

SENATE BILL NO. 357

INTRODUCED BY D. ANKNEY

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS; BANNING
5 CERTAIN CAMPAIGN CONTRIBUTIONS, EXPENDITURES, DONATIONS, DISBURSEMENTS, AND
6 PROMISES BY FOREIGN NATIONALS; BANNING THE SOLICITATION OR RECEIPT OF CERTAIN FUNDS;
7 REQUIRING ANNUAL CERTIFICATIONS BY CERTAIN NONPROFIT CORPORATIONS; PROVIDING THE
8 ATTORNEY GENERAL, THE COMMISSIONER OF POLITICAL PRACTICES, AND COUNTY ATTORNEYS
9 WITH THE AUTHORITY TO INVESTIGATE AND PROSECUTE CERTAIN MATTERS; PROVIDING
10 DEFINITIONS; PROVIDING PENALTIES; AMENDING SECTION 13-37-128, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Transparency Act
16 to Eliminate Foreign Money in Montana Politics".

17
18 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions
19 apply:

20 (1) "501(c)(3) nonprofit corporation" means a nonprofit corporation exempt from taxation under 26 U.S.C.
21 501(c)(3) and organized for charitable purposes.

22 (2) "Contribution" has the same meaning as provided in 13-1-101 except that a contribution may be
23 made by an individual who is a foreign national in addition to by a candidate or a political committee.

24 (3) (a) "Donation" means a payment, gift, subscription, loan, advance, deposit, or anything of value given
25 to a 501(c)(3) nonprofit corporation.

26 (b) The term does not include payments made by an individual, or by a person on behalf of an individual,
27 who has received health care services from a licensed health care facility that is a 501(c)(3) nonprofit corporation.

28 (4) "Entity" means a partnership, association, limited liability company, joint venture, corporation, or any
29 other legal or commercial organization, or a combination of entities.

30 (5) "Expenditure" has the same meaning as provided in 13-1-101 except that an expenditure may be



- 1 made by an individual who is a foreign national in addition to by a candidate or a political committee.
- 2 (6) "Foreign national" means:
- 3 (a) a government of a foreign country;
- 4 (b) a political party of a foreign country;
- 5 (c) an entity located outside of the United States unless that entity:
- 6 (i) is organized under or created under federal law, state law, or another place subject to the jurisdiction
- 7 of the United States; and
- 8 (ii) has its principal place of business within the United States;
- 9 (d) an entity that:
- 10 (i) is organized under the laws of a foreign country; or
- 11 (ii) has its principal place of business in a foreign country; or
- 12 (e) an individual who is not lawfully admitted for the privilege of residing permanently in the United States
- 13 as an immigrant in accordance with immigration laws and who is not:
- 14 (i) a citizen of the United States; or
- 15 (ii) a person who, although not a citizen of the United States, owes permanent allegiance to the United
- 16 States.
- 17 (7) (a) "Get out the vote activity" means:
- 18 (i) encouraging or urging potential voters to vote, whether in person or by mail, by e-mail, by telephone,
- 19 including prerecorded telephone calls, phone banks, and messaging, or by any other means;
- 20 (ii) informing potential voters, whether in person or by mail, by e-mail, by telephone, including prerecorded
- 21 telephone calls, phone banks, and messaging, or by any other means, about:
- 22 (A) times when polling places are open;
- 23 (B) the location of particular polling places;
- 24 (C) early voting or voting by absentee ballot; or
- 25 (D) offering or arranging to transport, or actually transporting, potential voters to the polls; or
- 26 (iii) any other activity that assists potential voters to vote.
- 27 (b) The term does not include activity solely because it includes a brief exhortation to vote, as long as
- 28 the exhortation is incidental to a communication, activity, or event.
- 29 (8) "Voter identification activity" means acquiring information about potential voters, including but not
- 30 limited to obtaining voter lists and creating or enhancing voter lists by verifying or adding information about the

1 voters' likelihood of voting in an upcoming election or the voters' likelihood of voting for specific candidates.

