

1 HOUSE BILL NO. 514

2 INTRODUCED BY A. PERSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS; PROVIDING
5 A DEFINITION OF "ELECTIONEERING COMMUNICATION" AND REVISING THE DEFINITION OF
6 "EXPENDITURE"; REQUIRING CERTAIN ELECTION COMMUNICATIONS AND ELECTIONEERING
7 COMMUNICATIONS MADE BY A CORPORATION TO CONTAIN A DISCLOSURE STATEMENT; AND
8 AMENDING SECTIONS 13-1-101 AND 13-35-225, MCA."

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

11

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

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

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

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

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

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

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

25 (6) "Candidate" means:

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

28 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained
29 contributions, made expenditures, or given consent to an individual, organization, political party, or committee
30 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination

1 or election to any office at any time, whether or not the office for which the individual will seek nomination or
2 election is known when the:

3 (i) solicitation is made;

4 (ii) contribution is received and retained; or

5 (iii) expenditure is made; or

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

7 (7) (a) "Contribution" means:

8 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value
9 to influence an election;

10 (ii) a transfer of funds between political committees;

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

13 (b) "Contribution" does not mean:

14 (i) services provided without compensation by individuals volunteering a portion or all of their time on
15 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
16 residences for a candidate or other individual;

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

19 (iii) the cost of any communication by any membership organization or corporation to its members or
20 stockholders or employees; or

21 (iv) filing fees paid by the candidate.

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

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

27 (10) (a) "Electioneering communication" means a communication made within 60 days of the initiation
28 of voting in an election that does not support or oppose a candidate or ballot issue, that can be received by more
29 than 100 recipients in the district voting on the candidate or ballot issue, and that:

30 (i) refers to or depicts clearly identified candidates in that election;

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

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

4 (b) The term does not mean:

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

7 (ii) a communication by a membership organization or corporation to its members, stockholders, or
8 employees; or

9 (iii) a communication that the commissioner determines by rule is not an electioneering communication.

10 ~~(10)~~(11) "Elector" means an individual qualified to vote under state law.

11 ~~(11)~~(12) (a) (i) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
12 or gift of money or anything of value made for the purpose of influencing the results of an election; or

13 (ii) the cost of making or financing an electioneering communication.

14 (b) "Expenditure" does not mean:

15 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

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

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

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

22 ~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for
23 individuals for the office of president of the United States or for the United States congress.

24 ~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers
25 throughout the state at times specified by law, including elections for officers of political subdivisions when the
26 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
27 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
28 legislature to the electors at a general election, "general election" means an election held at the time provided
29 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
30 as a constitutional initiative at a regular election, regular election means an election held at the time provided in

1 13-1-104(1).

2 ~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose
3 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

4 ~~(15)~~(16) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

5 ~~(16)~~(17) "Individual" means a human being.

6 ~~(17)~~(18) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
7 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
8 questions, school levy questions, bond issue questions, or a ballot question.

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

13 ~~(18)~~(19) "Legally registered elector" means an individual whose application for voter registration was
14 accepted, processed, and verified as provided by law.

15 ~~(19)~~(20) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing
16 ballots to all active electors.

17 ~~(20)~~(21) "Person" means an individual, corporation, association, firm, partnership, cooperative,
18 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

19 ~~(21)~~(22) "Place of deposit" means a location designated by the election administrator pursuant to
20 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

21 ~~(22)~~(23) "Political committee" means a combination of two or more individuals or a person other than an
22 individual who makes a contribution or expenditure:

23 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a
24 petition for nomination; or

25 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

26 (c) as an earmarked contribution.

27 ~~(23)~~(24) "Political subdivision" means a county, consolidated municipal-county government, municipality,
28 special district, or any other unit of government, except school districts, having authority to hold an election for
29 officers or on a ballot issue.

30 ~~(24)~~(25) "Polling place election" means an election primarily conducted at polling places rather than by

1 mail under the provisions of Title 13, chapter 19.

2 ~~(25)~~(26) "Primary" or "primary election" means an election held throughout the state to nominate
3 candidates for public office at times specified by law, including nominations of candidates for offices of political
4 subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

5 ~~(26)~~(27) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not
6 been verified as provided by law.

7 ~~(27)~~(28) "Provisionally registered elector" means an individual whose application for voter registration
8 was accepted but whose identity or eligibility has not yet been verified as provided by law.

