



Proposed Montana Constitutional Initiative – Annotated

NEW SECTION. **Section 1.** Article XIII of The Constitution of the State of Montana is amended by adding a new section 8 that reads:

Section 8. Powers of Artificial Persons.

(1) Artificial Persons exist only by grant of the state and shall have no powers or privileges except those this constitution expressly provides.

This subsection lays the foundation: Artificial Persons exist only because the state permits them to, and they may exercise only those powers that the Montana Constitution clearly spells out. Any powers not granted are simply off the table.

Corporations start with zero powers. Every power they exercise is one the *people of Montana have chosen to grant them*. The measure simply makes clear that political spending is not on that list.

(2) (a) The legislature may by statute create Artificial Persons consistent with (1).

Here, the amendment affirms that the Legislature may create corporations and other entities by statute—but those entities may exercise only the powers expressly granted in the Constitution and can go no further. It reinforces the idea that these powers are limited by design.



(b) The people never did, and do not, intend the powers of Artificial Persons to include Election Activity or Ballot-Issue Activity. This section retracts all Artificial Persons' powers and re-grants only those powers that the people deem necessary or convenient to carry out an Artificial Person's lawful business or charitable purposes, as described in (3)(e). Powers related to Election Activity or Ballot-Issue Activity shall not be deemed necessary or convenient to those purposes under any circumstance.

This language makes explicit that the people of Montana never intended Artificial Persons to have the power to spend money on elections or ballot issues. When the Supreme Court, in cases like *Citizens United*, held that Montana intended general grants of power to corporations to include the power to spend in politics, it was mistaken. We can't overrule the Supreme Court, but we can change the law to say *exactly* which powers we do mean to hand out, and make sure that political spending is not one of them.



(3) Definitions.

(a) “Artificial Person” means every entity whose existence or limited-liability shield is conferred by Montana law, including, without limitation:

(i) business corporations;

(ii) nonprofit corporations (public-benefit, mutual-benefit, religious);

(iii) limited-liability companies;

(iv) unincorporated associations, limited-liability partnerships, statutory trusts, professional corporations, cooperatives, and any successor form;

(v) Foreign Entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. Any Foreign Entity that directly or indirectly undertakes, finances, or directs Election Activity or Ballot-Issue Activity in the state of Montana is conclusively deemed to be transacting business in this state.

This definition casts a wide net to ensure that all types of state-created entities are included—not just traditional corporations, but also nonprofits, LLCs, unions, and so forth. It ensures consistency and comprehensive coverage. All Artificial Persons are treated equally.

What makes the Plan work is that under long-accepted law, out-of-state corporations can only exercise the same powers in Montana that in-state corporations can exercise. If Montana doesn’t grant a power to its own corporations, out-of-state corporations can’t exercise that power in Montana either. So when this passes in Montana, it keeps all corporations, no matter where they’re based, out of Montana’s local, state, and federal politics.



<p>(b) “Election Activity” means paying, contributing, or expending money or anything of value to support or oppose a candidate, political party, or political committee.</p>	<p>This follows existing Montana campaign-finance law and covers contributions or spending to support or oppose a candidate, political party, or committee.</p>
<p>(c) “Ballot-Issue Activity” means paying, contributing, or expending money or anything of value to support or oppose a ballot question or initiative.</p>	<p>Similar to “Election Activity,” this refers to spending meant to influence the outcome of ballot questions or initiatives. This makes it clear that we mean both.</p>
<p>(d) Election Activity and Ballot-Issue Activity do not include any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless such broadcasting, print, online, or digital facilities are owned or controlled by a political party, political committee, or candidate.</p>	<p>This provision draws a clear boundary to preserve legitimate journalism. It excludes from the definition of “Election Activity” and “Ballot-Issue Activity” any bona fide news reporting, editorial, or commentary content—even if such content touches on political matters—so long as it is distributed through traditional or digital press outlets not controlled by a candidate, political committee, or party. By carving out independent journalistic institutions, the amendment steers clear of infringing on press freedoms while still preventing political actors from laundering electioneering through media properties they control.</p>



<p>(e) “Artificial Person Powers” means powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in Election Activity or Ballot-Issue Activity.</p>	<p>This is the key to the whole enterprise. It affirmatively defines “Artificial Person Powers” as everything legal under the law, more or less, but does not include the political-spending powers in (b) and (c), above. Because this definition is purely descriptive—it doesn’t <i>do</i> anything—it <i>can’t</i> be unconstitutional.</p>
<p>(f) “Charter Privilege” means any benefit to Artificial Persons that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abatements.</p>	<p>These are benefits that come only from state law, like limited liability or tax advantages. The amendment makes clear that these privileges can be revoked if an entity oversteps its authority.</p>
<p>(g) “Foreign Entity” means an Artificial Person organized or existing under the laws of any jurisdiction other than the state of Montana.</p>	<p>This definition ensures that the amendment applies not just to Montana-chartered corporations but to any Artificial Person organized under the laws of another state or country. It reinforces the doctrine that out-of-state entities may exercise only those powers Montana grants to its own corporations. If political-spending powers are withheld from domestic corporations, then this provision ensures that no foreign-formed Artificial Person can claim them either. The definition is crucial for the full extraterritorial bite of the initiative’s political spending restrictions.</p>



(4) Total Revocation of Previous Power Grants. (a) The creation and continued existence of an Artificial Person is not a right but a conditional grant of legal status by the state and remains subject to complete withdrawal at any time. All powers previously granted to any Artificial Person under Montana law are revoked in their entirety. No Artificial Person operating under the jurisdiction of this state shall possess any power unless specifically granted by this constitution. No power revoked by this subsection shall be revived except by a constitutional provision that expressly re-authorizes such power in clear and specific terms.

