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Senate BILL NO. 367

INTRODUCED BY

Castell *HARP* *Bauer* *Foster*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE REASONABLE SPENDING FOR RESPONSIVE GOVERNMENT ACT OF 1997; SETTING MANDATORY CAMPAIGN EXPENDITURE LIMITS FOR STATEWIDE, DISTRICT COURT, AND LEGISLATIVE OFFICES; PROVIDING PROCEDURES AND PENALTIES FOR ENFORCEMENT; AND AMENDING SECTIONS 13-35-107, 13-37-126, AND 13-37-127, MCA."

Scherly

STATEMENT OF INTENT

A statement of intent is required for this bill because it directs the commissioner of political practices to adopt a rule adjusting campaign expenditure 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. [Sections 1 through 6] may be cited as the "Reasonable Spending for Responsive Government Act of 1977".

NEW SECTION. Section 2. Purpose and findings. (1) In enacting [sections 1 through 6], the legislature finds and declares the following:

(a) Montana citizens traditionally participate in their government at a remarkably high level. However, spending levels prevalent in today's political campaigns alienate citizens from their government, tarnish the integrity of election processes, and erode the people's willingness to continue their high level of civic participation.

(b) (i) Campaign spending for statewide and legislative races in Montana has increased dramatically.

(ii) Accepting the premise that campaign contributions are equivalent to spending, total contributions to both general election candidates for governor skyrocketed from \$437,794 in 1976 to \$2,159,444 in 1992, almost a 500% increase or a 220% increase after adjusting for inflation.

(iii) In contested state legislative races, the average cost to win has increased at an alarming rate:

	<u>1980</u>	<u>1992</u>	<u>1994</u>
Senate	\$5,300.48	\$8,327.93	\$13,250.25
House	2,610.11	4,496.88	6,066.89

(c) (i) Unchecked increases in campaign spending undermine public confidence and trust in the electoral processes and the republican form of government. For Montanans in particular, these increases cast a dark shadow of doubt on the integrity of a citizen legislature.

(ii) In 1994, almost 25% of the state senate candidates who won contested races spent over \$20,000, approximately four times the amount that a state senator would receive in salary for an entire legislative session.

(iii) Campaign spending to win a state senate seat has gone as high as \$36,000, over seven times the salary of this office for a regular legislative session.

(d) (i) Campaign spending establishes a minimum price tag for elected office and profoundly influences the outcome of elections. In Montana, as elsewhere, the candidate who raises and spends the most money is overwhelmingly favored to win.

(ii) Between 1980 and 1996, in over 90% of Montana's contested statewide partisan races, the candidate who spent the most money won the office.

(iii) Potential candidates, intimidated by the level of fundraising required to compete at the level of campaign spending typical in today's politics, choose not to run. Consequently, Montana voters are deprived of the diversity among candidates that is both fundamental and essential to a healthy democracy. Reasonable campaign spending limits enable more candidates to seek office, increasing the quantity, depth, and diversity of ideas presented to the public.

(e) (i) Voters lose confidence in their elected officials when they believe that money has more influence on election outcomes than their votes do.

(ii) A majority of voters in the Rocky Mountain region believe that people contribute to political campaigns "because they hope to have more access and influence over . . . candidates".

(iii) Over 80% of the voters surveyed in the Rocky Mountain region agree with the statement, "Most elected officials are not really in touch with the problems of average people."

(f) (i) Montana voters, for the most part, do not use campaign contributions as a vehicle for their participation in our democracy.

(ii) Less than 1/3 of 1% of Montana's registered voters contributed \$500 or more to any candidate

1 in 1992. However, those contributions composed almost 30% of the total amount contributed to all
2 candidates in 1992.

3 (iii) Less than 1% of Montana's registered voters contributed \$200 or more to any candidate in
4 1992. However, those contributions composed 43% of the total amount contributed to candidates in
5 1992.

6 (iv) Less than 3% of Montana's registered voters contributed \$35 or more to any candidate for
7 office in 1992. However, those contributions composed more than 58% of the total amount contributed
8 to candidates in 1992.

