

HOUSE BILL NO. 4234

March 09, 2023, Introduced by Reps. Tsernoglou, Rheingans, Neeley, Byrnes, Brixie, Churches, Brenda Carter, Hoskins, Grant, Scott, Morse, Dievendorf, Wilson, Hope, Mentzer, Price, O'Neal, Brabec, Stone, Steckloff, Skaggs, Andrews, Young, Tyrone Carter, Liberati, MacDonell, Snyder, Shannon, Puri, Glanville, Miller, Coleman, Aiyash and Whitsett and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 52, 54, 55, and 57 (MCL 169.252, 169.254, 169.255, and 169.257), sections 52 and 57 as amended by 2015 PA 269 and sections 54 and 55 as amended by 2019 PA 93.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 52. (1) Except as provided in subsection (5) or (11) and
2 subject to section 46 and subsection (8), a person other than an
3 independent committee or a political party committee shall not make

1 contributions to a candidate committee of a candidate for elective
2 office that, with respect to an election cycle, are more than the
3 following:

4 (a) \$6,800.00 for a candidate for state elective office other
5 than the office of state legislator, or for a candidate for local
6 elective office if the district from which ~~he or she~~ **the candidate**
7 is seeking office has a population of more than 250,000.

8 (b) \$2,000.00 for a candidate for state senator, or for a
9 candidate for local elective office if the district from which ~~he~~
10 ~~or she~~ **the candidate** is seeking office has a population of more
11 than 85,000 but 250,000 or less.

12 (c) \$1,000.00 for a candidate for state representative, or for
13 a candidate for local elective office if the district from which ~~he~~
14 ~~or she~~ **the candidate** is seeking office has a population of 85,000
15 or less.

16 (2) Except as otherwise provided in this subsection and
17 subsection (12), an independent committee shall not make
18 contributions to a candidate committee of a candidate for elective
19 office that, in the aggregate for that election cycle, are more
20 than 10 times the amount permitted a person other than an
21 independent committee or political party committee in subsection
22 (1). A house political party caucus committee or a senate political
23 party caucus committee is not limited under this subsection in the
24 amount of contributions made to the candidate committee of a
25 candidate for the office of state legislator, except as follows:

26 (a) A house political party caucus committee or a senate
27 political party caucus committee shall not pay a debt incurred by a
28 candidate if that debt was incurred while the candidate was seeking
29 nomination at a primary election and the candidate was opposed at

1 that primary.

2 (b) A house political party caucus committee or a senate
3 political party caucus committee shall not make a contribution to
4 or make an expenditure on behalf of a candidate if that candidate
5 is seeking nomination at a primary election and the candidate is
6 opposed at that primary.

7 (3) A political party committee other than a state central
8 committee shall not make contributions to the candidate committee
9 of a candidate for elective office that are more than 10 times the
10 amount permitted a person other than an independent committee or
11 political party committee in subsection (1).

12 (4) A state central committee of a political party shall not
13 make contributions to the candidate committee of a candidate for
14 state elective office other than a candidate for the legislature
15 that are more than 20 times the amount permitted a person other
16 than an independent committee or political party committee in
17 subsection (1). A state central committee of a political party
18 shall not make contributions to the candidate committee of a
19 candidate for state senator, state representative, or local
20 elective office that are more than 10 times the amount permitted a
21 person other than an independent committee or political party
22 committee in subsection (1).

23 (5) A contribution from a member of a candidate's immediate
24 family to the candidate committee of that candidate is exempt from
25 the limitations of subsection (1).

26 (6) Consistent with the provisions of this section, a
27 contribution designated in writing for a particular election cycle
28 is considered made for that election cycle. A contribution made
29 after the close of a particular election cycle and designated in

1 writing for that election cycle ~~shall~~**must** be made only to the
2 extent that the contribution does not exceed the candidate
3 committee's net outstanding debts and obligations from the election
4 cycle so designated. If a contribution is not designated in writing
5 for a particular election cycle, all of the following apply to that
6 contribution:

7 (a) The contribution is considered made for the election cycle
8 that corresponds to the date of the written instrument.

9 (b) The contribution limits for the current election cycle
10 apply to that contribution.

