

1 SENATE BILL NO. 320

2 INTRODUCED BY C. VINCENT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CAMPAIGN FINANCE AND DISCLOSURE LAWS;
5 PROHIBITING A CORPORATION FROM MAKING INDEPENDENT EXPENDITURES OR FUNDING
6 ELECTIONEERING COMMUNICATIONS; INCLUDING THE COST OF PRODUCING A COMMENTARY OR
7 EDITORIAL IN THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE"; AND AMENDING SECTION
8 13-1-101, MCA."

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10 WHEREAS, in November 2012, Montanans voted to enact Initiative No. 166, which established a state
11 policy relating to corporate contributions and expenditures in elections; and

12 WHEREAS, among other things, I-166 "charges" Montana's elected and appointed public officials to
13 "promote actions that accomplish a level playing field in election spending"; and

14 WHEREAS, a Montana Supreme Court Justice pointed out in a dissent to the Court's ruling in Montanans
15 Opposed to I-166 v. State of Montana, 2012 MT 168, 365 Mont. 520, 285 P.3d 435, that "the I-166 exercise
16 simply does into the wind what most Montana children learn to avoid early in life"; and

17 WHEREAS, the same dissent also notes that "shooting popcorn at a brick wall will accomplish nothing,
18 even if it makes one feel good"; and

19 WHEREAS, the dissent concludes that "placing a facially defective measure on the ballot does nothing
20 to protect voters' rights and instead creates a sham out of the voting process by conveying the false appearance
21 that a vote on the measure counts for something, when in fact the measure is invalid regardless of how the
22 electors vote".

23

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

25

26 **NEW SECTION. Section 1. Corporations prohibited from making independent expenditures or**
27 **funding electioneering communications.** A corporation, whether it is organized for profit or not for profit, may
28 not:

29 (1) make independent expenditures; or

30 (2) fund, directly or indirectly through another person or political committee, electioneering

1 communications.

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3 **Section 2.** Section 13-1-101, MCA, is amended to read:

4 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
5 definitions apply:

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

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

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

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

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

16 (6) "Candidate" means:

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

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

24 (i) solicitation is made;

25 (ii) contribution is received and retained; or

26 (iii) expenditure is made; or

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

28 (7) (a) "Contribution" means:

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

- 1 (ii) a transfer of funds between political committees;
- 2 (iii) the payment by a person other than a candidate or political committee of compensation for the
3 personal services of another person that are rendered to a candidate or political committee.
- 4 (b) "Contribution" does not mean:
- 5 (i) services provided without compensation by individuals volunteering a portion or all of their time on
6 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
7 residences for a candidate or other individual;
- 8 (ii) the cost of any bona fide news story, ~~commentary, or editorial~~ distributed through the facilities of any
9 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;
- 10 (iii) the cost of any communication by any membership organization or corporation to its members or
11 stockholders or employees; or
- 12 (iv) filing fees paid by the candidate.
- 13 (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements
14 of state law, regardless of the time or purpose.
- 15 (9) "Election administrator" means the county clerk and recorder or the individual designated by a county
16 governing body to be responsible for all election administration duties, except that with regard to school elections
17 not administered by the county, the term means the school district clerk.
- 18 (10) "Electioneering communication" means any broadcast, cable, or satellite communication that fulfills
19 each of the following conditions:
- 20 (a) the communication refers to a clearly identified candidate;
- 21 (b) the communication is publicly distributed within 60 days prior to a general election or 30 days prior
22 to a primary election for the office sought by the candidate; and
- 23 (c) the communication is targeted to the relevant electorate for a statewide or district election.
- 24 ~~(10)(11)~~ "Elector" means an individual qualified to vote under state law.
- 25 ~~(11)(12)~~ (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or
26 gift of money or anything of value made for the purpose of influencing the results of an election.
- 27 (b) "Expenditure" does not mean:
- 28 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);
- 29 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or
30 personal necessities for the candidate and the candidate's family;

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

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

5 ~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for
 6 individuals for the office of president of the United States or for the United States congress.

7 ~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers
 8 throughout the state at times specified by law, including elections for officers of political subdivisions when the
 9 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
 10 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
 11 legislature to the electors at a general election, "general election" means an election held at the time provided
 12 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
 13 as a constitutional initiative at a regular election, regular election means an election held at the time provided in
 14 13-1-104(1).

15 ~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose
 16 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

17 ~~(15)~~(16) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

18 (17) "Independent expenditure" means payment for a communication expressly advocating the election
 19 or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with or at the
 20 request of a candidate, a candidate's authorized committee, a political committee organized to support or oppose
 21 a ballot issue, the agents of the candidate or committee, or a political party.

22 ~~(16)~~(18) "Individual" means a human being.

23 ~~(17)~~(19) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
 24 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
 25 questions, school levy questions, bond issue questions, or a ballot question.

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

30 ~~(18)~~(20) "Legally registered elector" means an individual whose application for voter registration was

1 accepted, processed, and verified as provided by law.

2 ~~(19)~~(21) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing
3 ballots to all active electors.

4 ~~(20)~~(22) "Person" means an individual, corporation, association, firm, partnership, cooperative,
5 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

6 ~~(24)~~(23) "Place of deposit" means a location designated by the election administrator pursuant to
7 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

8 ~~(22)~~(24) "Political committee" means a combination of two or more individuals or a person other than an
9 individual who makes a contribution or expenditure:

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

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

13 (c) as an earmarked contribution.

14 ~~(23)~~(25) "Political subdivision" means a county, consolidated municipal-county government, municipality,
15 special district, or any other unit of government, except school districts, having authority to hold an election for
16 officers or on a ballot issue.

17 ~~(24)~~(26) "Polling place election" means an election primarily conducted at polling places rather than by
18 mail under the provisions of Title 13, chapter 19.

19 ~~(25)~~(27) "Primary" or "primary election" means an election held throughout the state to nominate
20 candidates for public office at times specified by law, including nominations of candidates for offices of political
21 subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

22 ~~(26)~~(28) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not
23 been verified as provided by law.

24 ~~(27)~~(29) "Provisionally registered elector" means an individual whose application for voter registration
25 was accepted but whose identity or eligibility has not yet been verified as provided by law.

26 ~~(28)~~(30) "Public office" means a state, county, municipal, school, or other district office that is filled by
27 the people at an election.

28 ~~(29)~~(31) "Random-sample audit" means an audit involving a manual count of ballots from designated
29 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

30 ~~(30)~~(32) "Registrar" means the county election administrator and any regularly appointed deputy or

1 assistant election administrator.

2 ~~(31)~~(33) "Special election" means an election other than a statutorily scheduled primary or general
3 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
4 scheduled election.

5 ~~(32)~~(34) "Statewide voter registration list" means the voter registration list established and maintained
6 pursuant to 13-2-107 and 13-2-108.

7 ~~(33)~~(35) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an
8 elector to transfer the elector's registration when the elector's residence address has changed within the county.

9 ~~(34)~~(36) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided
10 in 13-15-206.

11 ~~(35)~~(37) "Voted ballot" means a ballot that is:

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

15 ~~(36)~~(38) "Voting system" or "system" means any machine, device, technology, or equipment used to
16 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

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18 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 13, chapter 35, part 2, and the provisions of Title 13, chapter 35, part 2, apply to [section 1].

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