9 (v) Clearly, over 97% of Montana's voters did not participate in the 1992 electoral process by
10 contributing as much as \$35 or more to any candidate for statewide or legislative office.

11 (g) At a time when policymakers are striving to limit government spending, the unrestrained growth
12 in campaign spending for elected government office creates suspicions about and gives rise to the
13 appearance of corruption in our democratic processes. All attempts to root out that appearance by limiting
14 campaign contributions have failed because of the upward spiral of increased campaign spending.

15 (h) The least distorted and most instructive channels of campaign communication are inexpensive
16 and often free. Debates, call-in programs, local interviews, door-to-door visits in legislative districts, and
17 other forms of direct voter contact that are not dependent on money offer information in greater depth and
18 detail. Expanded use of these low-cost communication methods, stimulated by the adoption of reasonable
19 spending limits, benefits political discourse by increasing candidates' direct engagement with and
20 accountability to the voters. Reasonable limits on campaign spending would assist, rather than impede,
21 voters' access to candidates and ability to make informed choices among candidates.

22 (2) The purposes of [sections 1 through 6] are:

23 (a) to prevent corruption and the appearance of corruption in the electoral process by:

24 (i) restoring public confidence and trust in the electoral process and in the ability of voters to affect
25 this process;

26 (ii) increasing the likelihood that the outcome of an election is determined by a candidate's merit,
27 not by a candidate's fundraising ability;

28 (iii) reducing the ability of a handful of voters to skew election results through the contribution of
29 money;

30 (iv) decreasing the likelihood that candidates will be outspent by substantial amounts, thereby

1 encouraging qualified candidates to run for office; and

2 (v) limiting the ability of wealthy candidates to use a personal fortune or a family fortune to
3 outspend opponents disproportionately;

4 (b) to protect the integrity and appearance of integrity of statewide, judicial, and legislative elected
5 officials by:

6 (i) ensuring that officeholders solicit and act upon the opinions and interests of constituents,
7 regardless of the ability of constituents to make campaign contributions;

8 (ii) protecting officeholders from campaign fundraising pressures that could influence or appear to
9 influence their official behavior; and

10 (iii) reducing the pressures on officeholders to respond to the interests of substantial campaign
11 contributors, thereby protecting the rights of those citizens who do not or cannot contribute to campaigns;

12 (c) to further the equal protection rights of all Montana citizens, as candidates and as voters, to
13 participate in the electoral process by:

14 (i) encouraging candidates to limit the skyrocketing costs of campaigns, thereby opening the
15 electoral process to candidates less able to meet those costs; and

16 (ii) promoting spending limits that, rather than limiting the dissemination of new ideas, encourage
17 a greater variety of and depth to issues presented, thereby providing all voters with a meaningful
18 opportunity to support and vote for the candidate of their choice;

19 (d) to protect the first amendment rights of all Montana citizens to be heard in the electoral process
20 and to hear information from all candidates, regardless of their access to wealth; and

21 (e) to preserve the republican form of government guaranteed in Article I of the United States
22 constitution and Article V of the Montana constitution by replacing the time and energy that Montana's
23 legislative candidates and officeholders must devote to fundraising with time and energy devoted to direct
24 voter contact and constituent service.

25

26 **NEW SECTION. Section 3. Aggregate expenditure limitation amounts.** (1) Except as provided in
27 subsection (5), a candidate may not make aggregate expenditures exceeding the limits prescribed in
28 subsection (2).

