

SECOND REGULAR SESSION

SENATE BILL NO. 789

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Pre-filed December 16, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3271S.02I

AN ACT

To repeal section 130.011, RSMo, and to enact in lieu thereof two new sections relating to the eliminate dark money act, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 130.011, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 130.011 and 130.062, to read as
3 follows:

130.011. As used in this chapter, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Appropriate officer" or "appropriate officers", the person or persons
4 designated in section 130.026 to receive certain required statements and reports;

5 (2) "Ballot measure" or "measure", any proposal submitted or intended to
6 be submitted to qualified voters for their approval or rejection, including any
7 proposal submitted by initiative petition, referendum petition, or by the general
8 assembly or any local governmental body having authority to refer proposals to
9 the voter;

10 (3) "Candidate", an individual who seeks nomination or election to public
11 office. The term "candidate" includes an elected officeholder who is the subject
12 of a recall election, an individual who seeks nomination by the individual's
13 political party for election to public office, an individual standing for retention in
14 an election to an office to which the individual was previously appointed, an
15 individual who seeks nomination or election whether or not the specific elective
16 public office to be sought has been finally determined by such individual at the
17 time the individual meets the conditions described in paragraph (a) or (b) of this
18 subdivision, and an individual who is a write-in candidate as defined in

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 subdivision (28) of this section. A candidate shall be deemed to seek nomination
20 or election when the person first:

21 (a) Receives contributions or makes expenditures or reserves space or
22 facilities with intent to promote the person's candidacy for office; or

23 (b) Knows or has reason to know that contributions are being received or
24 expenditures are being made or space or facilities are being reserved with the
25 intent to promote the person's candidacy for office; except that, such individual
26 shall not be deemed a candidate if the person files a statement with the
27 appropriate officer within five days after learning of the receipt of contributions,
28 the making of expenditures, or the reservation of space or facilities disavowing
29 the candidacy and stating that the person will not accept nomination or take
30 office if elected; provided that, if the election at which such individual is
31 supported as a candidate is to take place within five days after the person's
32 learning of the above-specified activities, the individual shall file the statement
33 disavowing the candidacy within one day; or

34 (c) Announces or files a declaration of candidacy for office;

35 (4) "Cash", currency, coin, United States postage stamps, or any
36 negotiable instrument which can be transferred from one person to another
37 person without the signature or endorsement of the transferor;

38 (5) "Check", a check drawn on a state or federal bank, or a draft on a
39 negotiable order of withdrawal account in a savings and loan association or a
40 share draft account in a credit union;

41 (6) "Closing date", the date through which a statement or report is
42 required to be complete;

43 (7) "Committee", a person or any combination of persons, who accepts
44 contributions or makes expenditures for the primary or incidental purpose of
45 influencing or attempting to influence the action of voters for or against the
46 nomination or election to public office of one or more candidates or the
47 qualification, passage or defeat of any ballot measure or for the purpose of paying
48 a previously incurred campaign debt or obligation of a candidate or the debts or
49 obligations of a committee or for the purpose of contributing funds to another
50 committee:

51 (a) "Committee", does not include:

52 a. A person or combination of persons, if neither the aggregate of
53 expenditures made nor the aggregate of contributions received during a calendar
54 year exceeds five hundred dollars and if no single contributor has contributed

55 more than two hundred fifty dollars of such aggregate contributions;

56 b. An individual, other than a candidate, who accepts no contributions
57 and who deals only with the individual's own funds or property;

58 c. A corporation, cooperative association, partnership, proprietorship, or
59 joint venture organized or operated for a primary or principal purpose other than
60 that of influencing or attempting to influence the action of voters for or against
61 the nomination or election to public office of one or more candidates or the
62 qualification, passage or defeat of any ballot measure, and it accepts no
63 contributions, and all expenditures it makes are from its own funds or property
64 obtained in the usual course of business or in any commercial or other transaction
65 and which are not contributions as defined by subdivision (12) of this section;

66 d. A labor organization organized or operated for a primary or principal
67 purpose other than that of influencing or attempting to influence the action of
68 voters for or against the nomination or election to public office of one or more
69 candidates, or the qualification, passage, or defeat of any ballot measure, and it
70 accepts no contributions, and expenditures made by the organization are from its
71 own funds or property received from membership dues or membership fees which
72 were given or solicited for the purpose of supporting the normal and usual
73 activities and functions of the organization and which are not contributions as
74 defined by subdivision (12) of this section;

