

House BILL NO. 399

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING SPENDING LIMITS ON ELECTIONS FOR STATEWIDE AND LEGISLATIVE OFFICES; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] directs the commissioner of political practices to adopt a rule adjusting spending limits for inflation. The commissioner shall conform the rule to the process provided in 13-37-218.

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

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 6] may be cited as the "Mandatory Campaign Spending Limits Act".

(2) The purpose of [sections 1 through 6] is to strengthen and make mandatory the campaign spending limits set forth in [section 4].

NEW SECTION. **Section 2. Findings.** The people of Montana, drawing on their collective experience with campaigns for public office and on evidence presented by reports from the commissioner, find and declare the following:

(1) Montana has traditionally prided itself on a high level of civic participation in responsible government, which is in decline as the direct result of campaign financing arrangements that alienate voters from the electoral process and that cannot be successfully corrected under applicable holdings of the United States supreme court.

(2) Current campaign financing arrangements, with their perceived preferential access to lawmakers for special interests capable of contributing sizeable sums to lawmakers' campaigns, have provoked public disaffection with elective government, as manifested by declines in voting percentages and the number of voluntary campaign contributors.

(3) Prior to 1976, states could regulate campaign spending through limits applicable to all

1 candidates for state elective office. In 1976, the United States supreme court invalidated spending limits,
2 while approving campaign contribution limits.

3 (4) Since 1976, average campaign expenditures have risen steeply, doubling in most state
4 legislative races. The increase has been made up largely by contributions from special interests.

5 (5) Contribution limits can be helpful, but they are inadequate by themselves to restrain the growth
6 in campaign expenditures. As long as spending is effectively unrestrained, the national experience is that
7 contributions will find a way to reach favored candidates and to protect them from being outspent.

8 (6) Personal spending by wealthy candidates, independent expenditures that favor or oppose an
9 identified candidate, and the use of political parties as conduits for the support of selected candidates are
10 methods that have been used to avoid contribution limits.

11 (7) Experience shows that support can be coordinated for a campaign by means of informal
12 agreements without losing a professed independence. Contributions to a political party for party purposes
13 can be and are routed to the support of identified candidates.

14 (8) Public financing cannot cure contribution and expenditure problems as long as spending limits
15 are subject to evasion. After years of experience with tax credits and checkoffs for voluntary campaign
16 contributors and a dwindling of the percentage of contributors, it is evident that Montana voters want a
17 fundamental repair of the campaign finance system.

18 (9) An effective remedy requires a reconsideration of the United States supreme court's decision
19 equating expenditures with free speech. Montanans believe that it is strongly desirable to provide carefully
20 researched data and arguments that support reasonable campaign spending limitations. The provisions of
21 [sections 1 through 6] are a step in that direction.

22 (10) The United States supreme court decision is based on the premise that spending limits could
23 restrict political free speech by reducing the number of issues discussed, the depth of their exploration, and
24 the size of the audience reached. The experience of Montanans engaged in the electoral process does not
25 support those concerns. Unlimited expenditures can drown or distort political discourse in a flood of
26 distractive repetition.

27 (11) The least distorted and most instructive channels of campaign communication are often free
28 or inexpensive. Debates, call-in programs, local interviews, door-to-door visits in legislative districts, and
29 other voter connections that are not dependent on the power of money are informative and shape electoral
30 decisions.

1 (12) The expanded use of low-cost channels of communication, stimulated by the adoption of
 2 reasonable spending limits, will benefit political discourse by drawing candidates out of media
 3 advertisements and into engagement with and accountability to voters. Reasonable campaign spending
 4 limits will encourage more candidates to seek office, increasing the number, depth, and diversity of ideas
 5 presented to the public.

6 (13) Reasonable campaign spending limits will relieve candidates and incumbents from the
 7 necessity of engaging in defensive fundraising, improving the conduct of both campaigns and of offices.
 8

9 **NEW SECTION. Section 3. Purpose.** The purposes of [sections 1 through 6] are to:

10 (1) restore the integrity of the democratic system in Montana and public confidence in the system;

11 (2) strengthen and promote full and free campaign discussion and debate;

12 (3) relieve elective office seekers and officeholders from impediments to purposeful political
 13 conduct and discourse caused by excessive fundraising; and

14 (4) limit corruption and undue influence, or the appearance of undue influence, in financing state
 15 election campaigns.
 16

17 **NEW SECTION. Section 4. Campaign limits.** (1) A candidate for statewide office or the office of
 18 state senator or state representative may not make expenditures in the primary and general election in
 19 excess of:

20 (a) \$780,000 for the office of governor or lieutenant governor;

21 (b) \$180,000 for any other statewide office;

22 (c) \$6,000 for state senator;

23 (d) \$3,000 for state representative;

24 (e) \$30,000 for public service commissioner;

25 (f) \$15,000 for district court judge.

26 (2) The commissioner shall multiply the limits contained in this section by the inflation factor, as
 27 defined in 15-30-101, for the year in which general elections are held. The resulting figure must be
 28 rounded off to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule.
 29

30 **NEW SECTION. Section 5. Reports -- violations.** (1) The commissioner shall require expenditure

1 reports implementing [section 4] to be filed as provided in 13-37-225. The commissioner may examine
2 expenditure records to determine compliance with [section 4].

3 (2) If the commissioner determines that a candidate has exceeded the applicable expenditure limit,
4 the commissioner shall send a notice of the determination to the candidate. The notice must state that the
5 candidate may appeal the commissioner's determination as provided in this section.

6 (3) A hearing to contest the determination of a violation of [section 4] must be conducted as a
7 contested case as provided in Title 2, chapter 4, part 6. A candidate is not required to appear at the
8 hearing but may submit written testimony and other evidence to the commissioner for entry in the record.
9 The documents must be received within 5 days before the hearing.

10 (4)(a) If the commissioner determines that a violation of [section 4] has occurred, the commissioner
11 may impose a civil penalty in an amount that does not exceed the greater of:

- 12 (i) \$1,000 or three times the amount of the excess expenditure for a first violation;
13 (ii) \$3,000 or five times the amount of the excess expenditure for a second violation; and
14 (iii) \$10,000 or 10 times the amount of the excess expenditure for a third or subsequent violation.
15 (b) The commissioner may waive a penalty if the violation is a minimal amount.

16 (c) The imposition of a penalty under this section is subject to judicial review as provided in Title
17 2, chapter 4, part 7.

18

19 **NEW SECTION. Section 6. Limits in declaration of nomination.** The secretary of state shall include
20 the limits contained in [section 4] in the declaration of nomination forms provided pursuant to 13-10-201.

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22 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be
23 codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to
24 [sections 1 through 6].

25

26 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1995.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0399, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

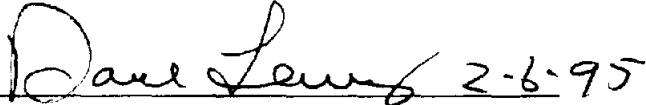
An act to impose spending limits on elections for statewide and legislative offices.

ASSUMPTIONS:

1. If there are no violations as a result of this bill, or if a violation does not result in a hearing, the office of the Commissioner of Political Practices (CPP) can absorb the additional functions with its current budget.
2. If a violation goes to the hearing stage, there will be additional costs to the CPP which cannot be absorbed.
3. A civil penalty assessed and collected by the CPP may approximately offset the cost of the hearing.

FISCAL IMPACT:

Sufficient information is not available to provide a materially accurate fiscal impact of this bill.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


JOAN HURDLE, PRIMARY SPONSOR DATE

Fiscal Note for HB0399, as introduced

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