29 (2) Aggregate expenditure limits are as follows:

30 (a) for the offices of governor and lieutenant governor combined:

- 1 (i) \$250,000 in a primary election;
- 2 (ii) \$750,000 in a general election;
- 3 (b) for the offices of attorney general, supreme court justice, and chief justice:
- 4 (i) \$50,000 in a primary election;
- 5 (ii) \$115,000 in a general election;
- 6 (c) for the offices of superintendent of public instruction, state auditor, secretary of state, and clerk
- 7 of the supreme court:
- 8 (i) \$35,000 in a primary election;
- 9 (ii) \$65,000 in a general election;
- 10 (d) for public service commissioner:
- 11 (i) \$15,000 in a primary election;
- 12 (ii) \$25,000 in a general election;
- 13 (e) for district court judge:
- 14 (i) \$15,000 in a primary election;
- 15 (ii) \$20,000 in a general election;
- 16 (f) for state senator, \$20,000 total for the primary and general election; and
- 17 (g) for state representative, \$10,000 total for the primary and general election.
- 18 (3) For the purposes of this section and the enforcement provisions of [sections 1 through 6]:
- 19 (a) "aggregate expenditures" means the sum of all the expenditures made to influence either a state
- 20 primary or a state general election by a candidate and those expenditures made on the candidate's behalf
- 21 by the candidate's committee or committees, the candidate's national, state, and local parties, and the
- 22 candidate's immediate family; and
- 23 (b) "immediate family" means family members of the candidate or the candidate's spouse who are
- 24 directly related within two generations of the candidate or the candidate's spouse.
- 25 (4) Each campaign expenditure limitation amount applies solely and independently to either the
- 26 state primary or the state general election, except for a state legislative candidate who is limited under
- 27 subsection (2)(f) or (2)(g).
- 28 (5) The commissioner shall multiply the limits contained in this section by the inflation factor, as
- 29 defined in 15-30-101, for the year in which general elections are held. The resulting figure must be rounded
- 30 off to the nearest \$50 increment. The commissioner shall publish the revised limits as a rule.

1 NEW SECTION. **Section 4. Examination of expenditure reports -- determination of violation --**
2 **notice.** (1) The commissioner shall examine expenditure reports required pursuant to part 2 of this chapter
3 to determine compliance with the aggregate expenditure limits prescribed in [section 3].

4 (2) If the commissioner determines that a candidate has exceeded the applicable aggregate
5 expenditure limits, the commissioner shall send to the candidate a notice of the determination and of the
6 penalty applicable under [section 5].

7

8 NEW SECTION. **Section 5. Penalty.** (1) A candidate who exceeds the aggregate expenditure limits
9 provided in [section 3] in running for office in either a primary or general election, or both, is subject to the
10 following fines and penalties:

11 (a) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by less than
12 the applicable percentage set forth in subsection (2), the commissioner shall impose a civil penalty of three
13 times the amount of the excess expenditure.

14 (b) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by an amount
15 that is equal to or greater than the percentage set forth in subsection (2):

16 (i) 75 days or more before the primary election or 85 days or more before the general election,
17 pursuant to 13-37-126, the candidate's name may not be printed on the ballot;

18 (ii) less than 85 days before the general election, pursuant to 13-37-127, the certificate of election
19 provided in 13-15-504 may not be issued and the governor shall immediately order an election to be held
20 no less than 75 days or more than 90 days from the time of the commissioner's directive, unless the
21 offending candidate is a candidate for judicial office, in which case the lack of certification must be treated
22 as a vacancy pursuant to Article VII, section 8, of the Montana constitution and Title 3, chapter 1, part 10.
23 The offending candidate may stand for neither election nor appointment.

24 (2) Percentage limitations applicable to subsection (1) are as follows:

25 (a) for the offices of governor and lieutenant governor, 2%;

26 (b) for the offices of attorney general, supreme court justice, chief justice, superintendent of public
27 instruction, state auditor, secretary of state, and clerk of the supreme court, 3%;

28 (c) for the offices of public service commissioner, district court judge, state senator, and state
29 representative, 5%.

30

1 **NEW SECTION. Section 6. Aggregate expenditure limits included in declaration of nomination.**

2 The secretary of state shall include the aggregate expenditure limits set forth in [section 3] in the
3 declaration of nomination forms provided pursuant to 13-10-201.

