

1 SENATE BILL NO. 350

2 INTRODUCED BY G. HERTZ

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS RELATED TO MINOR
6 PARTIES; PROVIDING REQUIREMENTS FOR A MINOR PARTY TO QUALIFY THAT POLITICAL PARTY BY
7 PETITION TO NOMINATE ITS CANDIDATES FOR OFFICE BY PRIMARY ELECTION; PROVIDING THAT
8 ANY ELECTOR MAY SUBMIT A MINOR PARTY PETITION; PROVIDING DEADLINES FOR AN ELECTOR
9 TO REMOVE THE ELECTOR'S NAME FROM A MINOR PARTY PETITION; PROVIDING PROCEDURES TO
10 VERIFY ELECTORS' SIGNATURES ON A MINOR PARTY PETITION; REVISING PROCEDURES TO
11 CERTIFY A MINOR PARTY PETITION; PROVIDING RETENTION REQUIREMENTS FOR DOCUMENTS
12 ASSOCIATED WITH MINOR PARTY PETITIONS; PROVIDING THAT MONEY SPENT TO OPPOSE A
13 MINOR PARTY'S PETITION TO QUALIFY TO HOLD A PRIMARY MUST BE DISCLOSED AND REPORTED
14 IN THE SAME MANNER AS MONEY SPENT TO SUPPORT SUCH AN EFFORT; PROVIDING RULEMAKING
15 AUTHORITY; AMENDING SECTIONS 13-10-601, 13-10-605, 13-37-601, 13-37-603, 13-37-604, AND 13-37-
16 605, MCA; AND PROVIDING AN APPLICABILITY DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Submission and form of minor party petition.** (1) (a) Any elector may
21 present a petition to the secretary of state to request that a political party that does not qualify to hold a primary
22 election under 13-10-601(1) may qualify to nominate its candidates by primary election.

23 (b) The petition must be in the form prescribed by the secretary of state.

24 (2) The petition must be signed by a number of registered voters equal to 5% or more of the total
25 votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is
26 less. The number must include the registered voters in at least one-third of the legislative districts equal to 5%
27 or more of the total votes cast for the successful candidate for governor at the last general election in those
28 districts or 150 electors in those districts, whichever is less.

1 (3) Signed sheets or sections of petitions with original signatures and the affidavits of circulation as
 2 provided in [section 2] must be submitted to the official responsible for registration of electors in the county in
 3 which the signatures were obtained no sooner than 9 months and no later than 4 weeks before the final date for
 4 filing the petition with the secretary of state as provided in [section 4(2)].

5 (4) (a) An elector may withdraw the elector's signature from a petition under [this part] until the final
 6 submission of petition sheets as provided in subsection (3).

7 (b) The county election administrator may consider an elector's request for an elector's name to be
 8 withdrawn only after verification that the elector requesting to be withdrawn from the petition is the same elector
 9 who signed the petition.

10

11 NEW SECTION. Section 2. Verification of signatures. An affidavit, in substantially the following
 12 form, must be attached to each sheet or section submitted to the county official:

13 I, (name of person who is the signature gatherer), swear that I/we gathered the signatures on the
 14 petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are
 15 genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana
 16 electors who are registered at the address or have the telephone number following the person's signature, and
 17 that I/we told the signers the contents of the petition before signing they signed the petition.

18 _____
 19 (Date on which the first signature was gathered)

20 _____
 21 (Signature of petition signature gatherer)

22 _____
 23 (Address of petition signature gatherer)

24 Subscribed and sworn to before me this ____ day of _____, 20__

25 Seal _____
 26 (Person authorized to take oaths)

27 _____
 28 (Title or notarial information)

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NEW SECTION. Section 3. Verification of signatures by county -- fraudulent or duplicate

signatures. (1) The county official shall check the names of all signers to verify they are registered electors. In addition, the official shall check all signatures on each sheet or section and compare them with the signatures of the electors as they appear in the records of the office. A signature may not be counted unless the elector has signed in substantially the same manner as it appears in the records of the office. If the elector is registered with a first and middle name, the use of an initial instead of either the first or middle name, but not both names, need not disqualify the signature. The signature may be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registration form as to provide reasonable certainty of its authenticity.

