

SENATE BILL NO. 246

INTRODUCED BY D. KARY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CAMPAIGN FINANCE LAWS TO PROHIBIT POLITICAL ACTION COMMITTEES AND INDEPENDENT EXPENDITURE COMMITTEES FROM MAKING CONTRIBUTIONS TO POLITICAL ACTION COMMITTEES; REVISING DEFINITIONS OF POLITICAL COMMITTEE TYPES; AND AMENDING SECTION 13-1-101, MCA."

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

NEW SECTION. **Section 1. Ban on certain contributions to political action committees.** (1) A

political action committee may not make a contribution to another political action committee. The ban on a contribution from a political action committee to another political action committee is regardless of whether either political action committee segregates the funds used to make independent expenditures from the funds used to make contributions to candidates.

(2) An independent expenditure committee may not make contributions to a political action committee.

The ban on contributions from an independent expenditure committee to a political action committee is regardless of whether the political action committee segregates the funds it uses to make independent expenditures from the funds it uses to make contributions to candidates.

Section 2. 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

1 registration information subject to verification as provided by law.

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

4 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval
5 or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall
6 question, school levy question, bond issue question, or ballot question.

7 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the
8 proper official that the legal procedure necessary for its qualification and placement on the ballot has been
9 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the
10 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

11 (7) "Ballot issue committee" means a political committee specifically organized to support or oppose a
12 ballot issue.

13 (8) "Candidate" means:

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

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

21 (i) solicitation is made;

22 (ii) contribution is received and retained; or

23 (iii) expenditure is made; or

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) The term does not mean:

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

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

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

30 (iv) a communication by any membership organization or corporation to its members, stockholders, or

1 employees; or

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

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

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

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

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

12 (b) The term does not mean:

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

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

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

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

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

23 (16) "Elector" means an individual qualified to vote under state law.

24 (17) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
25 of money or anything of value:

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

27 (ii) used or intended for use in making independent expenditures or in producing electioneering
28 communications.

29 (b) "Expenditure" does not mean:

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

1 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or
2 personal necessities for the candidate and the candidate's family;

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

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

7 (18) "Federal election" means an election in even-numbered years 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 (19) "General election" means an election that is held for offices that first appear on a primary election
10 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

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

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

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

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

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

24 (b) Independent committees include independent expenditure committees and political action
25 committees.

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

29 (25) "Independent expenditure committee" means an independent committee that makes independent
30 expenditures but does not make contributions to candidates.

1 ~~(25)~~(26) "Individual" means a human being.

2 ~~(26)~~(27) "Legally registered elector" means an individual whose application for voter registration was
3 accepted, processed, and verified as provided by law.

4 ~~(27)~~(28) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing
5 ballots to all active electors.

6 ~~(28)~~(29) "Person" means an individual, corporation, association, firm, partnership, cooperative,
7 committee, including a political committee, club, union, or other organization or group of individuals or a candidate
8 as defined in subsection (8).

9 ~~(29)~~(30) "Place of deposit" means a location designated by the election administrator pursuant to
10 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

11 (31) (a) "Political action committee" means an independent committee that makes independent
12 expenditures and contributions to candidates.

13 ~~(30)~~(32) (a) "Political committee" means a combination of two or more individuals or a person other than
14 an individual who receives a contribution or makes an expenditure:

15 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a
16 petition for nomination;

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

18 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
19 independent expenditure.

20 (b) Political committees include ballot issue committees, incidental committees, independent committees,
21 and political party committees.

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

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

26 ~~(31)~~(33) "Political party committee" means a political committee formed by a political party organization
27 and includes all county and city central committees.

28 ~~(32)~~(34) "Political party organization" means a political organization that:

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

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

1 ~~(33)~~(35) "Political subdivision" means a county, consolidated municipal-county government, municipality,
2 special purpose district, or any other unit of government, except school districts, having authority to hold an
3 election.

4 ~~(34)~~(36) "Polling place election" means an election primarily conducted at polling places rather than by
5 mail under the provisions of Title 13, chapter 19.

6 ~~(35)~~(37) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to
7 nominate candidates for offices filled at a general election.

8 ~~(36)~~(38) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not
9 been verified as provided by law.

10 ~~(37)~~(39) "Provisionally registered elector" means an individual whose application for voter registration
11 was accepted but whose identity or eligibility has not yet been verified as provided by law.

12 ~~(38)~~(40) "Public office" means a state, county, municipal, school, or other district office that is filled by
13 the people at an election.

14 ~~(39)~~(41) "Random-sample audit" means an audit involving a manual count of ballots from designated
15 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

16 ~~(40)~~(42) "Registrar" means the county election administrator and any regularly appointed deputy or
17 assistant election administrator.

18 ~~(41)~~(43) "Regular school election" means the school trustee election provided for in 20-20-105(1).

19 ~~(42)~~(44) "School election" has the meaning provided in 20-1-101.

20 ~~(43)~~(45) "School election filing officer" means the filing officer with whom the declarations for nomination
21 for school district office were filed or with whom the school ballot issue was filed.

22 ~~(44)~~(46) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
23 duties in school elections.

24 ~~(45)~~(47) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that
25 is designed to:

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

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

29 ~~(46)~~(48) "Special election" means an election held on a day other than the day specified for a primary
30 election, general election, or regular school election.

