

Montana Election & Campaign Finance Following Recent Legal Challenges  
Montana Legislative Services Division

MCA Section	Summary	Case	Status
<p>§ 13-1-101(11)(a)</p> <p><b>Statute in effect with judicial clarification.</b></p>	<p>The definition of expenditure "means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election."</p>	<p><i>Western Tradition Partnership v. Gallik</i>, 2011 Mont. Dist. LEXIS 83 (D.C. Mont. 2011).</p>	<p>Judge Sherlock found that the definition was not unconstitutionally vague; however, he also found that the term "influencing" within the definition presented some vagueness problems. He adopted the language of the First Circuit ("influencing" will only include communications and activities that expressly advocate for or against a candidate or ballot issue . . . ).</p>
<p>§ 13-35-225(3)(a)</p> <p><b>Part of statute not in effect.</b></p>	<p>Vote reporting requirement (printed election materials must include reference to vote upon which information is based, disclose contrasting vote, &amp; include statement affirming information is true).</p>	<p><i>Monforton v. Mott</i>, Case No. 6:14-cv-00002-DLC-RKS</p> <p>Previous version permanently enjoined in <i>Lair v. Murry</i>, 846 F. Supp. 2d 1116 (D. Mont. 2012).</p>	<p>State agreed to a permanent injunction prohibiting enforcement of 13-35-225(3)(a) because it is unconstitutionally vague.</p>

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<p>§ 13-35-227(1), (2)</p> <p><b>Part of statute not in effect.</b></p>	<p>Prevents corporations from making direct contributions to candidates or independent expenditures on behalf of candidates.</p>	<p><i>Lair v. Murry</i>, 846 F. Supp. 2d 1116 (D. Mont. 2012).</p> <p><i>American Tradition Partnership v. Bullock</i>, 132 S. Ct. 2490 (2012).</p>	<p>Permanently enjoined in part, not appealed. The ban on corporate contributions to political committees that the committees use for independent expenditures is unconstitutional. The ban on direct and indirect corporate contributions to candidates and political parties is constitutional.</p>
<p>§ 13-35-231</p> <p><b>Part of statute not in effect.</b></p>	<p>A political party may not endorse, contribute to, or make an expenditure to support or oppose a judicial candidate (criminal offense).</p>	<p><i>Sanders County Republican Cent. Comm. v. Fox</i>, 717 F.3d 1090 (9th Cir. 2013).</p>	<p>9th Circuit permanently enjoined the State from prohibiting a political party from endorsing a judicial candidate or from spending money in the form of independent expenditures to publicize the endorsement. The portion of the statute banning contributions to judicial candidates by political parties was not challenged and has not been held invalid.</p>

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**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, 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) "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.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) 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" does not mean:

(i) 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;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

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

(iv) filing fees paid by the candidate.

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

(9) "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.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(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, 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.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "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.

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

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a 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 upon 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.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) "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.

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

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

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

(c) as an earmarked contribution.

(23) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

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

(25) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

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

(27) "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.

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

(29) "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.

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

(31) "School election" has the meaning provided in 20-20-101.

(32) "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.

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

(34) "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.

(35) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

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

(37) "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.

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

(39) "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.

(40) "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.

**13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.**

(1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. The attribution must contain:

(a) for election material financed by a candidate or a candidate's campaign finances, the name and the address of the candidate or the candidate's campaign; and

(b) for election material financed by a political committee, the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if the contrasting votes were made in any of the previous 6 years; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3); and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

(6) Whenever the commissioner receives a complaint alleging a violation of subsection (1) or (2), the commissioner shall as soon as practicable assess the merits of the complaint.

(7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the complainant and the candidate or political committee of the commissioner's determination. The notice must state that the candidate or political committee shall bring the material into compliance as required under this section:

(i) within 5 days after receiving the notification if the notification occurs more than 7 days prior to an election; or

(ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an election.

(b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to a civil penalty pursuant to 13-37-128.

**13-35-227. Prohibited contributions from corporations.** (1) A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee that supports or opposes a candidate or a political party.

(2) A person, candidate, or political committee may not accept or receive a corporate contribution described in subsection (1).

(3) This section does not prohibit the establishment or administration of a separate, segregated fund to be used for making political contributions or expenditures if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or member of the corporation.

(4) A person who violates this section is subject to the civil penalty provisions of 13-37-128.

**13-35-231. Unlawful for political party to endorse judicial candidate.** A political party may not endorse, contribute to, or make an expenditure to support or oppose a judicial candidate.