

SENATE BILL NO. 326

INTRODUCED BY N. MCCONNELL

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A BILL FOR AN ACT ENTITLED: "AN ACT BANNING CERTAIN CAMPAIGN CONTRIBUTIONS AND EXPENDITURES BY FOREIGN NATIONALS OR BY CERTAIN ENTITIES THAT ARE CONTROLLED, INFLUENCED, OR OWNED BY FOREIGN NATIONALS; PROVIDING PENALTIES; AMENDING SECTION 13-37-128, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Definitions.** (1) As used in [sections 1 through 3], the following definitions apply:

(a) "Entity" means a partnership, association, limited liability company, joint venture, corporation, or any other legal or commercial organization, or a combination of entities.

(b) "Foreign national" means:

(i) a government of a foreign country;

(ii) a political party of a foreign country;

(iii) an entity located outside of the United States unless that entity:

(A) is organized under or created under federal law, state law, or the law of another place subject to the jurisdiction of the United States; and

(B) has its principal place of business within the United States;

(iv) an entity that:

(A) is organized under the laws of a foreign country; or

(B) has its principal place of business in a foreign country; and

(v) an individual who is not lawfully admitted for the privilege of residing permanently in the United States as an immigrant in accordance with immigration laws and who is not:

(A) a citizen of the United States; or

(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(2) For the purposes of [sections 1 through 3], the definitions of contribution and expenditure in 13-1-101

1 apply except that they may be made by an individual who is a foreign national in addition to a candidate or a  
2 political committee.

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4 **NEW SECTION. Section 2. Prohibition on foreign national interference in election.** (1) It is unlawful  
5 for a foreign national, directly or through an intermediary, to make a disbursement for an electioneering  
6 communication, a contribution, or an expenditure, or to make an express or implied promise to make a  
7 contribution or an expenditure.

8 (2) It is unlawful for a person to solicit, accept, or receive a contribution, expenditure, or disbursement  
9 described in subsection (1) from a foreign national.

10 (3) It is unlawful for a person to solicit, accept, or receive a contribution, expenditure, or disbursement  
11 described in subsection (1) from a corporation that is not defined as a foreign national but:

12 (a) in which a foreign national directly or indirectly owns or controls:

13 (i) 5% or more of the voting shares, if the foreign national is a foreign country, a foreign government  
14 official, or a corporation principally owned or controlled by a foreign country or foreign government official; or

15 (ii) 20% or more of the voting shares, if the foreign national is not a foreign country, a foreign government  
16 official, or a corporation owned or controlled by a foreign country or foreign government official.

17 (b) in which two or more foreign nationals, each of whom owns or controls at least 5% of the voting  
18 shares, directly or indirectly own or control 50% or more of the voting shares; or

19 (c) over which one or more foreign nationals have the power to direct, dictate, or control the  
20 decisionmaking process of the corporation with respect to:

21 (i) the corporation's interests in the United States; or

22 (ii) the corporation's activities in connection with an election, including:

23 (A) the making of a contribution, expenditure, or a disbursement for an electioneering communication;

24 or

25 (B) the administration of a political committee established or maintained by the corporation.

26 (4) To the extent that a potential violation of this section also violates 52 U.S.C. 30121 or 11 CFR 110.20,  
27 investigation and enforcement of the matter must be referred to the federal election commission. The  
28 commissioner or a county attorney may not bring an enforcement action regarding the portion of the matter that  
29 also violates 52 U.S.C. 30121 or 11 CFR 110.20.

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1            NEW SECTION. **Section 3. Penalties.** A person who violates [section 2] is liable in a civil action  
2 pursuant to 13-37-128.

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4            **Section 4.** Section 13-37-128, MCA, is amended to read:

5            **"13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the  
6 reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable  
7 in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124  
8 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures,  
9 whichever is greater.

10           (2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228,  
11 or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county  
12 attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times  
13 the amount of the unlawful contribution or expenditure, whichever is greater.

14           (3) A person who violates the provisions of [section 2] is liable in a civil action brought by the  
15 commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount  
16 up to \$500 or three times the amount of the unlawful disbursement, contribution, expenditure, or promise,  
17 whichever is greater."

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19           NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
20 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
21 remains in effect in all valid applications that are severable from the invalid applications.

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23           NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 3] are intended to be codified  
24 as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections 1 through  
25 3].

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27           NEW SECTION. **Section 7. Applicability.** [This act] applies to disbursements, contributions,  
28 expenditures, and promises made on or after [the effective date of this act].

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