

## SENATE BILL NO. 320

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".~~

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

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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.

2

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~~, COMMENTARY, OR EDITORIAL distributed  
9 through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general  
10 circulation;
- 11 (iii) the cost of any communication by any membership organization or corporation to its members or  
12 stockholders or employees; or
- 13 (iv) filing fees paid by the candidate.
- 14 (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements  
15 of state law, regardless of the time or purpose.
- 16 (9) "Election administrator" means the county clerk and recorder or the individual designated by a county  
17 governing body to be responsible for all election administration duties, except that with regard to school elections  
18 not administered by the county, the term means the school district clerk.
- 19 (10) "Electioneering communication" means any broadcast, cable, or satellite communication that fulfills  
20 each of the following conditions:
- 21 (a) the communication refers to a clearly identified candidate;
- 22 (b) the communication is publicly distributed within 60 days prior to a general election or 30 days prior  
23 to a primary election for the office sought by the candidate; and
- 24 (c) the communication is targeted to the relevant electorate for a statewide or district election.
- 25 ~~(10)~~(11) "Elector" means an individual qualified to vote under state law.
- 26 ~~(11)~~(12) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or  
27 gift of money or anything of value made for the purpose of influencing the results of an election.
- 28 (b) "Expenditure" does not mean:
- 29 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);
- 30 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or

1 personal necessities for the candidate and the candidate's family;

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

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

7 ~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for  
8 individuals for the office of president of the United States or for the United States congress.

9 ~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers  
10 throughout the state at times specified by law, including elections for officers of political subdivisions when the  
11 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues  
12 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the  
13 legislature to the electors at a general election, "general election" means an election held at the time provided  
14 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted  
15 as a constitutional initiative at a regular election, regular election means an election held at the time provided in  
16 13-1-104(1).

17 ~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose  
18 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

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

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

24 ~~(16)~~(18) "Individual" means a human being.

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

28 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the  
29 proper official that the legal procedure necessary for its qualification and placement upon the ballot has been  
30 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the

1 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

2 ~~(18)~~(20) "Legally registered elector" means an individual whose application for voter registration was  
3 accepted, processed, and verified as provided by law.

4 ~~(19)~~(21) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing  
5 ballots to all active electors.

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

8 ~~(21)~~(23) "Place of deposit" means a location designated by the election administrator pursuant to  
9 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

10 ~~(22)~~(24) "Political committee" means a combination of two or more individuals or a person other than an  
11 individual who makes a contribution or expenditure:

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

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

15 (c) as an earmarked contribution.

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

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

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

24 ~~(26)~~(28) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not  
25 been verified as provided by law.

26 ~~(27)~~(29) "Provisionally registered elector" means an individual whose application for voter registration  
27 was accepted but whose identity or eligibility has not yet been verified as provided by law.

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

30 ~~(29)~~(31) "Random-sample audit" means an audit involving a manual count of ballots from designated

1 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

2 ~~(30)~~(32) "Registrar" means the county election administrator and any regularly appointed deputy or  
3 assistant election administrator.

4 ~~(34)~~(33) "Special election" means an election other than a statutorily scheduled primary or general  
5 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily  
6 scheduled election.

7 ~~(32)~~(34) "Statewide voter registration list" means the voter registration list established and maintained  
8 pursuant to 13-2-107 and 13-2-108.

9 ~~(33)~~(35) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an  
10 elector to transfer the elector's registration when the elector's residence address has changed within the county.

11 ~~(34)~~(36) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided  
12 in 13-15-206.

13 ~~(35)~~(37) "Voted ballot" means a ballot that is:

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

17 ~~(36)~~(38) "Voting system" or "system" means any machine, device, technology, or equipment used to  
18 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

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

22 - END -