11 (c) A candidate committee may use that contribution to pay
12 outstanding debts and obligations from a previous election cycle
13 regardless of whether the contribution, when aggregated with any
14 contributions made in that previous election cycle, would exceed
15 the contribution limits for that previous election cycle.

16 (7) A candidate committee, a candidate, or a treasurer or
17 agent of a candidate committee shall not accept a contribution with
18 respect to an election cycle that exceeds the limitations in
19 subsection (1), (2), (3), (4), (11), or (12).

20 (8) The contribution limits in subsection (1) for a candidate
21 for local elective office are effective on the effective date of
22 the amendatory act that provides for those contribution limits,
23 however, only contributions received by that candidate on and after
24 that date ~~shall be~~**are** used to determine if the contribution limit
25 has been reached.

26 (9) A person ~~who~~**that** knowingly violates this section is
27 guilty of a misdemeanor punishable, if the person is an individual,
28 by a ~~fine of not more than \$1,000.00 or imprisonment for not more~~
29 than 90 days **or a fine of not more than \$1,000.00**, or both, or, if

1 the person is not an individual, by a fine of not more than
2 \$10,000.00.

3 (10) For purposes of the limitations provided in subsections
4 (1) and (2), all contributions made by political committees or
5 independent committees established by any corporation, joint stock
6 company, **or** domestic dependent sovereign, ~~or labor organization,~~
7 including any parent, subsidiary, branch, division, department, or
8 local unit thereof, ~~shall be~~ **are** considered to have been made by a
9 single independent committee. **This subsection does not apply to**
10 **contributions made by political committees or independent**
11 **committees established by a labor organization.** By way of
12 illustration and not limitation, all of the following apply as a
13 result of the application of this requirement:

14 (a) All of the political committees and independent committees
15 established by a for profit corporation or joint stock company, by
16 a subsidiary of the for profit corporation or joint stock company,
17 or by any combination thereof, are treated as a single independent
18 committee.

19 ~~(b) All of the political committees and independent committees~~
20 ~~established by a single national or international labor~~
21 ~~organization, by a labor organization of that national or~~
22 ~~international labor organization, by a local labor organization of~~
23 ~~that national or international labor organization, or by any other~~
24 ~~subordinate organization of that national or international labor~~
25 ~~organization, or by any combination thereof, are treated as a~~
26 ~~single independent committee.~~

27 ~~(c) All of the political committees and independent committees~~
28 ~~established by an organization of national or international unions,~~
29 ~~by a state central body of that organization, by a local central~~

1 ~~body of that organization, or by any combination thereof, are~~
2 ~~treated as a single independent committee.~~

3 (b) ~~(d)~~ All of the political committees and independent
4 committees established by a nonprofit corporation, by a related
5 state entity of that nonprofit corporation, by a related local
6 entity of that nonprofit corporation, or by any combination
7 thereof, are treated as a single independent committee.

8 (11) The limitation on a political committee's contributions
9 under subsection (1) does not apply to contributions that are part
10 of 1 or more bundled contributions delivered to the candidate
11 committee of a candidate for statewide elective office and that are
12 attributed to the political committee as prescribed in section 31.
13 A political committee shall not make contributions to a candidate
14 committee of a candidate for statewide elective office that are
15 part of 1 or more bundled contributions delivered to that candidate
16 committee, that are attributed to the political committee as
17 prescribed in section 31, and that, in the aggregate for that
18 election cycle, are more than the amount permitted a person other
19 than an independent committee or political party committee in
20 subsection (1).

21 (12) The limitation on an independent committee's
22 contributions under subsection (2) does not apply to contributions
23 that are part of 1 or more bundled contributions delivered to the
24 candidate committee of a candidate for statewide elective office
25 and that are attributed to the independent committee as prescribed
26 in section 31. An independent committee shall not make
27 contributions to a candidate committee of a candidate for statewide
28 elective office that are part of 1 or more bundled contributions
29 delivered to that candidate committee, that are attributed to the

1 independent committee as prescribed in section 31, and that, in the
2 aggregate for that election cycle, are more than 10 times the
3 amount permitted a person other than an independent committee or
4 political party committee in subsection (1).