75 e. A person who acts as an authorized agent for a committee in soliciting
76 or receiving contributions or in making expenditures or incurring indebtedness
77 on behalf of the committee if such person renders to the committee treasurer or
78 deputy treasurer or candidate, if applicable, an accurate account of each receipt
79 or other transaction in the detail required by the treasurer to comply with all
80 record-keeping and reporting requirements of this chapter;

81 f. Any department, agency, board, institution or other entity of the state
82 or any of its subdivisions or any officer or employee thereof, acting in the person's
83 official capacity;

84 (b) The term "committee" includes, but is not limited to, each of the
85 following committees: campaign committee, candidate committee, continuing
86 committee and political party committee;

87 (8) "Campaign committee", a committee, other than a candidate
88 committee, which shall be formed by an individual or group of individuals to
89 receive contributions or make expenditures and whose sole purpose is to support
90 or oppose the qualification and passage of one or more particular ballot measures

91 in an election or the retention of judges under the nonpartisan court plan, such
92 committee shall be formed no later than thirty days prior to the election for which
93 the committee receives contributions or makes expenditures, and which shall
94 terminate the later of either thirty days after the general election or upon the
95 satisfaction of all committee debt after the general election, except that no
96 committee retiring debt shall engage in any other activities in support of a
97 measure for which the committee was formed;

98 (9) "Candidate committee", a committee which shall be formed by a
99 candidate to receive contributions or make expenditures in behalf of the person's
100 candidacy and which shall continue in existence for use by an elected candidate
101 or which shall terminate the later of either thirty days after the general election
102 for a candidate who was not elected or upon the satisfaction of all committee debt
103 after the election, except that no committee retiring debt shall engage in any
104 other activities in support of the candidate for which the committee was
105 formed. Any candidate for elective office shall have only one candidate committee
106 for the elective office sought, which is controlled directly by the candidate for the
107 purpose of making expenditures. A candidate committee is presumed to be under
108 the control and direction of the candidate unless the candidate files an affidavit
109 with the appropriate officer stating that the committee is acting without control
110 or direction on the candidate's part;

111 (10) "Continuing committee", a committee of continuing existence which
112 is not formed, controlled or directed by a candidate, and is a committee other
113 than a candidate committee or campaign committee, whose primary or incidental
114 purpose is to receive contributions or make expenditures to influence or attempt
115 to influence the action of voters whether or not a particular candidate or
116 candidates or a particular ballot measure or measures to be supported or opposed
117 has been determined at the time the committee is required to file any statement
118 or report pursuant to the provisions of this chapter. "Continuing committee"
119 includes, but is not limited to, any committee organized or sponsored by a
120 business entity, a labor organization, a professional association, a trade or
121 business association, a club or other organization and whose primary purpose is
122 to solicit, accept and use contributions from the members, employees or
123 stockholders of such entity and any individual or group of individuals who accept
124 and use contributions to influence or attempt to influence the action of
125 voters. Such committee shall be formed no later than sixty days prior to the
126 election for which the committee receives contributions or makes expenditures;

127 (11) "Connected organization", any organization such as a corporation, a
128 labor organization, a membership organization, a cooperative, or trade or
129 professional association which expends funds or provides services or facilities to
130 establish, administer or maintain a committee or to solicit contributions to a
131 committee from its members, officers, directors, employees or security holders. An
132 organization shall be deemed to be the connected organization if more than fifty
133 percent of the persons making contributions to the committee during the current
134 calendar year are members, officers, directors, employees or security holders of
135 such organization or their spouses;

136 (12) "Contribution", a payment, gift, loan, advance, deposit, or donation
137 of money or anything of value for the purpose of supporting or opposing the
138 nomination or election of any candidate for public office or the qualification,
139 passage or defeat of any ballot measure, or for the support of any committee
140 supporting or opposing candidates or ballot measures or for paying debts or
141 obligations of any candidate or committee previously incurred for the above
142 purposes. A contribution of anything of value shall be deemed to have a money
143 value equivalent to the fair market value. "Contribution" includes, but is not
144 limited to:

145 (a) A candidate's own money or property used in support of the person's
146 candidacy other than expense of the candidate's food, lodging, travel, and
147 payment of any fee necessary to the filing for public office;

148 (b) Payment by any person, other than a candidate or committee, to
149 compensate another person for services rendered to that candidate or committee;

150 (c) Receipts from the sale of goods and services, including the sale of
151 advertising space in a brochure, booklet, program or pamphlet of a candidate or
152 committee and the sale of tickets or political merchandise;