(2) Upon discovery of fraudulent signatures or duplicate signatures of an elector on any one issue, the election administrator may submit the name of the elector or the signature gatherer, or both, to the county attorney to be investigated under the provisions of [section 7] and 13-35-207.

NEW SECTION. Section 4. County official to forward verified sheets. (1) The county official

verifying the number of registered electors signing the petition shall forward it to the secretary of state by certified mail with a certificate in substantially the following form attached:

To the Honorable _____, Secretary of State of the state of Montana:

I, _____, _____ (title) of the County of _____, certify that I have examined the attached sheets of the petition to qualify the _____ political party to nominate its candidates by primary election in the manner prescribed by law; and I believe that ____ (number) signatures in (Legislative Representative District No. ____) (repeat for each district included in sheet or section) are valid; and I further certify that the affidavit of the signature gatherer of the petition is attached.

Signed: _____ (Date) _____ (Signature)

Seal _____ (Title)

(2) The county official verifying the number of registered electors signing the petition shall ensure that it is received by the secretary of state at least 95 days before the date of the primary.

1 **NEW SECTION. Section 5. Certification of minor party petition.** (1) When a petition containing a
2 sufficient number of verified signatures has been filed and verified with the secretary of state as provided in this
3 part, the secretary of state shall immediately certify that the completed petition qualifies the party to hold a
4 primary election.

5 (2) If a filed petition does not meet the requirements of this part, the secretary of state shall certify that
6 the political party does not qualify to nominate its candidates for public office by primary election.

7 (3) If a petition is filed under this part, the secretary of state shall certify the petition under subsection
8 (1) or (2) at least 88 days before the date of the primary.

9
10 **NEW SECTION. Section 6. Retention of copies by county official.** The county official certifying the
11 sheets or sections of a petition shall keep a copy of the sheets or sections certified in the official files of the
12 official's office. The copies may be destroyed 3 months after the date the petition was certified unless a court
13 action is pending on the sufficiency of the petition. If a court action is brought within 3 months after the date the
14 petition is certified, the county official may destroy the files only after final disposition of the court action.

15
16 **NEW SECTION. Section 7. Violations -- penalties.** A person who knowingly makes a false entry on
17 a petition or affidavit under this part or who knowingly signs a petition to qualify the same political party for the
18 same primary election more than once is guilty of unsworn falsification or tampering with public records or
19 information, as appropriate, and is punishable as provided in 45-7-203 or 45-7-208, as applicable.

20
21 **NEW SECTION. Section 8. Rulemaking.** The secretary of state shall adopt rules to implement the
22 provisions of this part.

23
24 **Section 9.** Section 13-10-601, MCA, is amended to read:
25 **"13-10-601. Parties eligible for primary election -- petitions by minor parties.** (1) Each political
26 party that had a candidate for a statewide office in either of the last two general elections who received a total
27 vote that was 5% or more of the total votes cast for the most recent successful candidate for governor shall
28 nominate its candidates for public office, except for presidential electors, by a primary election as provided in

1 this chapter.

2 (2) ~~(a) A~~ After certification of a petition by the secretary of state under [section 5(1)], a political party
 3 that does not qualify to hold a primary election under subsection (1) ~~may qualify to nominate its candidates by~~
 4 ~~primary election by presenting a petition, in a form prescribed by the secretary of state, requesting the primary~~
 5 ~~election shall nominate its candidates for public office by primary election. However, this section may not be~~
 6 ~~construed to prohibit an election administrator from not preparing a primary election ballot pursuant to 13-10-~~
 7 ~~209.~~