5 Sec. 54. (1) Except as otherwise provided in this section and
6 section 55, and except with respect to loans made in the ordinary
7 course of business, a corporation, joint stock company, domestic
8 dependent sovereign, or labor organization shall not make a
9 contribution or expenditure or provide volunteer personal services
10 that are excluded from the definition of a contribution under
11 section 4(3)(a).

12 (2) An officer, director, stockholder, attorney, agent, or any
13 other person acting for a labor organization, a domestic dependent
14 sovereign, or a corporation or joint stock company, whether
15 incorporated under the laws of this or any other state or foreign
16 country, except corporations formed for political purposes, shall
17 not make a contribution or expenditure or provide volunteer
18 personal services that are excluded from the definition of a
19 contribution under section 4(3)(a).

20 (3) Except ~~for expenditures made by a corporation in the~~
21 ~~ordinary course of its business,~~ **as otherwise provided for in this**
22 **subsection,** an expenditure made by a corporation to provide for the
23 collection and transfer of contributions to a separate segregated
24 fund for which it is not a connected organization as provided in
25 section 55 constitutes an in-kind contribution by the corporation
26 and is prohibited under this section. **Expenditures made by a**
27 **corporation in the ordinary course of business or to provide for**
28 **the collection and transfer of contributions to a separate**
29 **segregated fund established by a labor organization under section**

1 **55 do not constitute an in-kind contribution under this subsection.**

2 Advanced payment or reimbursement to a corporation by a
3 nonconnected separate segregated fund does not cure a use of
4 corporate resources otherwise prohibited by this section.

5 (4) A corporation, joint stock company, domestic dependent
6 sovereign, or labor organization may make a contribution to a
7 ballot question committee or independent expenditure committee
8 subject to this act. A corporation, joint stock company, **or**
9 domestic dependent sovereign, ~~or labor organization~~ may make an
10 independent expenditure in any amount advocating for the election
11 or defeat of a candidate, or the qualification, passage, or defeat
12 of a ballot question and does not for this reason become a
13 committee, unless it solicits or receives contributions in excess
14 of \$500.00 for the purpose of making the independent expenditure,
15 but is subject to the independent expenditure reporting
16 requirements ~~of~~ **under** section 51. **A labor organization may make an**
17 **independent expenditure in any amount advocating for the election**
18 **or defeat of a candidate, or the qualification, passage, or defeat**
19 **of a ballot question and does not for this reason become a**
20 **committee, but the labor organization is subject to the independent**
21 **expenditure reporting requirements under section 51.**

22 (5) A person ~~who~~ **that** knowingly violates this section is
23 guilty of a felony punishable, if the person is an individual, by a
24 ~~fine of not more than \$5,000.00 or imprisonment for not more than 3~~
25 **years or a fine of not more than \$5,000.00**, or both, or, if the
26 person is not an individual, by a fine of not more than \$10,000.00.

27 Sec. 55. (1) A connected organization may make an expenditure
28 for the establishment or administration of, and solicitation,
29 collection, or transfer of contributions to, a separate segregated

1 fund to be used for political purposes. A connected organization
2 may also pay actual costs related to mailing or shipping of an item
3 or prize purchased under subsection (8). A separate segregated fund
4 established by a connected organization under this section must be
5 organized as a political committee or an independent committee,
6 and, in addition to any other disbursements not restricted or
7 prohibited by law, must only make contributions to, and
8 expenditures on behalf of, candidate committees, ballot question
9 committees, political party committees, political committees,
10 independent expenditure committees, independent committees, and
11 other separate segregated funds.

12 (2) Contributions for a separate segregated fund established
13 by a corporation, organized on a for profit basis, or a joint stock
14 company under this section may be solicited from any of the
15 following persons or their spouses:

16 (a) Stockholders of the corporation or company.

17 (b) Officers and directors of the corporation or company.

18 (c) Employees of the corporation or company who have policy
19 making, managerial, professional, supervisory, or administrative
20 nonclerical responsibilities.

21 (3) Contributions for a separate segregated fund established
22 under this section by a corporation organized on a nonprofit basis
23 may be solicited from any of the following persons or their
24 spouses:

25 (a) Members of the corporation who are individuals.

26 (b) Stockholders or members of members of the corporation.

27 (c) Officers or directors of members of the corporation.

28 (d) Employees of the members of the corporation who have
29 policy making, managerial, professional, supervisory, or

1 administrative nonclerical responsibilities.