153 (d) Receipts from fund-raising events including testimonial affairs;

154 (e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or
155 debt or other obligation by a third party, or payment of a loan or debt or other
156 obligation by a third party if the loan or debt or other obligation was contracted,
157 used, or intended, in whole or in part, for use in an election campaign or used or
158 intended for the payment of such debts or obligations of a candidate or committee
159 previously incurred, or which was made or received by a committee;

160 (f) Funds received by a committee which are transferred to such
161 committee from another committee or other source, except funds received by a
162 candidate committee as a transfer of funds from another candidate committee

163 controlled by the same candidate but such transfer shall be included in the
164 disclosure reports;

165 (g) Facilities, office space or equipment supplied by any person to a
166 candidate or committee without charge or at reduced charges, except gratuitous
167 space for meeting purposes which is made available regularly to the public,
168 including other candidates or committees, on an equal basis for similar purposes
169 on the same conditions;

170 (h) The direct or indirect payment by any person, other than a connected
171 organization, of the costs of establishing, administering, or maintaining a
172 committee, including legal, accounting and computer services, fund raising and
173 solicitation of contributions for a committee;

174 (i) "Contribution" does not include:

175 a. Ordinary home hospitality or services provided without compensation
176 by individuals volunteering their time in support of or in opposition to a
177 candidate, committee or ballot measure, nor the necessary and ordinary personal
178 expenses of such volunteers incidental to the performance of voluntary activities,
179 so long as no compensation is directly or indirectly asked or given;

180 b. An offer or tender of a contribution which is expressly and
181 unconditionally rejected and returned to the donor within ten business days after
182 receipt or transmitted to the state treasurer;

183 c. Interest earned on deposit of committee funds;

184 d. The costs incurred by any connected organization listed pursuant to
185 subdivision [(4)] (5) of subsection 5 of section 130.021 for establishing,
186 administering or maintaining a committee, or for the solicitation of contributions
187 to a committee which solicitation is solely directed or related to the members,
188 officers, directors, employees or security holders of the connected organization;

189 (13) "County", any one of the several counties of this state or the city of
190 St. Louis;

191 (14) "**Covered communication**":

192 (a) **Paid advertisements broadcast over radio, television, cable,**
193 **or satellite in this state;**

194 (b) **Paid placement of content on the internet or other electronic**
195 **communication network targeted to voters in this state;**

196 (c) **Paid advertisements published in a periodical or on a**
197 **billboard in this state;**

198 (d) **Paid telephone communications to five hundred or more**

199 **households in this state;**

200 **(e) Mailings sent or distributed through the United States Postal**
201 **Service or similar private mail carriers to two thousand or more**
202 **recipients in this state; and**

203 **(f) Printed materials exceeding two thousand copies distributed**
204 **in this state;**

205 **(15) "Covered organization", any organization that is exempt from**
206 **taxation under Section 501(c)(4) of the Internal Revenue Code of 1986,**
207 **as amended;**

208 **(16) "Disclosure report", an itemized report of receipts, expenditures and**
209 **incurred indebtedness which is prepared on forms approved by the Missouri**
210 **ethics commission and filed at the times and places prescribed;**

211 **[(15)] (17) "Election", any primary, general or special election held to**
212 **nominate or elect an individual to public office, to retain or recall an elected**
213 **officeholder or to submit a ballot measure to the voters, and any caucus or other**
214 **meeting of a political party or a political party committee at which that party's**
215 **candidate or candidates for public office are officially selected. A primary election**
216 **and the succeeding general election shall be considered separate elections;**

217 **(18) "Electioneering activities":**

218 **(a) Any covered communication that influences or attempts to**
219 **influence the action of voters for or against the nomination or election**
220 **to public office of one or more candidates or the qualification, passage,**
221 **or defeat of any ballot measure; and**

222 **(b) Any covered communication made within forty-five days of**
223 **a primary election or ninety days of a general election that:**

224 **a. Identifies or depicts a particular candidate by name but does**
225 **not specifically call for his or her election or defeat; or**

226 **b. Identifies or depicts a particular ballot measure by name or**
227 **by its proposition or amendment number but does not specifically call**
228 **for its qualification, passage, or defeat;**

229 **[(16)] (19) "Expenditure", a payment, advance, conveyance, deposit,**
230 **donation or contribution of money or anything of value for the purpose of**
231 **supporting or opposing the nomination or election of any candidate for public**
232 **office or the qualification or passage of any ballot measure or for the support of**
233 **any committee which in turn supports or opposes any candidate or ballot measure**
234 **or for the purpose of paying a previously incurred campaign debt or obligation of**