8 ~~(b) The petition must be signed by a number of registered voters equal to 5% or more of the total~~
 9 ~~votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is~~
 10 ~~less. The number must include the registered voters in more than one-third of the legislative districts equal to~~
 11 ~~5% or more of the total votes cast for the successful candidate for governor at the last general election in those~~
 12 ~~districts or 150 electors in those districts, whichever is less.~~

13 ~~(c) At least 1 week before the deadline provided in subsection (2)(d), the petition and the affidavits of~~
 14 ~~circulation required by 13-27-302 must be presented to the election administrator of the county in which the~~
 15 ~~signatures were gathered to be verified under the procedures provided in 13-27-303 through 13-27-306.~~

16 ~~(d) The election administrator shall forward the verified petition to the secretary of state at least 85~~
 17 ~~days before the date of the primary."~~

18

19 **Section 10.** Section 13-10-605, MCA, is amended to read:

20 **"13-10-605. Qualifying minor political parties -- reports required.** (1) A person who spends or
 21 receives money ~~in furtherance of~~ to support or oppose an effort to qualify a minor political party for primary
 22 elections using the petitions described in ~~13-10-604(2)~~ [section 1] shall comply with the provisions of Title 13,
 23 chapter 37, part 6.

24 (2) For the purposes of this section, "support or oppose" has the meaning as provided in 13-37-601."

25

26 **Section 11.** Section 13-37-601, MCA, is amended to read:

27 **"13-37-601. Definitions.** For the purposes of this part, the following definitions apply:

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

1 (i) the receipt by a reporting entity of an advance, gift, loan, conveyance, deposit, payment, or
 2 distribution of money ~~in furtherance of~~ to support or oppose an effort to qualify a minor party for primary
 3 elections using a minor party petition;

4 (ii) an expenditure that is made in coordination with a minor party qualification committee formed by
 5 the minor party that is reportable by the minor party qualification committee as a contribution;

6 (iii) the receipt of funds transferred from another reporting entity for use ~~in furtherance of~~ to support or
 7 oppose an effort to qualify a minor party for primary elections using a minor party petition; or

8 (iv) the payment by a person other than a reporting entity of compensation for the personal services of
 9 another person that are rendered to the reporting entity ~~in furtherance of~~ to support or oppose an effort to
 10 qualify a minor party for primary elections using a minor party petition.

11 (b) The term does not mean services provided without compensation by individuals volunteering a
 12 portion or all of their time on behalf of the reporting entity.

13 (2) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or
 14 gift of money made by a reporting entity ~~in furtherance of~~ to support or oppose an effort to qualify a minor party
 15 for primary elections using a minor party petition.

16 (b) The term does not mean:

17 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
 18 (1);

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

21 (iii) the cost of any communication by a membership organization or corporation to its members or
 22 stockholders or employees.

23 ~~(3) "In furtherance of" means referring to or depicting a minor political party in a manner that is~~
 24 ~~susceptible to no reasonable interpretation other than as a call for the political party to qualify to hold a primary~~
 25 ~~election.~~

26 ~~(4)(3)~~ "Minor party" means a political party that does not qualify to hold a primary election under 13-
 27 10-601(1).

28 ~~(5)(4)~~ "Minor party petition" means a petition described by ~~13-10-601(2)~~ [section 1].

1 ~~(6)~~(5) "Minor party qualification committee" means a combination of two or more individuals or a
 2 person other than an individual organized ~~in furtherance of~~ to support or oppose an effort to qualify a minor
 3 political party for primary elections using a minor party petition.

4 ~~(7)~~(6) (a) "Reporting entity" means the following entities that receive at least \$500 in aggregate
 5 contributions in a calendar year or make at least \$500 in aggregate expenditures in a calendar year:

6 (i) except as provided by subsection ~~(7)(b)~~ (6)(b), an individual; or

7 (ii) a minor party qualification committee.

