

SENATE BILL NO. 372

Introduced: 02/05/83

Referred to Committee on State Administration: 02/05/83

Hearing: 2/17/83

Report: 02/18/83, Do Not Pass. Report Adopted.

Bill Killed.

1 *Senate* BILL NO. *372*
 2 INTRODUCED BY *Eck Vincent Baranore Hays*
 3 *Metcalfe*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CAMPAIGN
 5 EXPENDITURE LIMITS AND TO PROVIDE FOR THE AVAILABILITY OF
 6 PUBLIC FINANCING TO STATE, JUDICIAL, AND LEGISLATIVE
 7 CANDIDATES WHO ARE SUBJECT TO CAMPAIGN EXPENDITURE
 8 LIMITATIONS; TO PROVIDE A PENALTY FOR VIOLATING A CAMPAIGN
 9 FINANCE AGREEMENT; AMENDING SECTIONS 13-1-101, 13-37-302
 10 THROUGH 13-37-305, AND 13-37-307, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 13-1-101, MCA, is amended to read:

14 "13-1-101. Definitions. As used in this title, unless
 15 the context clearly indicates otherwise, the following
 16 definitions apply:

17 (1) "Anything of value" means any goods that have a
 18 certain utility to the recipient that is real and that is
 19 ordinarily not given away free but is purchased.

20 (2) "Candidate" means:

21 (a) an individual who has filed a declaration or
 22 petition for nomination, acceptance of nomination or
 23 appointment as a candidate for public office as required by
 24 law;

25 (b) for the purposes of chapters 35, 36, or 37, an

1 individual who has publicly announced his intention to seek
 2 nomination or election to public office by write-in vote and
 3 who has received a contribution or made an expenditure or
 4 has given an authorization to another person to receive a
 5 contribution or make an expenditure for the purpose of
 6 supporting his nomination or election.

7 (3) (a) "Contribution" means:

8 (i) an advance, gift, loan, conveyance, deposit,
 9 payment, or distribution of money or anything of value to
 10 influence an election, some of which terms are further
 11 defined as follows:

12 (A) "loan" includes a guarantee, endorsement, and any
 13 other form of security in which the risk of nonpayment rests
 14 with the surety, guarantor, or endorser, as well as with a
 15 political committee, candidate, or other primary obligor. A
 16 loan is a contribution to the extent that the obligation
 17 remains outstanding.

18 (B) "money" includes currency of the United States or
 19 of any foreign nation, checks, money orders, and any other
 20 negotiable instrument payable on demand;

21 (C) "anything of value" includes securities, goods,
 22 facilities, equipments, supplies, personnel, advertising
 23 services, or other in-kind contributions provided without
 24 charge (other than volunteer services) or at a charge that
 25 is below the normal charge for the items. "Normal charge"

1 for goods means the price of those goods in the market from
 2 which they ordinarily would have been purchased at the time
 3 of their contribution; and "normal charge" for any services,
 4 other than those provided by an unpaid volunteer, means a
 5 charge based on the weekly, hourly, or piecework rate
 6 charge, whichever is best applicable, ordinarily paid to the
 7 person providing the services.

8 (ii) a transfer of funds between political committees;

9 (iii) the payment by a person other than a candidate or
 10 political committee of compensation for the personal
 11 services of another person that are rendered to a candidate
 12 or political committee;

13 (iv) a written contract, promise, or agreement, such as
 14 a signed pledge card, whether or not legally enforceable, to
 15 make a contribution, and is a reportable debt owed to the
 16 candidate or committee until it is honored.

