

1 SENATE BILL NO. 343
2 INTRODUCED BY Bartlett Hagan Kelly Orberson
3 Wilson Jacobson Beck Squires Ferguson Harrington
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING ELECTED PUBLIC OFFICIALS TO ESTABLISH
5 CONSTITUENT SERVICE ACCOUNTS; SPECIFYING WHAT EXPENDITURES MAY BE MADE FROM THE
6 ACCOUNT AND WHEN; PROVIDING AN ADDITIONAL PENALTY FOR MAKING PROHIBITED
7 EXPENDITURES; PROVIDING FOR CONTRIBUTION LIMITATIONS TO THE ACCOUNT; PROVIDING FOR THE
8 REPORTING OF CONTRIBUTIONS AND EXPENDITURES; PROVIDING FOR THE DISPOSITION OF SURPLUS
9 ACCOUNT FUNDS; PROHIBITING CONTRIBUTIONS FROM CORPORATIONS; AMENDING SECTIONS
10 13-35-227, 13-37-126, AND 13-37-127, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

14 **NEW SECTION.** **Section 1. Definition.** For the purposes of [sections 1 through 6], "officeholder"
15 means the holder of public office as defined in 13-1-101.

17 **NEW SECTION. Section 2. Constituent service account authorized -- treasurer appointed.** (1) Any
18 time after election to a public office, an officeholder may establish a constituent service account to assist
19 the officeholder in being an effective officeholder.

20 (2) An officeholder who establishes a constituent service account under the provisions of [sections
21 1 through 6] shall appoint a treasurer, who must be a registered voter in this state. An officeholder may
22 be the account treasurer.

24 **NEW SECTION. Section 3. Expenditures.** (1) Expenditures from a constituent service account
25 may include expenses for personnel, supplies, travel, and communications, such as long-distance telephone
26 calls, telefacsimiles, postage stamps, and any other expenses that enable the officeholder to better serve
27 the officeholder's constituents or that assist the officeholder in carrying out the duties of the office. An
28 officeholder's constituents include only those people who are eligible to vote for the office held.

29 (2) (a) In the year in which the officeholder files to become a candidate for a public office,
30 expenditures from the officeholder's constituent service account are prohibited during the time from the

1 filing deadline date, established under 13-10-201, to the day after the general election.
2 (b) A constituent service account may not be used to directly benefit any candidate or political
3 campaign, including campaigns for or against a ballot issue.

4

5 **NEW SECTION. Section 4. Contributions.** (1) Contributions to a constituent service account may
6 be received from the officeholder's campaign account, individuals, political committees, and political parties.

7 (2) Contributions in any 2-year period may not exceed the limits for the office as provided in
8 13-37-216 and 13-37-218.

9

10 **NEW SECTION. Section 5. Reporting.** (1) (a) Within 5 days of establishing a constituent service
11 account, an officeholder shall file with the commissioner notice of the account's creation and shall certify
12 to the commissioner the complete name and address of the account treasurer.

13 (b) Officeholders with constituent service accounts that were established prior to [the effective date
14 of this act] shall, within 5 days after [the effective date of this act], file notice of the account's existence
15 with the commissioner and specify the account's treasurer and balance as of [the effective date of this act].

16 (2) Contributions to and expenditures from the account must be reported to the commissioner
17 within 5 days after the end of each calendar quarter.

18 (3) Reports of contributions must include the same information required from political committees
19 and candidates under 13-37-229.

20 (4) Reports of expenditures must include the same information required from political committees
21 and candidates under 13-37-230, to the extent that the provisions can be applied to constituent service
22 account expenditures authorized under [section 3].

23 (5) (a) A report filed under this section must be verified as true and correct by the oath or
24 affirmation of the officeholder or treasurer.

25 (b) A copy of a report filed under this section must be preserved by the officeholder or treasurer
26 for 2 years after the closing report for the constituent service account is filed.

27

28 **NEW SECTION. Section 6. Termination of account -- disposition of surplus funds.** (1) An
29 officeholder may maintain a constituent service account for as long as the public office is held by the
30 officeholder.

(2) Within 120 days after an officeholder leaves office, the officeholder shall dispose of any surplus funds, close the account, and file a closing report with the commissioner. In disposing of the surplus funds, the officeholder may not contribute the funds to any other campaign, including the officeholder's own future campaign, or use the funds for personal benefit, as defined in 13-37-240(2).

