

SENATE BILL NO. 3

INTRODUCED BY D. KARY

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN EXPENDITURE LAWS RELATING TO CANDIDATE FILING FEES; REVISING THE DEFINITION OF "EXPENDITURE"; SUBJECTING CANDIDATE FILING FEES TO CERTAIN REPORTING REQUIREMENTS; ELIMINATING A REPORTING THRESHOLD EXCEPTION CONCERNING CANDIDATE FILING FEES FOR CERTAIN CANDIDATES AND POLITICAL COMMITTEES; AND AMENDING SECTIONS 13-1-101 AND 13-37-226, MCA."

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

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

"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, is 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) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or 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 on the ballot has been 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 (7) "Ballot issue committee" means a political committee specifically organized to support or oppose a
3 ballot issue.

4 (8) "Candidate" means:

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

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

12 (i) solicitation is made;

13 (ii) contribution is received and retained; or

14 (iii) expenditure is made; or

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

16 (9) (a) "Contribution" means:

17 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit,
18 payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

19 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot
20 issue committee and is reportable by the candidate or ballot issue committee as a contribution;

21 (iii) the receipt by a political committee of funds transferred from another political committee; or

22 (iv) the payment by a person other than a candidate or political committee of compensation for the
23 personal services of another person that are rendered to a candidate or political committee.

24 (b) "Contribution" does not mean services provided without compensation by individuals volunteering
25 a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by
26 individuals in their private residences for a candidate or other individual.

27 (10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation
28 with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a
29 candidate or political committee.

30 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger

1 registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant
2 enforcement as a campaign practices violation under Title 13, chapter 37.

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

5 (13) "Election administrator" means the county clerk and recorder or the individual designated by a county
6 governing body to be responsible for all election administration duties, except that with regard to school elections
7 not administered by the county, the term means the school district clerk.

8 (14) (a) "Election communication" means the following forms of communication to support or oppose a
9 candidate or ballot issue:

10 (i) a paid advertisement broadcast over radio, television, cable, or satellite;

11 (ii) paid placement of content on the internet or other electronic communication network;

12 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;

13 (iv) a mailing; or

14 (v) printed materials.

15 (b) The term does not mean:

16 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote,
17 if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

18 (ii) a communication that does not support or oppose a candidate or ballot issue;

19 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
20 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

21 (iv) a communication by any membership organization or corporation to its members, stockholders, or
22 employees; or

23 (v) a communication that the commissioner determines by rule is not an election communication.

24 (15) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio,
25 television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of
26 printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or
27 oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the
28 candidate or ballot issue, and that:

29 (i) refers to one or more clearly identified candidates in that election;

30 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that

- 1 election; or
- 2 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.
- 3 (b) The term does not mean:
- 4 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
- 5 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation
- 6 unless the facilities are owned or controlled by a candidate or political committee;
- 7 (ii) a communication by any membership organization or corporation to its members, stockholders, or
- 8 employees;
- 9 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the
- 10 candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;
- 11 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate
- 12 debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or
- 13 (v) a communication that the commissioner determines by rule is not an electioneering communication.
- 14 (16) "Elector" means an individual qualified to vote under state law.
- 15 (17) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
- 16 of money or anything of value:
- 17 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or
- 18 (ii) used or intended for use in making independent expenditures or in producing electioneering
- 19 communications.
- 20 (b) "Expenditure" does not mean:
- 21 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);
- 22 (ii) payments by a candidate ~~for a filing fee~~ or for personal travel expenses, food, clothing, lodging, or
- 23 personal necessities for the candidate and the candidate's family;
- 24 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities
- 25 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or
- 26 (iv) the cost of any communication by any membership organization or corporation to its members or
- 27 stockholders or employees.
- 28 (18) "Federal election" means an election in even-numbered years in which an elector may vote for
- 29 individuals for the office of president of the United States or for the United States congress.
- 30 (19) "General election" means an election that is held for offices that first appear on a primary election

1 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

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

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

5 (22) (a) "Incidental committee" means a political committee that is not specifically organized or operating
6 for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become
7 a political committee by receiving a contribution or making an expenditure.

8 (b) For the purpose of this subsection (22), the primary purpose is determined by the commissioner by
9 rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose
10 or goal of the person or individuals that form the committee.

11 (23) "Independent committee" means a political committee organized for the primary purpose of receiving
12 contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that
13 does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits
14 set forth in 13-37-216(1).

15 (24) "Independent expenditure" means an expenditure for an election communication to support or
16 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue
17 committee.

18 (25) "Individual" means a human being.

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

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

23 (28) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,
24 including a political committee, club, union, or other organization or group of individuals or a candidate as defined
25 in subsection (8).

26 (29) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307
27 for a mail ballot election conducted under Title 13, chapter 19.

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

30 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a

1 petition for nomination;

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

3 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
4 independent expenditure.

5 (b) Political committees include ballot issue committees, incidental committees, independent committees,
6 and political party committees.

7 (c) A candidate and the candidate's treasurer do not constitute a political committee.

8 (d) A political committee is not formed when a combination of two or more individuals or a person other
9 than an individual makes an election communication, an electioneering communication, or an independent
10 expenditure of \$250 or less.

11 (31) "Political party committee" means a political committee formed by a political party organization and
12 includes all county and city central committees.

