



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE May 26, 2021
TO Members, Joint Corporations, Elections and Political Subdivisions Interim Committee
FROM Ted Hewitt, Senior Staff Attorney
SUBJECT Campaign Finance

Introduction

This memorandum provides information and resources regarding campaign finance laws in Wyoming and other states. First, the memo provides a Wyoming Secretary of State guide on campaign finance laws in Wyoming. Second, the memorandum provides information on campaign contribution limits in other states. And third, the memorandum provides information on campaign finance enforcement for other states.

Wyoming Campaign Finance Rules

The Wyoming Secretary of State published a 2020 Campaign Guide, which is provided as Appendix A to this memorandum. The Guide provides an overview of the legal framework for Wyoming elections. It includes information on statutes governing campaigns and campaign finance reporting for state and local candidates, political action committees, political parties, and organizations. The Wyoming Legislature did not amend the State's campaign finance laws during the 2021 General Session and, accordingly, the Secretary of State's 2020 Campaign Guide remains up-to-date.

Other States' Campaign Finance Contribution Limits

The National Conference of State Legislatures has compiled information on each state's campaign contribution limits for individuals, state political parties, corporations and other entities, and political action committees. Attached to this memorandum as Appendix B is an NCSL spreadsheet that details these contribution limits for each state for the 2019-2020 election cycle. Additionally, here are brief summaries of how states limit, or do not limit, campaign contributions.¹

Individual Contribution Limits

Thirty-nine states impose limits on the amount of money that an individual can contribute to a state candidate. The remaining eleven states do not impose contribution limits to state candidates. For those states that do impose a limit, the national average contribution limit is \$6,126 for a

¹ Information for this section is taken from NCSL's Campaign Contribution Limits: Overview, available here: <https://www.ncsl.org/research/elections-and-campaigns/campaign-contribution-limits-overview.aspx>

gubernatorial election, \$2,947 for a state senate election, and \$2,539 for a state house election. Wyoming has a contribution limit of \$2,500 to candidates for statewide office and \$1,500 to candidates for non-statewide office.

State Political Party Contribution Limits

Nineteen states (including Wyoming) impose no restrictions on the ability of state political parties to contribute money to a state candidate's campaign. Four states allow state political parties to donate unlimited sums if the state candidate meets certain qualifications, such as running uncontested or agreeing to certain spending limits. The remaining twenty-seven states have some sort of restriction on funds from political parties, falling into two camps. Seven require parties to follow the same contribution limits established for individuals. The other 20 states outline separate limits for political parties.

Corporation Contribution Limits

Twenty-two states prohibit corporations from contributing to political campaigns. Five states allow corporations to contribute an unlimited amount of money to state campaigns. Of the remaining twenty-three states, nineteen impose the same restrictions on corporation contributions as they do for individual contributions. The other four set different limits. In Wyoming corporations and other organizations are prohibited from making contributions directly to candidates and candidate committees, and to political action committees and political parties that directly coordinate with a candidate or candidate's campaign committee. Corporations and other organizations may expend funds as outlined in Appendix A, page 9.

Political Action Committees

Political Action Committees (PACs) pool campaign contributions from members to support or oppose candidates, ballot initiatives, or legislation. Thirteen states allow PACs to contribute unlimited amounts of money to state campaigns. The remaining 37 either impose the same limitations as those for individuals or provide a separate contribution limit. After the Supreme Court's decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), PACs can spend unlimited amounts of money on broadcasts and communications related to an election, provided they act independently of any individual candidate. In Wyoming PACs may contribute unlimited funds to statewide campaigns, but not more than \$5,000 per election to any candidate for non-statewide office.