235 a candidate or the debts or obligations of a committee; a payment, or an
236 agreement or promise to pay, money or anything of value, including a candidate's
237 own money or property, for the purchase of goods, services, property, facilities or
238 anything of value for the purpose of supporting or opposing the nomination or
239 election of any candidate for public office or the qualification or passage of any
240 ballot measure or for the support of any committee which in turn supports or
241 opposes any candidate or ballot measure or for the purpose of paying a previously
242 incurred campaign debt or obligation of a candidate or the debts or obligations of
243 a committee. An expenditure of anything of value shall be deemed to have a
244 money value equivalent to the fair market value. "Expenditure" includes, but is
245 not limited to:

246 (a) Payment by anyone other than a committee for services of another
247 person rendered to such committee;

248 (b) The purchase of tickets, goods, services or political merchandise in
249 connection with any testimonial affair or fund-raising event of or for candidates
250 or committees, or the purchase of advertising in a brochure, booklet, program or
251 pamphlet of a candidate or committee;

252 (c) The transfer of funds by one committee to another committee;

253 (d) The direct or indirect payment by any person, other than a connected
254 organization for a committee, of the costs of establishing, administering or
255 maintaining a committee, including legal, accounting and computer services, fund
256 raising and solicitation of contributions for a committee; but

257 (e) "Expenditure" does not include:

258 a. Any news story, commentary or editorial which is broadcast or
259 published by any broadcasting station, newspaper, magazine or other periodical
260 without charge to the candidate or to any person supporting or opposing a
261 candidate or ballot measure;

262 b. The internal dissemination by any membership organization,
263 proprietorship, labor organization, corporation, association or other entity of
264 information advocating the election or defeat of a candidate or candidates or the
265 passage or defeat of a ballot measure or measures to its directors, officers,
266 members, employees or security holders, provided that the cost incurred is
267 reported pursuant to subsection 2 of section 130.051;

268 c. Repayment of a loan, but such repayment shall be indicated in required
269 reports;

270 d. The rendering of voluntary personal services by an individual of the

271 sort commonly performed by volunteer campaign workers and the payment by
272 such individual of the individual's necessary and ordinary personal expenses
273 incidental to such volunteer activity, provided no compensation is, directly or
274 indirectly, asked or given;

275 e. The costs incurred by any connected organization listed pursuant to
276 subdivision [(4)] **(5)** of subsection 5 of section 130.021 for establishing,
277 administering or maintaining a committee, or for the solicitation of contributions
278 to a committee which solicitation is solely directed or related to the members,
279 officers, directors, employees or security holders of the connected organization;

280 f. The use of a candidate's own money or property for expense of the
281 candidate's personal food, lodging, travel, and payment of any fee necessary to the
282 filing for public office, if such expense is not reimbursed to the candidate from
283 any source;

284 [(17)] **(20)** "Exploratory committees", a committee which shall be formed
285 by an individual to receive contributions and make expenditures on behalf of this
286 individual in determining whether or not the individual seeks elective
287 office. Such committee shall terminate no later than December thirty-first of the
288 year prior to the general election for the possible office;

289 [(18)] **(21)** "Fund-raising event", an event such as a dinner, luncheon,
290 reception, coffee, testimonial, rally, auction or similar affair through which
291 contributions are solicited or received by such means as the purchase of tickets,
292 payment of attendance fees, donations for prizes or through the purchase of
293 goods, services or political merchandise;

294 [(19)] **(22)** "In-kind contribution" or "in-kind expenditure", a contribution
295 or expenditure in a form other than money;

296 [(20)] **(23)** "Labor organization", any organization of any kind, or any
297 agency or employee representation committee or plan, in which employees
298 participate and which exists for the purpose, in whole or in part, of dealing with
299 employers concerning grievances, labor disputes, wages, rates of pay, hours of
300 employment, or conditions of work;

301 [(21)] **(24)** "Loan", a transfer of money, property or anything of
302 ascertainable monetary value in exchange for an obligation, conditional or not,
303 to repay in whole or in part and which was contracted, used, or intended for use
304 in an election campaign, or which was made or received by a committee or which
305 was contracted, used, or intended to pay previously incurred campaign debts or
306 obligations of a candidate or the debts or obligations of a committee;