2 (e) Employees of the corporation who have policy making,
3 managerial, professional, supervisory, or administrative
4 nonclerical responsibilities.

5 (4) Contributions for a separate segregated fund established
6 under this section by a labor organization may be solicited from
7 any of the following persons or their spouses:

8 (a) Members of the labor organization who are individuals.

9 (b) Officers or directors of the labor organization.

10 (c) Employees of the labor organization who have policy
11 making, managerial, professional, supervisory, or administrative
12 nonclerical responsibilities.

13 (5) Contributions for a separate segregated fund established
14 under this section by a domestic dependent sovereign may be
15 solicited from an individual who is a member of any domestic
16 dependent sovereign.

17 (6) Contributions must not be obtained for a separate
18 segregated fund established under this section by use of coercion
19 or physical force, by making a contribution a condition of
20 employment or membership, or by using or threatening to use job
21 discrimination or financial reprisals. ~~A—~~**Except as otherwise**
22 **provided in this subsection, a** connected organization shall not
23 solicit or obtain contributions for a separate segregated fund
24 established under this section from an individual described in
25 subsection (2), (3), (4), or (5) on an automatic or passive basis,
26 including, but not limited to, a payroll deduction plan or reverse
27 checkoff method. A connected organization may solicit or obtain
28 contributions for a separate segregated fund established under this
29 section from an individual described in subsection (2), (3), (4),

1 or (5) on an automatic basis, including, but not limited to, a
2 payroll deduction plan, only if the individual who is contributing
3 to the fund affirmatively consents to the contribution. Affirmative
4 consent does not expire until revoked by the individual who
5 provided the affirmative consent.

6 (7) A contribution by an individual to a separate segregated
7 fund may be collected by or made payable first to a connected
8 organization of the separate segregated fund, for subsequent
9 transfer to the separate segregated fund if all of the following
10 occur:

11 (a) For contributions that are aggregated with dues or other
12 payments, the individual making the contribution does either of the
13 following:

14 (i) Specifically indicates in a record or electronic record
15 that the amount collected, or a specified portion of the total
16 amount if remitted as part of a dues or other payment to the
17 connected organization, is a contribution to the separate
18 segregated fund.

19 (ii) Fails to return a record or electronic record described in
20 subparagraph (i), but remits payment to the connected organization
21 in response to a specifically requested amount that includes a
22 solicited contribution, the solicitation for a contribution was
23 clearly distinguishable from any dues or other fees requested as
24 part of the total, and the connected organization maintains a
25 record or electronic record of the solicitation that includes the
26 amount of the solicited contribution and the amount of any dues or
27 other fees charged in conjunction with the solicitation for each
28 contributor.

29 (b) The connected organization transfers the entire specified

1 amount of any contribution, individually or aggregated with other
2 contributions, for deposit to the separate segregated fund
3 electronically or by written instrument.

4 (c) The connected organization reports all information
5 required under section 26 for each individual contributor, and a
6 transfer of contributions for deposit to the separate segregated
7 fund by a connected organization described in subsection (12) (a) (ii)
8 must be accompanied by or logically associated with a record or
9 electronic record that sets forth all required information for each
10 individual whose contribution is transferred.

11 (d) The connected organization and the separate segregated
12 fund have a written policy governing the handling, accounting, and
13 transfer of any contribution under this subsection.

14 (e) In connection with an investigation or hearing under
15 section 15 regarding any contributions under this subsection, the
16 connected organization voluntarily agrees to make available to the
17 secretary of state any records described in subdivisions (a) to (d)
18 and provides those records at the request of the secretary of
19 state.

20 (8) In addition to any other expenditures or disbursements
21 allowed under subsection (1), a connected organization may make an
22 in-kind contribution to pay costs for a prize, or 1 or more items
23 to be sold or offered in exchange for a contribution, as part of
24 fundraising activities for the separate segregated fund. Any in-
25 kind contribution for payment of costs by the connected
26 organization for a prize or per individual item to be sold or
27 offered in exchange for a contribution must not be
28 disproportionately valuable related to the amount raised by that
29 prize or the amount to be raised or contributed per individual item

1 sold or offered. It is not a violation of this subsection if the
2 connected organization makes an in-kind contribution for a payment
3 of costs under this subsection that is disproportionately valuable
4 and the separate segregated fund reimburses at least the
5 impermissible portion to the connected organization within 60 days
6 of the payment, or as directed by the secretary of state under
7 section 15. An in-kind contribution for a payment of costs under
8 this subsection is disproportionately valuable unless both of the
9 following apply:

10 (a) The in-kind contribution is equal to or less than \$5.00
11 per prize or per individual item to be sold or offered in exchange
12 for a contribution.