9 ~~(28)~~(29) "Public office" means a state, county, municipal, school, or other district office that is filled by
10 the people at an election.

11 ~~(29)~~(30) "Random-sample audit" means an audit involving a manual count of ballots from designated
12 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

13 ~~(30)~~(31) "Registrar" means the county election administrator and any regularly appointed deputy or
14 assistant election administrator.

15 ~~(31)~~(32) "School election" has the meaning provided in 20-20-101.

16 ~~(32)~~(33) "School election filing officer" means the filing officer with whom the declarations for nomination
17 for school district office were filed or with whom the school ballot issue was filed.

18 ~~(33)~~(34) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
19 duties in school elections.

20 ~~(34)~~(35) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that
21 is designed to:

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

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

25 ~~(35)~~(36) "Special election" means an election other than a statutorily scheduled primary or general
26 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
27 scheduled election.

28 ~~(36)~~(37) "Statewide voter registration list" means the voter registration list established and maintained
29 pursuant to 13-2-107 and 13-2-108.

30 ~~(37)~~(38) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an

1 elector to transfer the elector's registration when the elector's residence address has changed within the county.

2 ~~(38)~~(39) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided
3 in 13-15-206.

4 ~~(39)~~(40) "Voted ballot" means a ballot that is:

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

8 ~~(40)~~(41) "Voting system" or "system" means any machine, device, technology, or equipment used to
9 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

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11 **Section 2.** Section 13-35-225, MCA, is amended to read:

12 **"13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.**

13 (1) All electioneering communications and communications advocating the success or defeat of a candidate,
14 political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility,
15 direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must
16 clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person
17 who made or financed the expenditure for the communication. The attribution must contain:

18 (a) for election material financed by a candidate or a candidate's campaign finances, the name and the
19 address of the candidate or the candidate's campaign; and

20 (b) for election material financed by a political committee, the name of the committee, the name of the
21 committee treasurer, and the address of the committee or the committee treasurer.

22 (2) Communications in a partisan election financed by a candidate or a political committee organized
23 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

24 (3) (a) Printed election material described in subsection (1) that includes information about another
25 candidate's voting record must include the following:

26 (i) a reference to the particular vote or votes upon which the information is based;

27 (ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if the
28 contrasting votes were made in any of the previous 6 years; and

29 (iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the
30 statements made about the other candidate's voting record are accurate and true.

1 (b) The statement required under subsection (3)(a) must be signed:

2 (i) by the candidate if the election material was prepared for the candidate or the candidate's political
3 committee and includes information about another candidate's voting record; or

4 (ii) by the person financing the communication or the person's legal agent if the election material was not
5 prepared for a candidate or a candidate's political committee.

6 (4) If a corporation funds an electioneering communication or a communication described in subsection
7 (1), the communication must include the following attribution: "This message was funded by a corporation, not
8 a natural person".

9 ~~(4)(5)~~ If a document or other article of advertising is too small for the requirements of subsections (1)
10 through ~~(3)~~ (4) to be conveniently included, the candidate responsible for the material or the person financing the
11 communication shall file a copy of the article with the commissioner of political practices, together with the
12 required information or statement, at the time of its public distribution.

13 ~~(5)(6)~~ If information required in subsections (1) through ~~(3)~~ (4) is omitted or not printed, upon discovery
14 of or notification about the omission, the candidate responsible for the material or the person financing the
15 communication shall:

16 (a) file notification of the omission with the commissioner of political practices within 5 days of the
17 discovery or notification;

18 (b) bring the material into compliance with subsections (1) through ~~(3)~~ (4); and

19 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

20 ~~(6)(7)~~ Whenever the commissioner receives a complaint alleging a violation of subsection (1), ~~or~~ or
21 (4), the commissioner shall as soon as practicable assess the merits of the complaint.

22 ~~(7)(8)~~ (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the
23 complainant and the candidate or political committee of the commissioner's determination. The notice must state
24 that the candidate or political committee shall bring the material into compliance as required under this section:

25 (i) within 5 days after receiving the notification if the notification occurs more than 7 days prior to an
26 election; or

27 (ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an
28 election.

29 (b) When notifying the candidate or campaign committee under subsection ~~(7)(a)~~ (8)(a), the
30 commissioner shall include a statement that if the candidate or political committee fails to bring the material into

1 compliance as required under this section, the candidate or political committee is subject to a civil penalty
2 pursuant to 13-37-128."

3 - END -