307 [(22)] (25) "Person", an individual, group of individuals, corporation,
308 partnership, committee, proprietorship, joint venture, any department, agency,
309 board, institution or other entity of the state or any of its political subdivisions,
310 union, labor organization, trade or professional or business association,
311 association, political party or any executive committee thereof, or any other club
312 or organization however constituted or any officer or employee of such entity
313 acting in the person's official capacity;

314 [(23)] (26) "Political merchandise", goods such as bumper stickers, pins,
315 hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising
316 event or to the general public for publicity or for the purpose of raising funds to
317 be used in supporting or opposing a candidate for nomination or election or in
318 supporting or opposing the qualification, passage or defeat of a ballot measure;

319 [(24)] (27) "Political party", a political party which has the right under
320 law to have the names of its candidates listed on the ballot in a general election;

321 [(25)] (28) "Political party committee", a state, district, county, city, or
322 area committee of a political party, as defined in section 115.603, which may be
323 organized as a not-for-profit corporation under Missouri law, and which
324 committee is of continuing existence, and has the primary or incidental purpose
325 of receiving contributions and making expenditures to influence or attempt to
326 influence the action of voters on behalf of the political party;

327 [(26)] (29) "Public office" or "office", any state, judicial, county,
328 municipal, school or other district, ward, township, or other political subdivision
329 office or any political party office which is filled by a vote of registered voters;

330 [(27)] (30) "Regular session", includes that period beginning on the first
331 Wednesday after the first Monday in January and ending following the first
332 Friday after the second Monday in May;

333 [(28)] (31) "Write-in candidate", an individual whose name is not printed
334 on the ballot but who otherwise meets the definition of candidate in subdivision
335 (3) of this section.

130.062. 1. This section shall be known, and may be cited as, the
2 **"Eliminate Dark Money Act".**

3 **2. By January thirty-first of each year, any covered organization**
4 **that made expenditures for the purpose of electioneering activities by**
5 **means of a covered communication, or that made a contribution,**
6 **including in-kind contributions, to a committee in the previous**
7 **calendar year shall disclose in an electronic disclosure report to the**

8 **ethics commission:**

9 (1) All expenditures made for purposes of electioneering
10 activities by means of a covered communication in the previous
11 calendar year;

12 (2) All contributions, including in-kind contributions, made to a
13 committee in the previous calendar year;

14 (3) The percentage of their total expenditures from the previous
15 calendar year for purposes of electioneering activities by means of a
16 covered communication;

17 (4) The percentage of their total expenditures made from the
18 previous calendar year for contributions, including in-kind
19 contributions, to a committee during the previous calendar year;

20 (5) The name and address of each person or entity making any
21 single contribution to the covered organization over one thousand
22 dollars, and each person or entity who has made, in the aggregate,
23 contributions over one thousand dollars to such organization during
24 the previous calendar year; and

25 (6) The date and amount of each contribution over one thousand
26 dollars, or of any donation from a person who has made, in the
27 aggregate, contributions over one thousand dollars to such
28 organization during the previous calendar year.

29 Such information shall be a matter of public record which the ethics
30 commission shall subsequently make available to the public.

31 3. Any covered organization required to file disclosure reports
32 under subsection 2 of this section shall make such disclosures
33 electronically.

34 4. Any covered organization that makes expenditures in excess
35 of five thousand dollars for the purpose of electioneering activities by
36 means of a covered communication shall make an electronic disclosure
37 report to the ethics commission within forty-eight hours of exceeding
38 such limit. The report shall state specifically the expenditure amount,
39 the person or entity receiving the expenditures, and with what ballot
40 measure or candidate each expenditure concerns. If a covered
41 communication calls specifically for the passage, election, or defeat of
42 a candidate or measure, the report shall indicate such information.

43 5. Any covered organization that makes contributions, including
44 in-kind contributions, of over five thousand dollars to a committee shall

45 **make an electronic disclosure report to the ethics commission within**
46 **forty-eight hours of exceeding such limit. The report shall specifically**
47 **state the contribution amount and the committee to which each**
48 **contribution was made.**

49 **6. Every electronic disclosure report required under subsection**
50 **5 of this section shall include the date and amount of each contribution,**
51 **as well as the name, address, and employer, occupation if self-**
52 **employed, or notation of retirement of each person who has contributed**
53 **over five thousand dollars to the covered organization in the previous**
54 **twelve-month period.**

55 **7. The ethics commission shall assess fees on the board of**
56 **directors of a covered organization for failure to file reports required**
57 **by this section in the same manner as provided in section 105.963.**

Section B. Section A of this act shall become effective January 1, 2021.

✓

Bill

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