13 (b) The in-kind contribution is equal to or less than 10% of
14 the total amount raised by the prize, or if the payment of costs
15 per item sold or offered in exchange for a contribution is equal to
16 or less than 10% of the amount to be raised per individual item
17 sold or offered.

18 (9) Except as otherwise provided in subsections (8) and (11),
19 a person ~~who~~**that** knowingly violates this section is guilty of a
20 felony punishable, if the person is an individual, by ~~a fine of not~~
21 ~~more than \$5,000.00 or imprisonment for not more than 3 years~~ **or a**
22 **fine of not more than \$5,000.00**, or both, or, if the person is not
23 an individual, by a fine of not more than \$10,000.00.

24 (10) If a connected organization that obtains contributions
25 for a separate segregated fund from individuals described in
26 subsection (2), (3), (4), or (5) pays to 1 or more of those
27 individuals a bonus or other remuneration for the purpose of
28 reimbursing those contributions, then that connected organization
29 is subject to a civil fine of not more than 2 times the total

1 contributions obtained from all individuals for the separate
2 segregated fund during that calendar year.

3 (11) If a violation of this section results solely from the
4 failure of a connected organization to transfer 1 or more
5 contributions, that connected organization is not guilty of a
6 felony as described in subsection (9), but shall notify the
7 contributor of the failure to transfer the contribution and refund
8 the full amount of the contribution to the contributor if
9 requested. The penalties described in subsection (9) apply to any
10 other violation of this section, including use or diversion of any
11 contributions by a connected organization before those
12 contributions are transferred to the separate segregated fund under
13 subsection (7).

14 (12) As used in this section:

15 (a) "Connected organization" means either of the following:

16 (i) A corporation organized on a for-profit or nonprofit basis,
17 a joint stock company, a domestic dependent sovereign, or a labor
18 organization formed under the laws of this or another state or
19 foreign country.

20 (ii) A member of any entity under subparagraph (i) that is not
21 an individual and that does not maintain its own separate
22 segregated fund, unless its separate segregated fund and the
23 separate segregated fund of the entity of which it is a member are
24 treated as a single independent committee as provided in section
25 52(10).

26 (b) "Record" and "electronic record" mean those terms as
27 defined in section 2 of the uniform electronic transactions act,
28 2000 PA 305, MCL 450.832.

29 (c) "Written instrument" means a money order, or a check,

1 cashier's check, or other negotiable instrument, as those terms are
2 defined in section 3104 of the uniform commercial code, 1962 PA
3 174, MCL 440.3104, in the name of the connected organization and
4 payable to the separate segregated fund.

5 Sec. 57. (1) A public body or a person acting for a public
6 body shall not use or authorize the use of funds, personnel, office
7 space, computer hardware or software, property, stationery,
8 postage, vehicles, equipment, supplies, or other public resources
9 to make a contribution or expenditure or provide volunteer personal
10 services that are excluded from the definition of contribution
11 under section 4(3)(a). ~~The prohibition under this subsection~~
12 ~~includes, but is not limited to, using or authorizing the use of~~
13 ~~public resources to establish or administer a payroll deduction~~
14 ~~plan to directly or indirectly collect or deliver a contribution~~
15 ~~to, or make an expenditure for, a committee. Advance payment or~~
16 ~~reimbursement to a public body does not cure a use of public~~
17 ~~resources otherwise prohibited by this subsection.~~ This subsection
18 does not apply to any of the following:

19 (a) The expression of views by an elected or appointed public
20 official who has policy making responsibilities.

21 (b) Subject to subsection ~~(3)~~, **(2)**, the production or
22 dissemination of factual information concerning issues relevant to
23 the function of the public body.