4
5 **Section 7.** Section 13-35-107, MCA, is amended to read:

6 "**13-35-107. Voiding election.** (1) If a court finds that the violation of any provision of this title
7 by any person probably affected the outcome of ~~any an~~ election, the result of that election may be held
8 void and a special election held ~~within~~ in not less than 75 days or more than 90 days from the date of that
9 finding. If the violation occurred during a primary election, the court may direct the selection of a new
10 candidate according to the provisions of state law relating to the filling of vacancies on the general election
11 ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within
12 1 year of the date of the election in question.

13 (2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the
14 election in question."

15
16 **Section 8.** Section 13-37-126, MCA, is amended to read:

17 "**13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed
18 on the official ballot for an election if the candidate or a political treasurer for a candidate fails to file any
19 statement or report as required by this chapter or if the candidate is subject to the penalty pursuant to
20 [section 5(1)(b)(i)].

21 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,
22 but not by the name of the same candidate.

23 (3) In carrying out the mandate of this section, the commissioner must, by a written statement,
24 notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has
25 not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's
26 name should not be printed on the official ballot."

27
28 **Section 9.** Section 13-37-127, MCA, is amended to read:

29 "**13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~
30 may not be granted to any candidate until he or his the candidate or the candidate's political treasurer has

1 filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~No~~ A
2 candidate for an elective office may not assume the powers and duties of that office until ~~he~~ the candidate
3 has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued
4 by the public official responsible for issuing a certificate or commission of election.

5 (2) A certificate of election may not be granted to a candidate who is subject to the penalty
6 pursuant to [section 5(1)(b)(ii)].

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

11
12 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are
13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
14 applications, the part remains in effect in all valid applications that are severable from the invalid
15 applications.

16
17 NEW SECTION. Section 11. Codification instruction. [Sections 1 through 6] are intended to be
18 codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to
19 [sections 1 through 6].

20 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0367, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

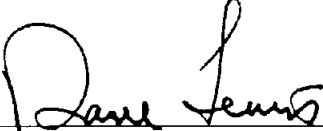
An act establishing the Reasonable Spending for Responsive Government Act of 1997; setting mandatory campaign expenditure limits for statewide, district court, and legislative offices and providing procedures and penalties for enforcement.

ASSUMPTIONS:

1. Additional administrative and operating costs for the office of the Commissioner of Political Practices would be contingent on the legal interpretation of the term "on the candidate's behalf" (page 5, line 20).

FISCAL IMPACT:

None.

 2-19-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/20/97
SUE BARTLETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0367, as introduced

SB 367

1 SENATE BILL NO. 367

2 INTRODUCED BY BARTLETT, HARP, BAER, FOSTER, GRINDE, WATERMAN, HALLIGAN, JERGESON,
3 THOMAS, SWYSGOOD, JENKINS, DOHERTY, CRIPPEN, MILLER, SIMON, HIBBARD, EWER,
4 COCCHIARELLA, HURDLE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE REASONABLE SPENDING FOR RESPONSIVE
7 GOVERNMENT ACT OF 1997; SETTING MANDATORY CAMPAIGN EXPENDITURE LIMITS FOR
8 STATEWIDE, DISTRICT COURT, PUBLIC SERVICE COMMISSION DISTRICT, AND LEGISLATIVE OFFICES;
9 PROVIDING PROCEDURES AND PENALTIES FOR ENFORCEMENT; AND AMENDING SECTIONS 13-35-107,
10 13-37-126, AND 13-37-127, MCA."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it directs the commissioner of political
14 practices to adopt a rule adjusting campaign expenditure limits for inflation. The commissioner shall conform
15 the rule to the process provided in 13-37-218.

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20 Spending for Responsive Government Act of ~~1977~~ 1997".

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23 legislature finds and declares the following:

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25 However, spending levels prevalent in today's political campaigns alienate citizens from their government,
26 tarnish the integrity of election processes, and erode the people's willingness to continue their high level
27 of civic participation.

28 (b) (i) Campaign spending for statewide and legislative races in Montana has increased
29 dramatically.