13 (32) "Political party organization" means a political organization that:

14 (a) was represented on the official ballot in either of the two most recent statewide general elections; or

15 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

16 (33) "Political subdivision" means a county, consolidated municipal-county government, municipality,
17 special purpose district, or any other unit of government, except school districts, having authority to hold an
18 election.

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

21 (35) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate
22 candidates for offices filled at a general election.

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

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

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

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

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

3 (41) "Regular school election" means the school trustee election provided for in 20-20-105(1).

4 (42) "School election" has the meaning provided in 20-1-101.

5 (43) "School election filing officer" means the filing officer with whom the declarations for nomination for
6 school district office were filed or with whom the school ballot issue was filed.

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

9 (45) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is
10 designed to:

11 (a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot
12 is being submitted by someone who is in fact a qualified elector and who has not already voted; and

13 (b) allow it to be used in the United States mail.

14 (46) "Special election" means an election held on a day other than the day specified for a primary
15 election, general election, or regular school election.

16 (47) "Special purpose district" means an area with special boundaries created as authorized by law for
17 a specialized and limited purpose.

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

20 (49) "Support or oppose", including any variations of the term, means:

21 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or
22 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election
23 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters
24 in an election; or

25 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot
26 issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination,
27 election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or
28 defeat of the ballot issue or other question submitted to the voters in an election.

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

1 (51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in
2 13-15-206.

3 (52) "Voted ballot" means a ballot that is:

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

7 (53) "Voting system" or "system" means any machine, device, technology, or equipment used to
8 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

9

10 **Section 2.** Section 13-37-226, MCA, is amended to read:

11 **"13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the
12 electors of Montana, statewide ballot issue committees, and political committees that receive a contribution or
13 make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file
14 reports electronically as follows:

15 (a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in
16 which:

17 (i) funds are received or expended during the year or years prior to the election year that the candidate
18 expects to be on the ballot; or

19 (ii) an issue becomes a ballot issue, as defined in 13-1-101(6)(b);

20 (b) on the 1st day of each month from March through November during a year in which an election is
21 held;

22 (c) on the 15th day preceding the date on which an election is held;

23 (d) within 2 business days after receiving a contribution of \$200 or more if received between the 20th
24 day before the election and the day of the election;

25 (e) not more than 20 days after the date of the election; and

26 (f) on the 10th day of March and September of each year following an election until the candidate or
27 political committee files a closing report as specified in 13-37-228(3).

28 (2) Candidates for a state district office, including but not limited to candidates for the legislature, the
29 public service commission, or a district court judge, and political committees that receive contributions or make
30 expenditures to support or oppose a particular state district candidate or issue, unless the political committee is

1 already reporting under the provisions of subsection (1), shall file reports as follows:

2 (a) on the 35th and 12th days preceding the date on which an election is held;

3 (b) within 2 business days after receiving a contribution of \$100 or more if received between the 17th
4 day before the election and the day of the election;

5 (c) not more than 20 days after the date of the election; and

6 (d) on the 10th day of March and September of each year following an election until the candidate or
7 political committee files a closing report as specified in 13-37-228(3).

8 (3) Candidates for any other public office and political committees that receive contributions or make
9 expenditures to support or oppose a particular local issue shall file the reports specified in subsection (2) only
10 if the total amount of contributions received or the total amount of funds expended for all elections in a campaign;
11 ~~excluding the filing fee paid by the candidate~~, exceeds \$500, except as provided in 13-37-206.

12 (4) Independent and political party committees not required to report under subsection (1) or (2) shall
13 file:

14 (a) a report on the 90th, 35th, and 12th days preceding the date of an election in which they participate
15 by making an expenditure;

16 (b) a report within 2 business days of receiving a contribution of \$500 or more if received between the
17 17th day before the election and the day of the election;

18 (c) a report within 2 business days of making an expenditure of \$500 or more for an electioneering
19 communication if the expenditure is made between the 17th day before the election and the day of the election;

20 (d) a report not more than 20 days after the date of the election in which they participate by making an
21 expenditure; and

22 (e) a report on a date to be prescribed by the commissioner for a closing report at the close of each
23 calendar year.

24 (5) An incidental committee not required to report under subsection (1) or (2) shall file a report:

25 (a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making
26 an expenditure;

27 (b) within 2 business days of receiving a contribution as provided in 13-37-232(1) of \$500 or more if
28 received between the 17th day before an election and the day of the election;

29 (c) within 2 business days of making an expenditure of \$500 or more for an electioneering
30 communication if the expenditure is made between the 17th day before the election and the day of the election;

- 1 (d) not more than 20 days after the date of the election in which it participated; and
2 (e) on a date to be prescribed by the commissioner for a closing report at the close of each calendar
3 year.
- 4 (6) The commissioner shall post on the commissioner's website:
5 (a) all reports filed under this section within 7 business days of filing; and
6 (b) for each election the calendar dates that correspond with the filing requirements of subsections (1),
7 (2), (4), and (5).
- 8 (7) The commissioner may require reports filed under this section to be submitted electronically.
- 9 (8) Except as provided in subsections (1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), all reports required
10 by this section must be complete as of the 5th day before the date of filing as specified in 13-37-228(2) and this
11 section.
- 12 (9) A political committee may file a closing report prior to the date prescribed by rule or set in
13 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election
14 cycle."

15 - END -