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

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

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

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

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

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

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

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

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

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

(b) The term does not mean:

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

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

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

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

(v) a communication that the commissioner determines by rule is not an election communication.

(15) "Election cycle" means the primary election and the general election held to fill an office.

~~(15)~~(16) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

- (i) refers to one or more clearly identified candidates in that election;
- (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or
- (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

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

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

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

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

(v) a communication that the commissioner determines by rule is not an 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 gift of money or anything of value:

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

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

(b) ~~"Expenditure"~~ The term does not mean:

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

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

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of

any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; ~~or~~

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

(v) the use by a candidate of yard signs, brochures, cards, bumper stickers, or other campaign materials from a previous campaign IF THE MATERIALS ARE PROPERLY ATTRIBUTED AS REQUIRED IN 13-35-225.

~~(18)~~(19) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(19)~~(20) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

~~(20)~~(21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

~~(21)~~(22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

~~(22)~~(23) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection ~~(22)~~ (23), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

~~(23)~~(24) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

~~(24)~~(25) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

~~(25)~~(26) "Individual" means a human being.

~~(26)~~(27) "Legally registered elector" means an individual whose application for voter registration was 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 ballots to all active electors.

~~(28)~~(29) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,

including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

~~(29)~~(30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

~~(30)~~(31) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

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

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

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

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

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

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

~~(31)~~(32) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

~~(32)~~(33) "Political party organization" means a political organization that:

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

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

~~(33)~~(34) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

~~(34)~~(35) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

~~(35)~~(36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

~~(36)~~(37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

~~(37)~~(38) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

~~(38)~~(39) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(39)~~(40) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

~~(40)~~(41) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

~~(41)~~(42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

~~(42)~~(43) "School election" has the meaning provided in 20-1-101.

~~(43)~~(44) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

~~(44)~~(45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

~~(45)~~(46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

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

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

~~(46)~~(47) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

~~(47)~~(48) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

~~(48)~~(49) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(49)~~(50) "Support or oppose", including any variations of the term, means:

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

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot

issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

~~(50)~~(51) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(51)~~(52) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(52)~~(53) "Voted ballot" means a ballot that is:

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

~~(53)~~(54) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 2. Section 13-10-202, MCA, is amended to read:

"13-10-202. Filing fees. Filing fees are as follows:

- (1) for offices having an annual salary of \$2,500 or less ~~and candidates for the legislature~~, \$15;
- (2) for candidates for the legislature, \$20;
- ~~(2)~~(3) for county offices having an annual salary of more than \$2,500, 0.5% of the total annual salary;
- ~~(3)~~(4) for other offices having an annual salary of more than \$2,500, 1% of the total annual salary;
- ~~(4)~~(5) for offices in which compensation is paid in fees, \$10;
- ~~(5)~~(6) for officers of political parties, presidential electors, and officers who receive no salary or fees, no filing fee is required."

Section 3. Section 13-37-113, MCA, is amended to read:

"13-37-113. Hiring of attorneys -- prosecutions. The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the powers of a special attorney general, and the attorney may prosecute, subject to the control and supervision of the ~~commissioner~~ ATTORNEY GENERAL and the provisions of 13-35-240, 13-37-124, and 13-37-125, any criminal or civil action arising out of a violation of any provision of chapter 35 of this title or this chapter. AN AGREEMENT HIRING OR

RETAINING AN ATTORNEY BY THE COMMISSIONER UNDER THIS SECTION MUST BE IN WRITING AND MUST INCLUDE THE TERMS OF THE ATTORNEY'S COMPENSATION. THE AGREEMENT MUST BE POSTED TO THE COMMISSIONER'S WEBSITE, AND ON THE FIRST DAY OF EACH MONTH, THE COMMISSIONER SHALL POST ON THE WEBSITE A LIST OF ALL COSTS AND EXPENSES INCURRED BY ANY ATTORNEYS HIRED OR RETAINED UNDER THIS SECTION. ~~All prosecutions must be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County~~ CIVIL OR CRIMINAL ACTIONS MUST BE FILED IN THE STATE DISTRICT COURT OF THE COUNTY IN WHICH THE DEFENDANT RESIDES OR IN THE DISTRICT COURT FOR LEWIS AND CLARK COUNTY IF THE DEFENDANT RESIDES OUT OF STATE. The authority to prosecute as prescribed by this section includes the authority to:

- (1) except as provided in 13-37-128(3), institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of chapter 35 of this title or this chapter;
- (2) attend and give advice to a grand jury when cases involving criminal violations of chapter 35 of this title or this chapter are presented;

- (3) except as provided in 13-37-128(3), draw and file indictments, informations, and criminal complaints;

AND

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

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

Section 4. Section 13-37-115, MCA, is amended to read:

"13-37-115. Orders of noncompliance. The commissioner may issue orders of noncompliance as prescribed by 13-37-121 and [section 7]."

Section 5. Section 13-37-121, MCA, is amended to read:

"13-37-121. Inspection of statements and reports -- issuance of preliminary and final orders of noncompliance. (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within 20 days after the statement or report is filed. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not

satisfied the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue ~~an~~ a preliminary order of noncompliance as provided in this section.

(2) ~~An~~ A preliminary 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 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~~ the act occurred 45 days before an election and the commissioner issued the preliminary order of noncompliance is issued during a campaign period or within 60 days after an before the election, a candidate or political committee shall submit the necessary information within 5 days after receiving the preliminary order of noncompliance. Upon a failure to submit the required information within the time specified, the commissioner shall issue a final order of noncompliance and the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) (a) If ~~an~~ a preliminary order of noncompliance is issued during any period other than that described in subsection (3), within 10 days after receiving the order a candidate or political committee shall submit the necessary information ~~within 10 days after receiving the order of noncompliance~~ or notify the commissioner by written or electronic communication that the candidate or political committee intends to appeal the preliminary order of noncompliance as provided in [section 7].

(b) Upon a failure of a candidate or a political committee to either ~~to~~ submit the required information or notify the commissioner of an appeal within the time specified in subsection (4)(a), the commissioner shall issue a final order of noncompliance and the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) (a) ~~After a complaint is filed with the commissioner pursuant to 13-37-111,~~ If the preliminary order of noncompliance is issued during the time period described in subsection (3), the procedure ~~procedures~~ described in this section regarding the provision of notice and issuance of orders of noncompliance ~~is~~ are not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

(b) If the preliminary order of noncompliance is issued during any period other than that described in subsection (3), the procedures described in this section and [section 7] regarding the provision of notice and issuance of orders of noncompliance are a prerequisite to initiation of any other administrative or judicial action

authorized under chapter 35 of this title or this chapter."

NEW SECTION. Section 6. Preliminary decision regarding complaint. (1) Before the commissioner issues a formal decision regarding a complaint filed with the commissioner pursuant to 13-37-111, the commissioner shall issue a preliminary decision and provide a copy of the preliminary decision to the complainant and respondent. Within 10 days after receiving the preliminary decision, the respondent may notify the commissioner by written or electronic communication that the respondent intends to comply with the decision or intends to appeal the commissioner's decision as provided in [section 7].

(2) Upon failure of the respondent to notify the commissioner of an appeal within the time specified in subsection (1), the commissioner shall issue a final decision, which must be provided to the complainant and the respondent, and the commissioner may pursue any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

(3) (a) If a complaint is filed with the commissioner pursuant to 13-37-111 during the 45 days before an election, the provisions of this section regarding the provision of notice and issuance of a preliminary decision are not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

(b) If a complaint is filed with the commissioner pursuant to 13-37-111 during any period other than that described in subsection (3)(a), the provisions of this section regarding the provision of notice and issuance of a preliminary decision are a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

(4) The provisions of this section do not apply if the commissioner dismisses the complaint.

(5) Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section.

NEW SECTION. Section 7. Appeal of preliminary order of noncompliance or complaint decision -- issuance of final order of noncompliance or complaint decision. (1) If a candidate, political committee, or respondent timely notifies the commissioner of an appeal of a preliminary order of noncompliance as provided in 13-37-121 or a preliminary decision as provided in [section 6], the commissioner may not issue a final order of noncompliance, issue a final decision, or pursue other administrative or judicial action until the requirements of this section have been met.