17 (b) "Contribution" does not mean:

18 (i) services provided without compensation by
 19 individuals volunteering a portion or all of their time on
 20 behalf of a candidate or political committee or meals and
 21 lodging provided by individuals in their private residence
 22 for a candidate or other individual;

23 (ii) the cost of any bona fide news story, commentary,
 24 or editorial distributed through the facilities of any
 25 broadcasting station, newspaper, magazine, or other

1 periodical publication of general circulation;

2 (iii) the cost of any communication by any membership
 3 organization or corporation to its members or stockholders
 4 or employees, so long as such organization is not a primary
 5 political committee; or

6 (iv) filing fees paid by the candidate;

7 (v) payments made for the purpose of determining
 8 whether an individual should become a candidate, such as
 9 those incurred in conducting a poll;

10 (vi) unreimbursed payments for transportation expenses
 11 made by an individual in volunteering services to a
 12 candidate, to the extent that the cumulative value of the
 13 payments does not exceed \$100 for an election;

14 (vii) unreimbursed payment from a volunteer's personal
 15 funds for usual and normal living expenses incident to
 16 volunteer activity.

17 (4) "Election" means a general, special, or primary
 18 election held pursuant to the requirements of state law,
 19 regardless of the time and/or purpose.

20 (5) "Election administrator" means the county clerk
 21 and recorder or the individual designated by a county
 22 governing body to be responsible for all election
 23 administration duties, except that with regard to school
 24 elections, the term means the school district clerk.

25 (6) "Elector" means an individual qualified and

1 registered to vote under state law.

2 (7) (a) "Expenditure" means a purchase, payment,
3 distribution, loan, advance, promise, pledge, or gift of
4 money or anything of value made for the purpose of
5 influencing the results of an election.

6 (b) "Expenditure" does not mean:

7 (i) services, food, or lodging provided in a manner
8 that they are not contributions under subsection (3);

9 (ii) payments by a candidate for his filing fee or for
10 personal travel expenses, food, clothing, lodging, or
11 personal necessities for himself and his family;

12 (iii) the cost of any bona fide news story, commentary,
13 or editorial distributed through the facilities of any
14 broadcasting station, newspaper, magazine, or other
15 periodical publication of general circulation; or

16 (iv) the cost of any communication by any membership
17 organization or corporation to its members or stockholders
18 or employees, so long as such organization is not a primary
19 political committee.

20 (8) "General election" means an election held for the
21 election of public officers throughout the state at times
22 specified by law, including elections for officers of
23 political subdivisions when the time of the election is set
24 on the same date for all similar political subdivisions in
25 the state.

1 (9) "Individual" means a human being.

2 (10) "Issue" or "ballot issue" means a proposal
3 submitted to the people at an election for their approval or
4 rejection, including but not limited to initiatives,
5 referenda, proposed constitutional amendments, recall
6 questions, school levy questions, bond issue questions, or a
7 ballot question. For the purposes of chapters 35, 36, and
8 37, an issue becomes a "ballot issue" upon certification by
9 the proper official that the legal procedure necessary for
10 its qualification and placement upon the ballot has been
11 completed, except that a statewide issue becomes an "issue"
12 upon approval by the secretary of state of the form of the
13 petition or referral.

14 (11) "Person" means an individual, corporation,
15 association, firm, partnership, cooperative, committee,
16 club, union, or other organization or group of individuals
17 or a candidate as defined in subsection (2) of this section.

18 (12) "Political committee" means a combination of two
19 or more individuals or a person other than an individual who
20 makes a contribution or expenditure:

21 (a) to support or oppose a candidate or a committee
22 organized to support or oppose a candidate or a petition for
23 nomination; or

24 (b) to support or oppose a ballot issue or a committee
25 organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(14) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(16) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(17) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-37-302, MCA, is amended to read:

"13-37-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Fund" means the election campaign fund established in 13-37-304.

(2) "~~Petite~~ Major political party" is a party whose candidate for governor in the ~~last~~ next-preceding general election received 5% or more of the total votes cast for that office as verified by the secretary of state.

(3) "Department" means the department of revenue provided for in Title 2, chapter 15, part 13.

(4) "Candidate" means:

(a) for purposes of a general election, an individual who has been nominated by a major political party for election to the a state office of--governor--lieutenant governor or has been nominated in the nonpartisan primary election for the office of chief justice, or justice of the supreme court, or district court judge in this state; and

(b) for purposes of a primary election, any person who has filed for elective office.