8 (b) The term does not mean an individual if the individual's contributions and expenditures are
 9 otherwise reportable by a minor party qualification committee. This exception includes but is not limited to an
 10 individual who is a signature gatherer if the signature gathering company, partnership, or other business
 11 organization that directly hires, supervises, and pays the individual is otherwise required to report as a minor
 12 party qualification committee under this part.

13 (7) "Support or oppose" means referring to or depicting a minor party in a manner that is susceptible
 14 of no reasonable interpretation other than to advocate for or against a minor party's qualification to hold a
 15 primary election."

16

17 **Section 12.** Section 13-37-603, MCA, is amended to read:

18 **"13-37-603. Reporting entity -- reports required -- exception.** (1) A reporting entity shall keep
 19 detailed records of all contributions received and expenditures made by or on behalf of the reporting entity. If
 20 the reporting entity is a minor party qualification committee, the treasurer appointed pursuant to 13-37-602 shall
 21 keep the records on behalf of the minor party qualification committee.

22 (2) A reporting entity may not knowingly report a contribution in the name of any person other than the
 23 person by whom it was actually furnished.

24 (3) A reporting entity shall file periodic reports containing the information required by 13-37-605
 25 pursuant to the dates required by 13-37-604.

26 (4) Records kept pursuant to this section must be preserved by the reporting entity for 4 years from
 27 the date prescribed in ~~13-10-601(2)(e)~~ [section 4(2)] on which the signatures were presented or otherwise
 28 would have been presented to the election administrator.

1 (5) The commissioner may inspect records or accounts that must be kept pursuant to this part, as
2 long as the inspection is made during reasonable office hours.

3 (6) If a reporting entity is otherwise required to file a report under Title 13, chapter 37, part 2,
4 concerning the same matters required to be reported under this part, the reporting entity may not be required to
5 file a duplicate report or duplicate information but shall file the information in one report."
6

7 **Section 13.** Section 13-37-604, MCA, is amended to read:

8 **"13-37-604. Reporting dates.** (1) A reporting entity shall file reports quarterly, due on the 15th day of
9 January, April, July, and October, beginning in the quarter in which the individual or minor party qualification
10 committee becomes a reporting entity and ending when the reporting entity files a closing report as provided by
11 subsection (4).

12 (2) The initial report must include contributions and expenditures prior to the time a person became a
13 reporting entity until the 5th day before the date of filing of the initial report, even if the minor party petition
14 subsequently fails to garner sufficient signatures to qualify the minor party for primary elections.

15 (3) (a) Subsequent periodic reports must cover the period of time from the closing of the previous
16 report to 5 days before the date of filing of the next report.

17 (b) Reports required under subsection (1) must be filed quarterly until the reporting entity files a
18 closing report, even if no contributions have been received or no expenditures have been made during the
19 reporting period.

20 (4) (a) A reporting entity shall file a closing report whenever all debts and obligations relating to the
21 ~~effort in furtherance of qualifying to support or oppose the qualification of~~ a minor political party for primary
22 elections are satisfied and further contributions or expenditures will not be received or made that relate to
23 qualifying the minor political party for primary elections using the minor party petition.

24 (b) A closing report may be combined with the reporting entity's final quarterly report. However, the
25 combined report must cover the period of time from the closing of the previous report until the date of filing of
26 the combined quarterly and closing report.

27 (c) If the reporting entity does not file the closing report with the final quarterly report, the closing
28 report must cover the period of the time from the closing of the last quarterly report until the date of the closing

1 report.