(2) Within 3 days after receiving the appeal notification from a candidate, political committee, or respondent, the commissioner shall notify the candidate, political committee, or respondent by written or electronic

communication or telephone to begin the appeal process.

(3) THE COMMISSIONER IS ONE PARTY IN THE APPEAL PROCESS AND THE CANDIDATE, POLITICAL COMMITTEE, OR OTHER RESPONDENT TO THE PRELIMINARY ORDER OF NONCOMPLIANCE OR DECISION IS THE OTHER PARTY.

(3)(4) (a) THE COMMISSIONER SHALL DEVELOP AND MAINTAIN A LIST OF AT LEAST 10 INDIVIDUALS WHO ARE WILLING AND ABLE TO SERVE AS A MEDIATOR IN AN INITIAL DECISION APPEAL. Within 10 days after the appeal notification required by subsection (2), a mediator must ~~have been~~ BE selected by the parties and the parties must ~~have scheduled~~ SCHEDULE a mediation proceeding, unless another timeline is agreed to in writing by both parties. IF THE PARTIES CANNOT AGREE ON A MEDIATOR, THE RESPONDENT TO THE PRELIMINARY ORDER OF NONCOMPLIANCE OR DECISION SHALL SELECT THE MEDIATOR.

(B) The commissioner shall transmit to the mediator all information relevant to the alleged violation and preliminary order of noncompliance or decision, including any initiating complaint, the investigative file, the decision, and all exhibits relevant to the alleged violation. The candidate, political committee, or respondent may provide the mediator with additional information regarding the alleged violation.

(b)(C) An appeal proceeding may not proceed past 30 calendar days after the mediator is appointed, unless another timeline is agreed to in writing by both parties. Each party is responsible for that party's mediation costs and shall jointly share the costs of the mediator. AS INCURRED SEPARATELY BY EACH PARTY. THE FEES AND COSTS DUE TO THE MEDIATOR MUST BE EQUALLY DIVIDED BETWEEN THE PARTIES AND BILLED TO EACH PARTY BY THE MEDIATOR.

(D) An appeal proceeding may be held in person, online, or by telephone. Appeal proceedings must be conducted pursuant to 26-1-813 as a private, confidential, and informal dispute resolution.

(e)(E) Within 5 days after the appeal proceedings have concluded, the mediator shall complete and file a mediator's report with the commissioner. The report must be made available to the candidate, political committee, or respondent.

(4)(5) If the parties are unable to agree to a resolution of the complaint after the appeal procedure is completed, the commissioner shall file a final order of noncompliance or a final decision within 5 days after receiving the mediator's report and may pursue any other administrative or judicial action authorized under chapter 35 of this title or this chapter.

(5)(6) Unless otherwise provided, intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section.

Section 8. Section 13-37-124, MCA, is amended to read:

"13-37-124. Consultation and cooperation with county attorney. (1) Except as provided in 13-35-240, whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under chapter 35 of this title or this chapter and if the appeal procedure requirements of 13-37-121, [section 6], and [section 7] have been satisfied, the commissioner shall notify the county attorney of the county in which the ~~alleged violation occurred~~ SUBJECT OF THE ALLEGED VIOLATION RESIDES and shall ~~arrange to~~ transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

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

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

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

Section 9. Section 13-37-128, MCA, is amended to read:

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

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

(3) The commissioner may not initiate a criminal action against a candidate for a violation of this chapter."

Section 10. Section 13-37-206, MCA, is amended to read:

"13-37-206. Exception for certain school districts and certain special districts. (1) The provisions of this part, except 13-37-216, ~~and 13-37-217, and [section 12],~~ do not apply to a candidate for the office of trustee of a school district, the candidate's political campaign, or a political committee organized to support or oppose a school district issue or a candidate when the school district is:

- (a) a first-class district located in a county having a population of less than 15,000;
- (b) a second- or third-class district; or
- (c) a county high school district having a student enrollment of less than 2,000.