(3) The officeholder shall provide a supplement to the closing report showing the disposition of any funds.

Section 7. Section 13-35-227, MCA, is amended to read:

"13-35-227. Prohibited contributions from corporations. (1) (a) A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee ~~which~~ that supports a candidate or a political party.

(b) A corporation may not contribute to a constituent service account established under [sections 6 through 6].

(2) A person, candidate, or political committee may not accept or receive a corporate contribution described in subsection (1).

(3) This section does not prohibit the establishment or administration of a separate, segregated fund to be used for making political contributions or expenditures if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or a member of the corporation.

(4) A person who violates this section is subject to the civil penalty provisions of 13-37-128."

Section 8. Section 13-37-126, MCA, is amended to read:

"13-37-126. Names not to be printed on ballot. (1) The name of a candidate may not be printed on an official ballot for an election if the candidate or a political treasurer for a candidate fails to file any document or report as required by this chapter or if the candidate is an officeholder and has made an expenditure or contribution from a constituent service account in violation of [section 3(2)].

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner ~~must~~ shall, by a written document, notify the secretary of state or the election administrator that a candidate or a candidate's lawyer has not complied with the provisions of this chapter, as described in subsection (1), and that a



1 candidate's name should not be printed on the official ballot."

2

3 **Section 9.** Section 13-37-127, MCA, is amended to read:

4 **"13-37-127. Withholding of certificates of nomination or election.** (1) (a) A certificate of election
5 shall may not be granted to any candidate;

6 (i) until he the candidate or his the candidate's political treasurer has filed the reports and
7 statements that must be filed pursuant to the provisions of this chapter;

8 (ii) or if the candidate is an officeholder and has made an expenditure or contribution from a
9 constituent service account in violation of [section 3(2)]. No

10 (b) A candidate for an elective office may not assume the powers and duties of that office until
11 he the candidate has received a certificate of election as provided by law. A certificate of election shall
12 may only be issued by the public official responsible for issuing a certificate or commission of election.

13 (2) In carrying out the mandate of this section, the commissioner must shall, by written statement,
14 notify the public official responsible for issuing a certificate of nomination or election that a candidate or
15 his the candidate's treasurer has complied with the provisions of this chapter as described in subsection
16 (1) and that a certificate of nomination or election may be issued."

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18 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 6] are intended to be
19 codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to
20 [sections 1 through 6].

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22 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 1995.

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0343, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill authorizing elected public officials to establish constituent service accounts; specifying what expenditures may be made and when; providing for penalties, providing for contribution limits and reporting requirements of contributions and expenditures.

ASSUMPTIONS:

1. Constituent service accounts exist currently but are not regulated. The number of accounts currently existing is unknown.
2. The total number of constituent service accounts that will be regulated under this bill is estimated to be approximately 250. It is assumed that 150 state legislators, 12 statewide elected officials, and 88 county officeholders will establish and maintain these accounts.
3. Elected officeholders having constituent service accounts will be required to file financial reports quarterly. It is estimated that these reports will require an average of two hours each to review and perform follow-up work as necessary. Therefore, there will be about 2,000 hours per year devoted to constituent service accounts (2 hours x 4 quarters x 250 = 2,000).
4. Receipts and expenditures will be limited; restrictions on the use of surplus funds for each account will have to be monitored for compliance.
5. Campaign accounts and constituent service accounts will have to be closely monitored by account treasurers and by the Commissioner of Political Practices for accurate and separate reporting of the two types of accounts with the unique restrictions.
6. It is estimated that the additional workload of approximately 2,000 hours per year will require 1.00 FTE grade 12 and associated operating, furniture and equipment expenses beginning with the effective date of the bill: July 1, 1995.
7. The bill will have no fiscal impact on the Secretary of State's Office.

FISCAL IMPACT:

Commissioner of Political Practices:

	FY96	FY97
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	26,949	27,042
Operating Expenses	6,250	4,250
Equipment	<u>4,700</u>	<u>0</u>
Total	37,899	31,292
<u>Funding:</u>		
General Fund (01)	37,899	31,292

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

SUE BARTLETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0343, as introduced

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