

HOUSE BILL NO. 39

INTRODUCED BY T. MILLETT

BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING POLITICAL PARTIES TO CONTRIBUTE TO JUDICIAL CANDIDATES; AMENDING SECTIONS 3-10-201, 3-10-206, AND 13-37-211, MCA; AND REPEALING SECTION 13-35-231, MCA."

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

**Section 1.** Section 3-10-201, MCA, is amended to read:

**"3-10-201. Election.** (1) Except as provided in 3-10-206, each justice of the peace must be elected by the qualified electors of the county at the general state election immediately preceding the expiration of the term of office of the justice of the peace's predecessor.

(2) A justice of the peace must be nominated and elected on the nonpartisan judicial ballot in the same manner as judges of the district court.

(3) Each judicial office must be a separate and independent office for election purposes, each office must be numbered by the county commissioners, and each candidate for justice of the peace shall specify the number of the office for which the candidate seeks to be elected. A candidate may not file for more than one office.

~~(4) Section 13-35-231, prohibiting political party contributions to judicial officers, applies to justices of the peace."~~

**Section 2.** Section 3-10-206, MCA, is amended to read:

**"3-10-206. Vacancies.** Subject to the residency requirements provided in 3-10-204 and the election requirements provided in 3-10-201(2) ~~through (4)~~ and (3), a vacancy in the office of a justice of the peace must be filled pursuant to 7-4-2206 until a successor is elected and qualified."

1           **Section 3.** Section 13-37-211, MCA, is amended to read:

2           **"13-37-211. Joint fundraising committee.** (1) (a) One or more candidates for a statewide office and  
3 political committees may join together to establish a joint fundraising committee to act as a fundraising  
4 representative for all participants. A joint fundraising committee may not be construed to be a political  
5 committee.

6           (b) The participants in a joint fundraising committee may include only a candidate for statewide  
7 office, an independent committee, or a political party committee. Any combination of these entities may form a  
8 joint fundraising committee.

9           (c) The participants in a joint fundraising committee may not include an incidental committee, a  
10 ballot issue committee, a judicial candidate, or a political committee that is a corporation or a union.

11           (d) The joint fundraising committee may not be a participant in any other joint fundraising effort.

12           (e) A participant may participate in an unlimited amount of concurrent joint fundraising committees.

13           (f) A joint fundraising committee may not amend its list of participants after filing its certification  
14 and organizational statement as provided by 13-37-201.

15           (2) A joint fundraising committee shall:

16           (a) appoint a campaign treasurer and certify an organization statement pursuant to 13-37-201;

17           (b) designate one separate campaign depository as provided in 13-37-205 to be used solely for  
18 the receipt of all contributions received and the disbursement of all expenditures made by the joint fundraising  
19 committee; and

20           (c) keep records as provided by 13-37-207 and 13-37-208.

21           (3) The participants in a joint fundraising committee shall enter into a written agreement that states  
22 a formula for the allocation of fundraising proceeds. The formula must be stated as the amount or percentage of  
23 each contribution received to be allocated to each participant. The joint fundraising committee shall retain the  
24 written agreement for the same amount of time the campaign treasurer is required to retain accounts under 13-  
25 37-208(3) and shall make it available to the commissioner on request.

26           (4) Each solicitation for contributions to the joint fundraising committee must include a notice that  
27 includes the following information:

28           (a) the name of each participant in the joint fundraising committee;

1 (b) the allocation formula to be used for distributing joint fundraising proceeds;

2 (c) a statement informing contributors that, despite the state allocation formula, they may  
3 designate their contributions for particular participants;

4 (d) a statement informing contributors that the allocation formula may change if a contributor  
5 makes a contribution that would exceed the amount that a contributor may give to a participant or if a  
6 participant is otherwise prohibited from receiving the contribution; and

7 (e) if one or more participants engage in the joint fundraising activity solely to satisfy outstanding  
8 debts, a statement informing contributors that the allocation formula may change if a participant receives  
9 sufficient funds to pay its outstanding debts.

10 (5) (a) A joint fundraising committee may accept contributions on behalf of its participants under  
11 the provisions of the fundraising formula and may make expenditures on behalf of and to its participants under  
12 the limitations provided in this section.

13 (b) Except as provided by subsection (8), a joint fundraising committee may not accept a  
14 contribution that, when allocated pursuant to the joint fundraising committee's allocation formula in subsection  
15 (3), in addition to any other contributions received by the participant from that contributor, would be in excess of  
16 the contribution limits of that contributor calculated pursuant to this section. A participant may not accept  
17 contributions allocated from the joint fundraising committee that, but for the joint fundraising committee acting  
18 as an intermediary, the participant could not otherwise accept.