(5) "Minor party candidate" means a candidate nominated by a political party that received not more than 5% of the total votes cast for governor at the next preceding general election.

(6) "Independent candidate" means a candidate who is not a minor party candidate and who is not affiliated with a major political party.

(7) "Individual" means a natural person.

(8) "Race" means an election contest involving one or more candidates for a particular office and includes primary and general elections.

(9) "District" means the electoral district of an office and includes the entire state if the office is a statewide office.

(10) "Qualified donor" means an individual who is a resident of the state."

NEW SECTION. Section 3. Limits on campaign expenditures. (1) In the year in which an election is held for an office sought by a candidate, no expenditures may be made by a candidate who has signed an agreement under 13-37-307 or by the principal campaign committee of that candidate or otherwise on behalf of that candidate which result in an aggregate amount in excess of the following amounts:

(a) for governor and lieutenant governor, running together, \$150,000 primary and \$450,000 general;

(b) for chief justice or justice of the supreme court, \$7,500 primary and \$22,500 general;

(c) for attorney general, \$15,000 primary and \$45,000

general;

(d) for secretary of state, \$15,000 primary and \$45,000 general;

(e) for state auditor, \$15,000 primary and \$45,000 general;

(f) for state superintendent of public instruction, \$15,000 primary and \$45,000 general;

(g) for public service commissioner, \$3,750 primary and \$11,250 general;

(h) for district court judge, \$2,500 primary and \$11,250 general;

(i) for state senator, \$2,500 primary and \$7,500 general; and

(j) for state representative, \$2,000 primary and \$6,000 general.

(2) Each of the limits listed in subsection (1) for primary and general races is a separate limit. Expenditures not made in a primary may not be carried forward to increase expenditures by the candidate in the general election.

Section 4. Section 13-37-305, MCA, is amended to read:

"13-37-305. Records to be kept -- availability. (1)

The treasurer of each major political party or independent campaign or minor party candidate campaign shall maintain a complete record of all disbursements of funds received by him under 13-37-304 and used for the candidate's campaign

1 expenses plus receipts or other evidence of each expense.

2 (2) The record shall be available for inspection by
3 anyone at any reasonable time. A copy shall be deposited in
4 the office of the secretary of state by December 31 of each
5 general election year."

6 Section 5. Section 13-37-307, MCA, is amended to read:

7 "13-37-307. Application to receive money -- agreement
8 -- cancellation -- reallocation of money. (1) (a) All
9 candidates who wish to receive money from the fund must
10 notify the department on a form prescribed and supplied by
11 the department. As a condition of receiving money,
12 candidates must also present to the department:

13 (i) a copy of the agreement specified in subsection
14 (2)(a) signed by the commissioner provided for in 13-37-102;
15 and

16 (ii) a list of all donors for whom the candidate is
17 requesting matching money, including the amount or amounts
18 they have donated to the candidate's campaign and the
19 information necessary to ascertain that the donors are
20 qualified donors.

21 (b) Acceptance of money from the fund is voluntary.

22 (2) As a condition of receipt of any money from the
23 public campaign fund, a candidate shall agree by stating in
24 writing to the commissioner that:

25 (a) all expenditures on behalf of the candidate,

1 whether made on his own, by his campaign, or with his
2 approval, will not exceed the expenditure limits set forth
3 in [section 3]; and

4 (b) he will not accept contributions which in the
5 aggregate exceed the difference between the amount that the
6 candidate may legally expend under [section 3] and the
7 amount he receives from the public campaign fund.

8 (3) For purposes of subsection (2), the period of
9 agreement begins on the date the candidate files for office
10 or first expends money for his campaign and ends with the
11 dissolution of the candidate's campaign committee.

12 (4) Any agreement entered into with the commissioner
13 under subsection (2) shall be available for inspection by
14 anyone at any reasonable time.