2 (9) (a) "Voter registration activity" means:

3 (i) encouraging or urging potential voters to register to vote, whether in person or by mail, by e-mail, by
4 telephone, including prerecorded telephone calls, phone banks, and messaging, or by any other means;

5 (ii) preparing and distributing information about registration and voting;

6 (iii) distributing voter registration forms or instructions to potential voters;

7 (iv) answering questions about how to complete or file voter registration forms, or assisting potential
8 voters in completing or filing the forms;

9 (v) submitting or delivering a completed voter registration form on behalf of a potential voter;

10 (vi) offering or arranging to transport, or actually transporting, potential voters to a board of elections or
11 county clerk's office for them to fill out voter registration forms; or

12 (vii) any other activity that assists potential voters to register to vote.

13 (b) The term does not include activity solely because it includes a brief exhortation to register to vote,
14 as long as the exhortation is incidental to a communication, activity, or event.

15

16 **NEW SECTION. Section 3. Prohibition of foreign money in elections.** (1) A foreign national may
17 not, directly or indirectly, make:

18 (a) a contribution or donation of money or other thing of value, or make an express or implied promise
19 to make a contribution or donation, in connection with any candidate election in Montana, including but not limited
20 to a contribution or donation to a candidate;

21 (b) an expenditure in connection with a state or local candidate election, including but not limited to an
22 independent expenditure, a disbursement for an election communication, or a disbursement for an electioneering
23 communication;

24 (c) a contribution or donation to a political party committee; or

25 (d) a donation to any 501(c)(3) nonprofit corporation that engages in candidate recruitment, voter
26 registration, get out the vote, or voter identification activities related to an election in Montana.

27 (2) A person may not solicit, accept, or receive a prohibited contribution, donation, expenditure, or
28 disbursement described in subsection (1) from a foreign national.

29 (3) Each candidate, each political committee participating in a candidate election by receiving a
30 contribution or making an expenditure, including but not limited to a political party committee, and each political

1 party organization must trace contributions for which it knows, reasonably knows, or is aware of facts about that
 2 would lead a reasonable person to conclude there is a substantial probability that the source of funds received
 3 or solicited is from a foreign national.

4 (4) Each 501(c)(3) nonprofit corporation that engages in candidate recruitment, voter registration, get
 5 out the vote, or voter identification activities related to an election in the state shall file, under penalty of perjury,
 6 an annual statement with the attorney general by March 1 confirming that the corporation has not received,
 7 directly or indirectly, any contributions, financial assistance, or resources of any kind from a foreign national
 8 during the previous calendar year.

9 (5) To the extent that a violation of this section also violates 52 U.S.C. 30121 or 11 CFR 110.20,
 10 investigation and enforcement of the matter must be referred to the federal election commission. The
 11 commissioner, county attorney, or attorney general may not bring an enforcement action regarding the portion
 12 of the matter that also violates 52 U.S.C. 30121 or 11 CFR 110.20.

13 (6) (a) Except as provided in subsection (5), the attorney general shall investigate allegations of a
 14 violation of this section.

15 (b) If the attorney general finds evidence that a 501(c)(3) nonprofit corporation with a Montana income
 16 tax exemption based on its charitable status has violated the provisions of this section, the attorney general shall
 17 bring an action in a court of competent jurisdiction.

18 (c) If the 501(c)(3) nonprofit corporation has violated the provisions of this section, in addition to any
 19 penalties provided pursuant to [section 4], the court shall order any state income tax exemption based on the
 20 501(c)(3) nonprofit corporation's charitable status revoked and may award the attorney general attorney fees and
 21 costs.

22
 23 **NEW SECTION. Section 4. Penalties.** A person who violates the provisions of [section 3] is liable in
 24 a civil action pursuant to 13-37-128.

25
 26 **Section 5.** Section 13-37-128, MCA, is amended to read:

27 **"13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the
 28 reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable
 29 in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124
 30 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures,

1 whichever is greater.

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

6 (3) A person who violates the provisions of [section 3] is liable in a civil action brought by the
7 commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 or by the
8 attorney general for an amount up to \$500 or three times the amount of the unlawful disbursement, contribution,
9 expenditure, or promise, whichever is greater."

10
11 NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified
12 as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections 1 through
13 4].

14
15 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
17 remains in effect in all valid applications that are severable from the invalid applications.

18
19 NEW SECTION. Section 8. Applicability. [This act] applies to disbursements, contributions,
20 expenditures, and promises made on or after [the effective date of this act].

21 - END -