19 (c) Contributions to the joint fundraising committee may only be deposited in the joint fundraising  
20 committee depository.

21 (d) The joint fundraising committee shall report and maintain records concerning contributions as  
22 provided by Title 13, chapter 37. The joint fundraising committee shall make its records available to each  
23 participant.

24 (e) A participant shall make the participant's contributor records available to the joint fundraising  
25 committee to enable the joint fundraising committee to carry out its duty to screen contributions pursuant to  
26 subsection (6)(a).

27 (6) (a) The joint fundraising committee shall screen all contributions received to ensure the  
28 prohibitions provided in Title 13, chapters 35 and 37, are followed.

1           (b)     A corporation or a union prohibited from making a contribution to a candidate under 13-35-  
 2 227(1) may make a contribution to a joint fundraising committee if one or more participants are not otherwise  
 3 prohibited from receiving the contribution. A joint fundraising committee may not make an expenditure in  
 4 contravention of 13-35-227(1), and a participant in a joint fundraising committee prohibited from accepting or  
 5 receiving a contribution under 13-35-227(1) may not accept or receive such a contribution from a joint  
 6 fundraising committee.

7           ~~(c) — A joint fundraising committee may not make an expenditure in contravention of 13-35-231 if a~~  
 8 ~~participant is a political party committee.~~

9           ~~(d)(c)~~ A joint fundraising committee may not act as an intermediary for contributions or expenditures  
 10 by any entity, including participants, that is otherwise prohibited under Title 13, chapters 35 and 37.

11           (7)     For reporting and limitation purposes:

12           (a)     the joint fundraising committee shall report contributions in the reporting period in which they  
 13 are received and expenditures in the reporting period in which they are made; and

14           (b)     the date of receipt of a contribution by a participant is the date that the contribution is disbursed  
 15 by the joint fundraising committee to the participant. However, the funds must be allocated to the general  
 16 election or primary election cycle during which the joint fundraising committee received them.

17           (8)     (a) Expenditures by the joint fundraising committee must be allocated to each participant in  
 18 proportion to the formula in the written agreement provided for in subsection (3).

19           (b)     If expenditures are made for fundraising costs, a participant may pay more than its  
 20 proportionate share. However, the amount that is in excess of the participant's proportionate share may not  
 21 exceed the amount that the participant could legally contribute to the remaining participants. A participant may  
 22 only pay expenditures on behalf of another participant subject to the limits provided in 13-37-216.

23           (c)     If distribution according to the fundraising formula extinguishes the debts of one or more  
 24 participants and results in a surplus for those participants, or if distribution under the formula results in a  
 25 violation of the contribution limits under 13-37-216, the joint fundraising committee may reallocate the excess  
 26 funds. Reallocation must be based on the remaining participants' proportionate shares under the allocation  
 27 formula. If reallocation results in a violation of a contributor's limit under 13-37-216, the joint fundraising  
 28 committee shall return the amount of the contribution that exceeds the limit to the contributor. However,

1 contributions that have been designated by a contributor may not be reallocated by the joint fundraising  
2 committee without prior written permission of the contributor. If the contributor does not give the contributor's  
3 permission for reallocation, the funds must be returned to the contributor.

4 (9) The joint fundraising committee shall allocate total gross contributions received by the joint  
5 fundraising committee to the participants. The joint fundraising committee shall inform each participant of the  
6 participant's gross contribution total, make the joint fundraising committee's contribution and expenditure  
7 records available to each participant, and subject to the limitations provided in 13-37-216, and this section, pay  
8 fundraising expenses and distribute each participant's allocated net contributions.

9 (10) An independent committee may not be construed to violate the requirement that it is not  
10 controlled directly or indirectly by a candidate or that it may not coordinate with a candidate in connection with  
11 the making of expenditures as provided in 13-1-101 solely because:

- 12 (a) the independent committee participates in a joint fundraising committee; and
- 13 (b) the joint fundraising committee makes a total gross contribution to a candidate that is in excess  
14 of an individual independent committee's limits provided in 13-37-216 but that is not in excess of the remaining  
15 combined limit, if any, of all the entities within the joint fundraising committee.

16 (11) The joint fundraising committee is liable for its violations of the provisions of Title 13, chapters  
17 35 and 37. In addition, each participant of a joint fundraising committee is severally liable for violations of the  
18 provisions of Title 13, chapters 35 and 37, pertaining to the contributions allocated or disbursed to the  
19 participant by the joint fundraising committee."  
20

21 NEW SECTION. Section 4. Repealer. The following section of the Montana Code Annotated is  
22 repealed:

23 13-35-231. Unlawful for political party to contribute to judicial candidate.

24 - END -