15 (5) A candidate whose opponent has not signed an
16 agreement may cancel his agreement at any time until 5 days
17 after the primary election. A candidate canceling his
18 agreement shall so designate in a written statement to the
19 commissioner. The cancellation statement shall be available
20 for public inspection.

21 (6) If a candidate chooses not to sign the agreement,
22 the share of public funds available for that race shall be
23 made available to the other candidates in that race.

24 (7) Any candidate who violates a provision of the
25 agreement on campaign expenditure limits is subject to the

1 ~~penalty and enforcement provisions of 13-37-128 and~~
2 ~~13-37-129.~~"

3 Section 6. Section 13-37-303, MCA, is amended to read:

4 "13-37-303. ~~Donation~~ Contribution to fund by taxpayer.
5 (1) An individual whose withheld income tax or payment of
6 estimated tax exceeds by more than \$1 his income tax
7 liability for the taxable year may ~~donate--\$1--to--be--paid~~
8 ~~designate whether he wishes to have \$1 from tax withheld or~~
9 ~~paid transferred~~ to the fund. In the case of a joint return,
10 as provided in 15-30-142, of a husband and wife having--an
11 whose income tax overpayment--as defined in 15-30-149--of or
12 payment of estimated tax exceeds by more than \$2 or more the
13 income tax liability, each spouse may ~~donate--\$1--be--paid~~
14 ~~designate individually whether he or she wishes to have \$1~~
15 ~~transferred~~ to the fund.

16 (2) An individual with an unpaid tax liability may at
17 the time of payment ~~donate~~ designate an extra \$1 to be paid
18 ~~transferred~~ to the fund.

19 (3) The department shall provide a ~~place~~ box or, in
20 the case of a joint return, two boxes on the face of the
21 blank form of return, provided for in 15-30-144, where an
22 individual or individuals may ~~make~~ designate the donations
23 transfer provided for in subsections (1) and (2). The form
24 shall adequately explain the individual's option to donate
25 transfer \$1 to the fund, and in an appropriate space

1 ~~corresponding to the box or boxes, the department shall~~
2 ~~provide an explanatory statement that the money designated~~
3 ~~to be transferred by the taxpayer will be issued to~~
4 ~~candidates who request funds from the public campaign fund~~
5 ~~and who agree to abide by campaign expenditure limitations."~~

6 Section 7. Section 13-37-304, MCA, is amended to read:

7 "13-37-304. Public campaign fund. (1) There is a
8 public campaign fund within the earmarked revenue fund
9 provided for in 17-2-102.

10 (2) All money designated under 13-37-303 shall be
11 deposited in the fund. All private contributions to the
12 fund, unspent or unused allocated money, and appropriations
13 to the fund shall be deposited in the fund.

14 (3) (a) ~~Five~~ Two months before the general a primary
15 election in the an election year, money in the fund shall be
16 ~~paid--over--in--equal--amounts~~ allocated by the department to
17 ~~all-eligible-candidates-for-the~~ a fund for each designated
18 political office according to the percentages in ~~(3)(b)~~
19 subsection (4), to be accrued until an election is held for
20 such office or distributed according to the provisions of
21 this part upon proper application.

22 (b) The amounts allocated to each political office
23 shall be paid to a candidate for such office, subject to the
24 provisions of this part, on a matching basis. The candidate
25 shall be paid, from the funds allocated to that office, an

1 amount equal to each contribution of:
 2 (i) \$50 or less from a qualified donor if the district
 3 is less than statewide; or
 4 (ii) \$100 or less from a qualified donor if the race is
 5 for a statewide office.
 6 (c) The money shall be spent only for the legitimate
 7 campaign expenses expenditures of the candidates, and any
 8 unspent money as of dissolution of a candidate's campaign
 9 committee must be remitted to the department and transferred
 10 to the fund.
 11 (b)(1) The money shall be distributed allocated in the
 12 following percentages:
 13 ++(a) campaign for office offices of
 14 governor-lieutenant governor, 50% 40%;
 15 +++ (b) campaigns for offices each office of chief
 16 justice and or justice of the supreme court, 50% 2.5%
 17 equally-allocated-to-each-eligible-campaign-fund;
 18 (c) campaign for clerk of the supreme court, 1%;
 19 (d) campaign for office of attorney general, 6%;
 20 (e) campaign for office of secretary of state, 6%;
 21 (f) campaign for office of state auditor, 6%;
 22 (g) campaign for office of state superintendent of
 23 public instruction, 6%;
 24 (h) campaign for each district office of public
 25 service commission, 2.5%;

