

COMMISSIONER OF
POLITICAL PRACTICES

STATE ADMINISTRATION

Exhibit No. 5

Date 2-23-15

Bill No. SB 370



STATE OF MONTANA

JONATHAN R. MOTL
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

1205 EIGHTH AVENUE
PO BOX 202401
HELENA, MONTANA 59620-2401
www.politicalpractices.mt.gov

February 23, 2015

Honorable Dee Brown
Chairperson
Senate State Administration
Committee

Roger Webb– Vice Chair
Sue Malek – M. Vice Chair

Members

Robyn Driscoll
Jedediah Hinkle
Doug Kary
Lea Whitford

Re: Senate Bill 370
Hearing Date: Monday, February 23,
2015 at 3:00 PM
Sponsor: Senator Vuckovich

Dear Chairperson Brown and members of the Committee:

The Office of the Commissioner of Political Practices supports Senate Bill 370 and respectfully offers the following information to the members of the Senate State Administration Committee.

As has been previously brought to this Committee's attention, the US Supreme Court's decision in *Citizens United* provided expanded election activity rights for corporations involved in Montana's elections. Beginning with Montana's 2012 elections, corporate entities have been able to independently spend funds in support of or opposition to candidates for public office in Montana.

These new corporate rights to spend corporate money in Montana elections came through outside imposition by federal courts. These corporate rights, coming as they did from outside, came without any corresponding corporate

responsibilities. SB 370 adjusts Title 35 of Montana Code, the laws governing corporate entities, to include corporate election related governance responsibilities commensurate with the expansion of corporate election related rights.¹ The overreaching and illegal actions of the WTP/ATP corporation (along with additional corporate allies) in some of Montana's 2008 and 2010 legislative elections clearly show why Montanans, and Montana corporations, will be served by SB 370's requirements of a demonstration of reasoned corporate behavior.

The Commissioner notes that the people of Montana spoke in favor of SB 370 through Initiative 166, now set out in law at §13-35-503 MCA. The I-166 vote took place in November of 2012, following the US Supreme Court Decisions in *Citizens United* and its application to Montana in *WTP v. Bullock*. I-166 language charges the Commissioner and every other "elected or appointed official" in the State of Montana to "...promote actions..." to deal with "...the immense aggregation of wealth that is accumulated by corporations using advantages provided by the government [that becomes]...corrosive and distorting when used to advance the political interests of corporations..." §13-35-503(3) MCA.

The language of §13-35-503(3) MCA represents a direct statement of the people of Montana, made through a democratic vote on I-166. The Commissioner is guided by the overwhelming (74%) approval of I-166 by all Montanans voting in Montana's 2012 election. The Senators on this Committee represent smaller geographic areas but are no less guided by their constituents' votes on I-166. There are 8 of Montana's 56 counties represented by members of this Committee and the bill sponsor. All 8 of these counties voted strongly in favor of I-166: Missoula (80.07%); Gallatin (76.61%); Silver Bow (78.31%); Yellowstone (73.89%); Flathead (67.43%); Glacier (69.41%); Lake (75.57%); and Pondera (70.33%).

Elected representatives, of course, exercise their own judgment when representing constituents. Yet, seldom are such representatives presented with an appropriate statement of collective will by Montanans and constituents such as exists in the statement of I-166 policy, now set out at §13-35-503 MCA. In that sense, Senator Vuckovich's SB 370 is a constitutionally sound, practical manifestation of the collective will of Montana's people as well as the collective

¹ Section 1 of SB 370 also adds a new section to Title 13 thereby making the corporation's approval process a campaign practice that must be followed as part of Montana's campaign practice law. Again, this matches a new corporate election responsibility with the new corporate election right.

will of the constituents of each senator on this Committee. SB 370 deserves passage into law.

Thank you for your consideration of SB 370.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by 'R. Motl'.

Jonathan R. Motl
Commissioner of Political Practices

MONTANA CODE ANNOTATED

TITLE 13

CHAPTER 35

Part 5

Prohibition on Corporate Contributions and Expenditures

13-35-503. Policy. (1) It is policy of the state of Montana that each elected and appointed official in Montana, whether acting on a state or federal level, advance the philosophy that corporations are not human beings with constitutional rights and that each such elected and appointed official is charged to act to prohibit, whenever possible, corporations from making contributions to or expenditures on the campaigns of candidates or ballot issues. As part of this policy, each such elected and appointed official in Montana is charged to promote actions that accomplish a level playing field in election spending.

(2) When carrying out the policy under subsection (1), Montana's elected and appointed officials are generally directed as follows:

- (a) that the people of Montana regard money as property, not speech;
- (b) that the people of Montana regard the rights under the United States Constitution as rights of human beings, not rights of corporations;
- (c) that the people of Montana regard the immense aggregation of wealth that is accumulated by corporations using advantages provided by the government to be corrosive and distorting when used to advance the political interests of corporations;
- (d) that the people of Montana intend that there should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government; and
- (e) that the people of Montana intend that a level playing field in campaign spending includes limits on overall campaign expenditures and limits on large contributions to or expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.
- (f) clearly the impact of unlimited corporate donations creates a dominating impact on the Montana political process and inevitably minimizes the impact of individual Montana citizens.

History: En. Sec. 3, I.M. No. 166, approved Nov. 6, 2012.