(2) The provisions of this part, except 13-37-216, ~~and 13-37-217, and [section 12],~~ do not apply to a candidate, the candidate's political campaign, or a political committee organized to support or oppose an issue or a candidate if the candidate is running for or the committee's issue involves a unit of local government authorized by law to perform a single function or a limited number of functions, including but not limited to a conservation district, a weed management district, a fire district, a community college district, a hospital district, an irrigation district, a sewer district, a transportation district, a water district, any other special purpose district, or any entity formed by interlocal agreement."

Section 11. Section 13-37-216, MCA, is amended to read:

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

- (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed ~~\$500~~ \$1,990;
- (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed ~~\$250~~ \$990; and
- (iii) for a candidate for any other public office, not to exceed ~~\$130~~ \$530.

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

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

committees:

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

(3) ~~(a)~~ The commissioner shall adjust the limitations in ~~subsections~~ subsection (1) ~~and (2)~~ by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June ~~2002~~ 2016.

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

- ~~—(i) \$10 increment for the limits established in subsection (1); and~~
- ~~—(ii) \$50 increment for the limits established in subsection (2).~~

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

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

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

NEW SECTION. Section 12. Limitations on contributions from political party committees --

adjustment. (1) Political party organizations may form political committees. Subject to adjustment as provided for in subsection (2) and subject to 13-37-219, aggregate contributions for each election cycle from all political party committees to a candidate are limited as follows:

- (a) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$47,700;
 - (b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$17,000;
 - (c) for a candidate for public service commissioner, not to exceed \$6,900; and
 - (d) for a candidate for any other public office, not to exceed \$2,800.
- (2) The commissioner shall adjust the limitations in subsection (1) by multiplying each limit by an inflation

factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June ~~2002~~ 2016. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule.

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

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

"13-37-218. Limitations on receipts from political committees. (1) A candidate for the state senate may receive no more than ~~\$2,150~~ \$5,600 in total combined monetary contributions for each election cycle from all political committees contributing to the candidate's campaign, and a candidate for the state house of representatives may receive no more than ~~\$1,300~~ \$3,400 in total combined monetary contributions for each election cycle from all political committees contributing to the candidate's campaign.

(2) The limitations in this section must be multiplied by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June ~~2003~~ 2016. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule.

(3) In-kind contributions must be included in computing ~~these~~ the limitation totals.

(4) The ~~limitation~~ limitations provided in this section ~~does do~~ not apply to contributions made by a political party eligible for a primary election under 13-10-601."

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

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

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

(b) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions, other than loans, of ~~\$35~~ \$50 or more to a candidate or political committee, including the purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar fundraising events;

(c) for each person identified under subsection (1)(b), the aggregate amount of contributions made by that

person within the reporting period and the total amount of contributions made by that person for all reporting periods;

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

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

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

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

(h) an itemized account of proceeds that total less than ~~\$35~~ \$50 from a person from mass collections made at fundraising events;

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

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

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

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

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

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

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

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

(v) the name of any person to whom a loan was made during the reporting period, including the full name, mailing address, occupation, and principal place of business, if any, of that person and the full names, mailing

addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

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

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

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

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

Section 15. Section 13-37-232, MCA, is amended to read:

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

(a) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions during the reporting period for a specified candidate, ballot issue, or petition for nomination of ~~\$35~~ \$50 or more;

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

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

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

(e) an account of proceeds that total less than ~~\$35~~ \$50 per person from mass collections made at

fundraising events sponsored by the incidental committee for a specified candidate, ballot issue, or petition for nomination; and

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 16. Codification instruction. (1) [Sections 6 and 7] are intended to be codified as an integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to [sections 6 and 7].

(2) [Section 12] is intended to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2, apply to [section 12].

- END -

Latest Version of SB 368 (SB0368.04)

Processed for the Web on April 12, 2017 (11:17am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2017 Legislature](#) | [Leg. Branch Home](#)

[All versions of all bills \(PDF format\)](#)

[Authorized print version of this bill w/line numbers \(PDF format\)](#)

[[NEW SEARCH](#)]

Prepared by Montana Legislative Services

(406) 444-3064