24 (c) The production or dissemination of debates, interviews,
25 commentary, or information by a broadcasting station, newspaper,
26 magazine, or other periodical or publication in the regular course
27 of broadcasting or publication.

28 (d) The use of a public facility owned or leased by, or on
29 behalf of, a public body if any candidate or committee has an equal

1 opportunity to use the public facility.

2 (e) The use of a public facility owned or leased by, or on
3 behalf of, a public body if that facility is primarily used as a
4 family dwelling and is not used to conduct a fund-raising event.

5 (f) An elected or appointed public official or an employee of
6 a public body who, when not acting for a public body but is on his
7 or her own personal time, is expressing his or her own personal
8 views, is expending his or her own personal funds, or is providing
9 his or her own personal volunteer services.

10 (g) **If advance payment or reimbursement is made to cover the**
11 **cost of the use of public resources, using or authorizing the use**
12 **of public resources to establish or administer a payroll deduction**
13 **plan to directly or indirectly collect or deliver a contribution**
14 **to, or make an expenditure for, a committee.**

15 ~~(2) If the secretary of state has dismissed a complaint filed~~
16 ~~under section 15(5) alleging that a public body or person acting~~
17 ~~for a public body used or authorized the use of public resources to~~
18 ~~establish or administer a payroll deduction plan to collect or~~
19 ~~deliver a contribution to, or make an expenditure for, a committee~~
20 ~~in violation of this section, or if the secretary of state enters~~
21 ~~into a conciliation agreement under section 15(10) that does not~~
22 ~~prevent a public body or a person acting for a public body to use~~
23 ~~or authorize the use of public resources to establish or administer~~
24 ~~a payroll deduction plan to collect or deliver a contribution to,~~
25 ~~or make an expenditure for, a committee in violation of this~~
26 ~~section, the following apply:~~

27 ~~(a) The complainant or any other person who resides, or has a~~
28 ~~place of business, in the jurisdiction where the use or~~
29 ~~authorization of the use of public resources occurred may bring a~~

1 ~~civil action against the public body or person acting for the~~
2 ~~public body to seek declaratory, injunctive, mandamus, or other~~
3 ~~equitable relief and to recover losses that a public body suffers~~
4 ~~from the violation of this section.~~

5 ~~(b) If the complainant or any other person who resides, or has~~
6 ~~a place of business, in the jurisdiction where the use or~~
7 ~~authorization of the use of public resources occurred prevails in~~
8 ~~an action initiated under this subsection, a court shall award the~~
9 ~~complainant or any other person necessary expenses, costs, and~~
10 ~~reasonable attorney fees.~~

11 ~~(c) Any amount awarded or equitable relief granted by a court~~
12 ~~under this subsection may be awarded or granted against the public~~
13 ~~body or an individual acting for the public body, or both, that~~
14 ~~violates this section, as determined by the court.~~

15 ~~(d) A complainant or any other person who resides, or has a~~
16 ~~place of business, in the jurisdiction where the use or~~
17 ~~authorization of the use of public resources occurred may bring a~~
18 ~~civil action under this subsection in any county in which venue is~~
19 ~~proper. Process issued by a court in which an action is filed under~~
20 ~~this subsection may be served anywhere in this state.~~

21 ~~(2) (3)~~ Except for an election official in the performance of
22 ~~his or her~~ **the election official's** duties under the Michigan
23 election law, 1954 PA 116, MCL 168.1 to 168.992, a public body, or
24 a person acting for a public body, shall not, during the period 60
25 days before an election in which a local ballot question appears on
26 a ballot, use public funds or resources for a communication by
27 means of radio, television, mass mailing, or prerecorded telephone
28 message if that communication references a local ballot question
29 and is targeted to the relevant electorate where the local ballot

1 question appears on the ballot.

2 **(3)** ~~(4)~~ A person ~~who~~ **that** knowingly violates this section is
3 guilty of a misdemeanor punishable, if the person is an individual,
4 by ~~a fine of not more than \$1,000.00 or imprisonment for not more~~
5 than 1 year **or a fine of not more than \$1,000.00**, or both, or if
6 the person is not an individual, by 1 of the following, whichever
7 is greater:

8 (a) A fine of not more than \$20,000.00.

9 (b) A fine equal to the amount of the improper contribution or
10 expenditure.