2 (5) A reporting entity may file a combined opening and closing report if it otherwise comports with the
3 requirements of this section."
4

5 **Section 14.** Section 13-37-605, MCA, is amended to read:

6 **"13-37-605. Content of reports.** (1) The periodic reports required by 13-37-603 must contain
7 information concerning contributions received or expenditures made by or on behalf of the reporting entity. The
8 reports must contain the following information:

9 (a) for contributions received:

10 (i) the amount of cash on hand at the beginning of the reporting period;

11 (ii) the full name, mailing address, occupation, and employer, if any, of each person who has made
12 aggregate contributions of \$35 or more;

13 (iii) for each person identified under subsection (1)(a)(ii), the aggregate amount of contributions made
14 by that person within the reporting period and the total amount of contributions made by that person for all
15 reporting periods;

16 (iv) the total sum of individual contributions made by the reporting entity and not reported under
17 subsections (1)(a)(ii) and (1)(a)(iii);

18 (v) the name and address of each person from which the reporting entity received any transfer of
19 funds for the purpose of ~~furthering~~ supporting or opposing an effort to qualify a minor party for primary elections
20 using a minor party petition, together with the amount and dates of all transfers;

21 (vi) each loan of funds designated for use or used ~~in furtherance of~~ to support or oppose an effort to
22 qualify a minor party for primary elections using a minor party petition from any person during the reporting
23 period, together with the full names, mailing addresses, occupations, and employers, if any, of the lender and
24 endorsers, if any, and the date and amount of each loan;

25 (vii) the amount and nature of debts and obligations owed to a reporting entity relating to the reporting
26 entity's effort to qualify a minor party for primary elections using a minor party petition, in the form prescribed by
27 the commissioner;

28 (viii) an itemized account of proceeds that total less than \$35 from a person from mass collections

1 made at fundraising events;

2 (ix) each contribution not otherwise listed under subsections (1)(a)(ii) through (1)(a)(viii) during the
3 reporting period;

4 (x) the total sum of all contributions received by or for the reporting entity during the reporting period;
5 and

6 (xi) other information that may be required by the commissioner to fully disclose the sources of funds
7 used in ~~the furtherance of~~ to support or oppose an effort to qualify a minor party for primary elections using a minor
8 party petition;

9 (b) for expenditures made:

10 (i) the full name, mailing address, occupation, and principal place of business, if any, of each person
11 to whom expenditures have been made by the reporting entity during the reporting period, including the
12 amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

13 (ii) the full name, mailing address, occupation, and principal place of business, if any, of each person
14 to whom an expenditure for personal services, salaries, and reimbursed expenses has been made, including
15 the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

16 (iii) the total sum of expenditures made by the reporting entity during the reporting period;

17 (iv) the name and address of each person to which the reporting entity made any transfer of funds in
18 ~~the furtherance of~~ to support or oppose an effort to qualify a minor party for primary elections using a minor party
19 petition, together with the amount and dates of all transfers;

20 (v) the name of any person to whom a loan was made during the reporting period using funds
21 designated for the purpose of ~~furthering supporting or opposing~~ to support or oppose an effort to qualify a minor party for primary
22 elections using a minor party petition, including the full name, mailing address, occupation, and principal place
23 of business, if any, of that person and the full names, mailing addresses, occupations, and principal places of
24 business, if any, of the endorsers, if any, and the date and amount of each loan;

25 (vi) the amount and nature of debts and obligations owed by the reporting entity relating to the
26 reporting entity's effort to qualify a minor party for primary elections using a minor party petition in a form
27 prescribed by the commissioner; and

28 (vii) other information that may be required by the commissioner to fully disclose the disposition of

1 funds used ~~in furtherance of~~ to support or oppose an effort to qualify a minor party for primary elections using a
2 minor party petition.

3 (2) Reports of expenditures made to a consultant or other person that performs services for or on
4 behalf of a reporting entity must be itemized and described in sufficient detail to disclose the specific services
5 performed by the entity to which payment or reimbursement was made.

6 (3) Reports required by 13-37-603 must be verified as true, complete, and correct by the oath or
7 affirmation of the individual filing the report."

8

9 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 8] are intended to be
10 codified as an integral part of Title 13, chapter 10, part 6, and the provisions of Title 13, chapter 10, part 6,
11 apply to [sections 1 through 8].

12

13 **NEW SECTION. Section 16. Applicability.** [This act] applies to petitions described by [section 1]
14 filed with the secretary of state on or after the [effective date of this act].

15

- END -