

1 SENATE BILL NO. 134

2 INTRODUCED BY D. BROWN, S. MALEK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS RELATED
5 TO ELECTIONEERING COMMUNICATIONS; REVISING THE DEFINITIONS OF "CONTRIBUTION",
6 "EXPENDITURE", AND "INDEPENDENT EXPENDITURE"; AND AMENDING SECTION 13-1-101, MCA."

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

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

11 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
12 definitions apply:

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

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

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

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

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

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

1 ballot issue.

2 (8) "Candidate" means:

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

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

10 (i) solicitation is made;

11 (ii) contribution is received and retained; or

12 (iii) expenditure is made; or

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

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

15 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit,
16 payment, or distribution of money or anything of value;

17 (A) to support or oppose a candidate or a ballot issue; or

18 (B) used or ~~intended~~ CONTRACTED for use in producing or funding all or a portion of electioneering
19 communications;

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

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

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

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

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

1 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger
2 registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant
3 enforcement as a campaign practices violation under Title 13, chapter 37.

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

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

10 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or
11 the individual designated by a county governing body to be responsible for all election administration duties even
12 if the school election is administered by the school district clerk.

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

- 15 (i) a paid advertisement broadcast over radio, television, cable, or satellite;
- 16 (ii) paid placement of content on the internet or other electronic communication network;
- 17 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;
- 18 (iv) a mailing; or
- 19 (v) printed materials.

20 (b) The term does not mean:

- 21 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote,
22 if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;
- 23 (ii) a communication that does not support or oppose a candidate or ballot issue;
- 24 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
25 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;
- 26 (iv) a communication by any membership organization or corporation to its members, stockholders, or
27 employees; or
- 28 (v) a communication that the commissioner determines by rule is not an election communication.

29 (15) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform
30 duties as specified by law.

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

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

7 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that
8 election; or

9 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

10 (b) The term does not mean:

11 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
12 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation
13 unless the facilities are owned or controlled by a candidate or political committee;

14 (ii) a communication by any membership organization or corporation to its members, stockholders, or
15 employees;

16 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the
17 candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

18 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate
19 debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

20 (v) a communication that the commissioner determines by rule is not an electioneering communication.

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

22 (18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
23 of money or anything of value:

24 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

25 (ii) used or ~~intended~~ CONTRACTED for use DIRECTLY OR INDIRECTLY in ~~making independent expenditures~~
26 ~~or in producing~~ producing or funding all or a portion of electioneering communications.

27 (b) "Expenditure" does not mean:

28 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

29 (ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal necessities
30 for the candidate and the candidate's family;

1 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities
2 of any 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 (19) "Federal election" means an election in even-numbered years 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 (20) "General election" means an election that is held for offices that first appear on a primary election
8 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

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

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

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

15 (b) For the purpose of this subsection (23), the primary purpose is determined by the commissioner by
16 rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose
17 or goal of the person or individuals that form the committee.

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

22 (25) "Independent expenditure" means an expenditure ~~for an election communication to support or~~
23 ~~oppose a candidate or ballot issue~~ made at any time that:

24 (a) is for election communications or electioneering communications; and

25 (b) that is not coordinated with a candidate or ballot issue committee.

26 (26) "Individual" means a human being.

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

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

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

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

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

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

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

11 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
12 independent expenditure.

13 (b) Political committees include ballot issue committees, incidental committees, independent committees,
14 and political party committees.

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

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

19 (32) "Political party committee" means a political committee formed by a political party organization and
20 includes all county and city central committees.

21 (33) "Political party organization" means a political organization that:

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

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

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

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

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

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

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

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

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

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

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

12 (43) "School election" has the meaning provided in 20-1-101.

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

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

17 (46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is
18 designed to:

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

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

22 (47) "Special election" means an election held on a day other than the day specified for a primary
23 election, general election, or regular school election.

24 (48) "Special purpose district" means an area with special boundaries created as authorized by law for
25 a specialized and limited purpose.

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

28 (50) "Support or oppose", including any variations of the term, means:

29 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or
30 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election

1 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters
2 in an election; or

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

7 (51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in
8 13-15-206.

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

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

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

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