The entire amendment relies on the strength of this subsection. It marks a reset, revoking all previously granted powers and starting fresh—ensuring that no Artificial Person may claim any power not specifically granted in this Constitution. According to the Supreme Court of the United States, Montana's power to do this is absolute.



(b) Transitional Safe Harbor. Nothing in (4)(a) shall be construed to invalidate, impair, or modify any existing contract, debt instrument, security, or other legal obligation validly entered into before the effective date of [this act]; provided, however, that nothing herein authorizes any Election Activity or Ballot-Issue Activity after the effective date. Nothing in (4)(a) shall be construed to impair the continued existence or legal personhood of any Artificial Person, or to affect its ability to initiate, defend, or participate in legal actions or to maintain or remain eligible for licenses, permits, or approvals previously granted under state or federal law.

The U.S. Constitution says that states can't interfere with contractual obligations, and this subsection makes sure to steer clear of that. It protects existing contracts and legal obligations from disruption as long as they were validly entered into before the initiative takes effect. It provides reassurance that nothing retroactive is being imposed—but it does make clear that political spending must stop once the new rules are in place.



<p>(5) Selective Re-Grant of Artificial Person Powers. (a) Each Artificial Person possesses the powers defined in (3)(e), unless its organizational documents limit the exercise of such powers, and no powers beyond those expressly granted. No provision of this constitution grants or recognizes any power of an Artificial Person to engage in Election Activity or Ballot-Issue Activity, except as provided in (5)(c). The re-grant of powers under this subsection shall take legal effect simultaneously with the revocation described in (4)(a).</p>	<p>This is where the “Artificial Person Powers,” above, get put to work. The people of Montana affirmatively grant to their corporations a list of powers that does not include the power to spend in politics. If a court doesn’t like this list and thinks it should be longer, too bad—courts don’t have the power to make this list longer. If a court wants to strike this subsection altogether, it can’t, because then Artificial Persons would have no powers whatsoever in Montana. Striking this subsection makes the problem worse, not better.</p>
<p>(b) Any language in articles of incorporation, organization, association, or other organizational documents purporting to directly or indirectly confer Election-Activity authority or Ballot-Issue-Activity authority to Artificial Persons is void.</p>	<p>Makes sure no one tries to get around the rules by inserting political powers into their founding documents. If such language exists, it has no legal effect.</p>



<p>(c) Political committees registered under Montana or federal law are entities created for the purpose of engaging in Election Activity and Ballot-Issue Activity. Such committees may be granted the power to engage in those activities provided that they exist solely for that purpose and claim no Charter Privilege other than limited liability. This constitution does not grant any other Artificial Person the power to engage in Election Activity or Ballot-Issue Activity.</p>	<p>Creates a limited exception for political committees, which exist solely to engage in political speech.</p>
<p>(d) No Charter Privilege shall be construed to authorize Election Activity or Ballot-Issue Activity. An Artificial Person that exercises Election-Activity authority or Ballot-Issue-Activity authority, unless expressly permitted to do so under (5)(c), initially forfeits all Charter Privileges as a matter of law. The legislature shall, during its first regular session following the effective date of [this act], enact procedures that allow reinstatement upon full disgorgement, certification of future compliance, and any additional conditions it deems appropriate.</p>	<p>Ensures meaningful enforcement. If a corporation engages in prohibited political activity, it automatically loses the special privileges the people of Montana have decided to give it.</p>



(6) Ultra Vires Actions. Any Election Activity or Ballot-Issue Activity conducted by an Artificial Person is ultra vires and void. Such conduct results in the forfeiture of Charter Privileges as provided in (5)(d) and shall also be subject to civil action by a member, shareholder, or the attorney general for injunctive relief, disgorgement, and confirmation or enforcement of the forfeiture. The legislature shall, during its first regular session following the effective date of [this act], enact implementing procedures to enforce this subsection.

This subsection reinforces that any political spending by an Artificial Person—unless clearly authorized—is beyond its legal authority (“*ultra vires*”) and void. This is how corporations were held to their powers back in the day, and it’ll work well now.



<p>(7) Severability. If any provision of [this act], or its application to any person or circumstance, is held invalid, the remaining provisions and applications that are severable shall remain in effect. In such event, no prior grant of corporate powers shall be revived or reinstated, nor shall any court construe [this act] to authorize broader powers than are expressly conferred in [this act].</p>	<p>A standard but essential clause. If any part of the initiative is held invalid, the rest remains in force wherever it can still lawfully apply. This is especially important to this structure because of the “reset and regrant” structure. If a court wanted to strike the “regrant” of the shorter list of powers, it would be unable to touch the “reset” of powers, which is unquestionably legal. This forces the issue: A move to strike the regrant wouldn’t bring back the old, full list of powers—it would deprive Montana corporations of <i>all</i> their powers. That would make the complained-about problem worse, not better, and courts only have jurisdiction to provide remedies that actually remedy.</p> <p>The structure ensures there’s no way for a court to surgically remove the political-spending ban while keeping everything else intact. If the regrant falls, so do all corporate powers.</p> <p>The second sentence ensures that the old set of powers doesn't get reinstated.</p>
<p><u>NEW SECTION.</u> Section 2. Effective date. [This act] is effective January 1, 2027.</p>	<p>The amendment takes effect on January 1, 2027. This gives Artificial Persons time to adjust while ensuring the new rules are in place well ahead of the 2028 election cycle. The measure is largely self-executing, meaning little administrative setup is required.</p>