ELECTION FUNDING, EXPENDITURE AND DISCLOSURES AMENDMENT BILL 2011
Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.47 p.m.]: I move:

That this bill be now read a second time.

I seek the leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

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The Government gave a commitment in 2010 that, if elected, a Coalition Government would introduce legislation to ban corporate donations once and for all.

This State's approach to regulating political donations and expenditure must:

"… ensure that those who exercise executive power in New South Wales understand that they are accountable, that we insist on having standards, and that they should operate with integrity and honesty."

This promise is being met by the Coalition Government of New South Wales .

The Election Funding, Expenditure and Disclosures Amendment Bill now before the House contains two vital reforms that respond to the community's loud and clear demand for real change in this area.

These two reforms are consistent with amendments that were proposed by the Coalition last year during the parliamentary debate on the former Government's 2010 election funding legislation.

Regrettably for the people of New South Wales, the former Government did not support them in 2010.

The bill now before the House, however, will ban corporate donations, including donations from industrial organisations, peak industry groups, religious institutions and community organisations.

It will do this by making it unlawful for a political donation to be made or received if the donor is not an individual who is on an electoral roll for Commonwealth, State or local government elections.

The bill will also link the electoral communication expenditure of parties with that of their affiliates to ensure the effectiveness and fairness of campaign finance rules is not undermined.

These reforms are a reasonable, measured and equitable way to put in place a system of political participation in New South Wales that is more transparent and more accessible.

It will vest the power to donate solely in those who have the power to vote.

New South Wales electors deserve nothing less.

I turn now to the detail of the bill.

Item [1] of schedule 1 to the bill provides for the aggregation of electoral communication expenditure of parties and their affiliated organisations.

Under the Election Funding, Expenditure and Disclosures Act, "electoral communication expenditure" comprises a subset of electoral expenditure that relates to certain campaign expenses including advertising, accommodation and staffing costs.

The Act caps the "electoral communication expenditure" that parties are entitled to incur in the lead-up to an election at both a State and electorate level. It is unlawful for a party to breach the caps.

Unfortunately, these party expenditure caps are not currently affected by the expenditure of organisations that are affiliated with a political party.

This leads to organisations intimately involved in the governance of a political party—sometimes even with office-bearers in common campaigning on behalf of a party, with no corresponding limits on the party's own ability to spend.

The Government believes that this is an unfair loophole that undermines the integrity of the whole scheme.

The bill closes this loophole by combining the electoral communication expenditure of affiliates with the expenditure of parties for the purposes of determining whether a party has exceeded the applicable caps.

It does this by aggregating the expenditure of a party with that of its affiliated organisations.

Under the bill, an "affiliated organisation" is defined to be a body that, under the rules of the party, can appoint delegates to the party's governing body and/or has a role in the preselection of candidates for that party.

An "affiliated organisation" may be incorporated or unincorporated, in recognition of the fact that a traditional corporate structure might not always be adopted by organisations that affiliate with political parties.

New subsection 95G (6) will provide that, even if a party spends less than or equal to its applicable expenditure caps, its expenditure will be treated as exceeding those caps if the combined party and affiliate expenditure exceeds the caps.

This aggregation will apply for both the overall State cap on party expenditure, as well as the $50,000 electorate cap.

It is unlawful under the Act for a party to incur expenditure in excess of the relevant statutory caps.

Item [2] of schedule 1 to the bill will implement the Government's promise to ban corporate donations.

It is the Government's strong view that:

"… the only way that you can ensure that the public is going to have confidence about our electoral system is to limit it to the individuals who are on the electoral roll. It must be limited to those Australian citizens who are enrolled, not overseas citizens and non-residents, because of course those people do not get the vote. They do not have a stake in the system and they should not be able to influence the system and nor should unions, third-party interest groups and corporations …"

The Government stands by that position.

Like the industry-specific prohibitions already in place under the Act, the new general ban on corporate donations applies to both State and local government elections.

The bill also contains a new subsection 96D (3) that will ensure the new restrictions cannot be circumvented by corporate entities channelling donations through individuals. Such conduct will be unlawful.

The Government will, however, continue to urge the Commonwealth Government to extend these reforms into the Federal electoral context so that the same fundamental principles of accountability and transparency apply at every level of government in Australia. Such consistency will enhance the effectiveness of the reforms we are putting in place in New South Wales today.

Finally, the bill does not affect the existing bans on donations by property developers and tobacco, liquor and gambling entities and their close associates, such as company directors and their spouses.

It will not be possible, however, under the bill for a person to commit an offence under both the industry-specific bans and the new general prohibition on donations by non-individuals in relation to the same conduct.

These are important reforms that are long overdue.

They will support a system of democracy in New South Wales that does not operate for the benefit of organisations that have no right to elect representatives to this Parliament.

They will end the public perception that wealthy corporate donors can obtain disproportionate opportunities for political participation.

It is inevitable that laws which seek to regulate political donations will trigger discussion and debate about constitutional principles. Some have used this as an opportunity for delay and inaction—a way to justify the status quo.

I am not prepared to make excuses for not acting on corporate donations.

The Government is not prepared to make excuses for not acting on corporate donations. Restricting donations to individuals on the electoral roll balances any concerns there may be about freedom of communication with the public's legitimate interest in the integrity of the political process.

The measures in this bill are designed to rid this State of both the risk and the perception of corruption and undue influence.

The bill's symbolic and practical effect should not be underestimated. The Government is proud to be able to deliver on the Government's promise for all New South Wales electors.

I commend the bill to the House.