1 (i) campaign for each office of district court judge,
 2 2.5%;
 3 (j) campaign for each office of state senator, .4%;
 4 and
 5 (k) campaign for each office of state representative,
 6 7%.
 7 (4) Three months before the general election in a
 8 general election year the remainder of any money in the fund
 9 shall be remitted to the treasurer of each candidate in the
 10 same proportion as provided in subsection (3)(b).
 11 (5) Minor party and independent candidates shall
 12 receive the same amounts as major party candidates if they
 13 present a petition bearing signatures of registered electors
 14 equal to 15% of the total votes cast for the office in the
 15 next preceding general election."
 16 NEW SECTION. Section 8. Distribution of funds. (1)
 17 Money allocated for a race shall be divided to provide that
 18 one-fourth of the money will be available in equal shares to
 19 each candidate for a race for the primary election. The
 20 remaining three-fourths of the money for each race must be
 21 split and made available in equal shares to each candidate
 22 signing an agreement in a general election race as provided
 23 in subsections (2) through (6) of 13-37-307.
 24 (2) The first payment of funds to primary election
 25 candidates must be made no later than 30 days preceding the

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1 date of the primary election. The first payment of funds to
2 qualifying general election candidates shall be made not
3 earlier than 15 days or later than 30 days after the primary
4 election date.

5 NEW SECTION. Section 9. Codification instruction.
6 Sections 3 and 8 are intended to be codified as an integral
7 part of Title 13, chapter 37, part 3, and the provisions of
8 Title 13, chapter 37, part 3, apply to sections 3 and 8.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 372 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 372 provides for campaign expenditure limits; provides for the availability of public financing to state, judicial, and legislative candidates who are subject to campaign expenditure limitations; and provides a penalty for violating a campaign finance agreement.

ASSUMPTIONS:

- 1) The Public Campaign Fund balance at the beginning of FY 83 was \$3,629.28.
- 2) Under continuation of the present law, campaign fund contributions received through the individual income tax return checkoff will total \$4,000 in each of FY 83, FY 84 and FY 85 (total FY 82 campaign fund contributions: \$4,111).
- 3) Section 6 of the proposed law would have the same effect as continuation of the present law; that is, campaign fund designations on the individual income tax return would result in reduced refunds or increased amounts due for individual taxpayers.
- 4) Two months before the primary election of 1984, the Public Campaign Fund will have received 75% (or \$3,000) of the total amount of anticipated receipts for FY 84.
- 5) \$600 would be received by the fund during the period of July-August, 1984.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Public Campaign Fund Receipts		
Under Current Law	\$4,000	\$4,000
Under Proposed Law	<u>4,000</u>	<u>4,000</u>
Estimated Increase	<u>\$ -0-</u>	<u>\$ -0-</u>

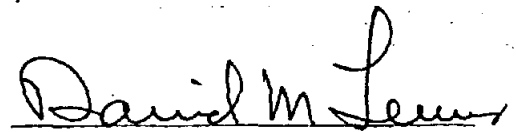
Under continuation of the present law, it is estimated that \$11,629.28 would be available for distribution in June, 1984, and an additional \$600 would be available for distribution two months later.

Under the proposed law, the total amount of money which will be available for allocation to candidates for political office in April, 1984 will be \$10,629.28.

TECHNICAL NOTE:

The allocation percentages specified in Subsection (4) of Section 7 of the bill add up to 193%.

FISCAL NOTE 12:R/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-11-83