Other States' Campaign Finance Enforcement Systems

The National Conference of State Legislatures has compiled information on each state's campaign finance enforcement system. For a summary of each state's system, visit this website: <https://www.ncsl.org/research/elections-and-campaigns/campaign-finance-enforcement.aspx>. Also, following are summaries of Nebraska's and Montana's campaign finance enforcement system for the Committee's consideration, as both of these states have taken unique approaches to this issue:

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Nebraska

Nebraska's Accountability and Disclosure Commission is an independent state agency that administers and enforces the state's Political Accountability and Disclosure Act.² The Commission is a nine-member body, which includes the secretary of state, four members appointed by the governor, and four members appointed by the secretary of state.³ Not more than four of the eight appointed members of the Commission can be of the same political party and at least one member of the Commission must be registered as an independent.⁴

The Political Accountability and Disclosure Act imposes responsibilities and limitations on campaign finance, lobbying, and conflicts of interest. For campaign finance, once a candidate raises, receives or expends \$5,000 or more in a calendar year, he or she is required to register the campaign committee with the Commission by filing a statement of organization and paying a filing fee of \$100.⁵ Once the candidate committee is formed, the committee must file periodic campaign statements that include a summary of the financial activity of the committee. Committees must disclose the name of contributors of more than \$250 and the amounts of the contributions.⁶

The Commission acts as the primary civil enforcement agency for violations of the Political Accountability and Disclosure Act. The Commission can issue civil fines of up to \$5,000 per violation of the Act.⁷ The Commission receives all late filing fees, civil penalties, and interest imposed pursuant to the Act. The Commission has rulemaking authority to implement the Act.⁸ It also issues and publishes advisory opinions.⁹

Any individual who believes that a violation of the Nebraska Political Accountability and Disclosure Act has occurred may, after exhausting the administrative remedies provided by the Act, bring a civil action to compel the Commission, or may bring a civil action against any person or persons, to compel compliance with the Act.¹⁰ The state attorney general and the county attorneys of the state have concurrent jurisdiction to enforce the criminal provisions of the Nebraska Political Accountability and Disclosure Act.¹¹

Montana

The Montana Commissioner of Political Practices is an independent, nonpartisan office charged to protect and ensure the integrity and transparency of campaigns, politics, and government in Montana.¹² The Commissioner is appointed by the governor and subject to senate confirmation. A four-member nomination committee composed of the speaker of the house, the president of the

² R.R.S. Neb. § 49-1401 et seq.

³ R.R.S. Neb. § 49-14,105.

⁴ R.R.S. Neb. § 49-14,106.

⁵ R.R.S. Neb. § 49-1449.01.

⁶ R.R.S. Neb. § 49-1455.

⁷ R.R.S. Neb. § 49-14,126.

⁸ See e.g. R.R.S. Neb. § 49-1448.

⁹ R.R.S. Neb. § 49-14,100.

¹⁰ R.R.S. Neb. § 49-14,127.

¹¹ R.R.S. Neb. § 49-14,133.

¹² M.C.A. § 13-37-101 et seq.

senate, and the minority leaders of both houses of the legislature, by majority vote, submit to the governor two to five nominees for the governor's consideration.¹³

The Commissioner's office monitors and enforces Montana's campaign finance laws, the ethical standards for legislators, public officers, and state employees, and investigates campaign finance and lobbying complaints.¹⁴ It oversees campaign practices and campaign finance disclosure requirements (including disclosure of individuals' names who contribute more than \$35 to a campaign¹⁵) and investigates campaign finance and lobbying complaints.¹⁶ If the Commissioner determines that there is sufficient evidence to justify enforcement, the county attorney is notified and is sent a copy of the decision. The county attorney is afforded 30 days to either accept jurisdiction or waive the right to enforce. If the county attorney waives the right to enforce, the Commissioner then either works with the respondent to settle or file a case in district court.¹⁷

The Commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute finance violations. The authority to prosecute includes the authority to: (1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations; (2) attend and give advice to a grand jury when cases involve criminal violations; (3) draw and file indictments and criminal complaints; (4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or county from persons convicted of violating the law; and (5) do any other act necessary to successfully prosecute a violation of any provision of the state's election laws.¹⁸

¹³ M.C.A. § 13-37-102.

¹⁴ M.C.A. § 13-37-111.

¹⁵ M.C.A. § 13-37-229.

¹⁶ Notably, one potential consequence for failing to file disclosure forms is removal of the candidate's name from the ballot. M.C.A. § 13-37-126. Additionally, a certificate of election may not be granted to any candidate until the candidate or the candidate's treasurer has filed required reports and statements. M.C.A. § 13-37-127.

¹⁷ M.C.A. § 13-37-124.

¹⁸ M.C.A. § 13-37-113.