30 (ii) Accepting the premise that campaign contributions are equivalent to spending, total

1 contributions to both general election candidates for governor skyrocketed from \$437,794 in 1976 to
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3 (iii) In contested state legislative races, the average cost to win has increased at an alarming rate:

	<u>1980</u>	<u>1992</u>	<u>1994</u>
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7 (c) (i) Unchecked increases in campaign spending undermine public confidence and trust in the
 8 electoral processes and the republican form of government. For Montanans in particular, these increases
 9 cast a dark shadow of doubt on the integrity of a citizen legislature.

10 (ii) In 1994, almost 25% of the state senate candidates who won contested races spent over
 11 \$20,000, approximately four times the amount that a state senator would receive in salary for an entire
 12 legislative session.

13 (iii) Campaign spending to win a state senate seat has gone as high as \$36,000, over seven times
 14 the salary of this office for a regular legislative session.

15 (d) (i) Campaign spending establishes a minimum price tag for elected office and profoundly
 16 influences the outcome of elections. In Montana, as elsewhere, the candidate who raises and spends the
 17 most money is overwhelmingly favored to win.

18 (ii) Between 1980 and 1996, in over 90% of Montana's contested statewide partisan races, the
 19 candidate who spent the most money won the office.

20 (iii) Potential candidates, intimidated by the level of fundraising required to compete at the level of
 21 campaign spending typical in today's politics, choose not to run. Consequently, Montana voters are
 22 deprived of the diversity among candidates that is both fundamental and essential to a healthy democracy.
 23 Reasonable campaign spending limits enable more candidates to seek office, increasing the quantity, depth,
 24 and diversity of ideas presented to the public.

25 (e) (i) Voters lose confidence in their elected officials when they believe that money has more
 26 influence on election outcomes than their votes do.

27 (ii) A majority of voters in the Rocky Mountain region believe that people contribute to political
 28 campaigns "because they hope to have more access and influence over . . . candidates".

29 (iii) Over 80% of the voters surveyed in the Rocky Mountain region agree with the statement, "Most
 30 elected officials are not really in touch with the problems of average people."

1 (f) (i) Montana voters, for the most part, do not use campaign contributions as a vehicle for their
2 participation in our democracy.

3 (ii) Less than 1/3 of 1% of Montana's registered voters contributed \$500 or more to any candidate
4 in 1992. However, those contributions composed almost 30% of the total amount contributed to all
5 candidates in 1992.

6 (iii) Less than 1% of Montana's registered voters contributed \$200 or more to any candidate in
7 1992. However, those contributions composed 43% of the total amount contributed to candidates in
8 1992.

9 (iv) Less than 3% of Montana's registered voters contributed \$35 or more to any candidate for
10 office in 1992. However, those contributions composed more than 58% of the total amount contributed
11 to candidates in 1992.

12 (v) Clearly, over 97% of Montana's voters did not participate in the 1992 electoral process by
13 contributing as much as \$35 or more to any candidate for statewide or legislative office.

14 (g) At a time when policymakers are striving to limit government spending, the unrestrained growth
15 in campaign spending for elected government office creates suspicions about and gives rise to the
16 appearance of corruption in our democratic processes. All attempts to root out that appearance by limiting
17 campaign contributions have failed because of the upward spiral of increased campaign spending.

18 (h) The least distorted and most instructive channels of campaign communication are inexpensive
19 and often free. Debates, call-in programs, local interviews, door-to-door visits in legislative districts, and
20 other forms of direct voter contact that are not dependent on money offer information in greater depth and
21 detail. Expanded use of these low-cost communication methods, stimulated by the adoption of reasonable
22 spending limits, benefits political discourse by increasing candidates' direct engagement with and
23 accountability to the voters. Reasonable limits on campaign spending would assist, rather than impede,
24 voters' access to candidates and ability to make informed choices among candidates.

25 (2) The purposes of [sections 1 through 6] are:

26 (a) to prevent corruption and the appearance of corruption in the electoral process by:

27 (i) restoring public confidence and trust in the electoral process and in the ability of voters to affect
28 this process;

29 (ii) increasing the likelihood that the outcome of an election is determined by a candidate's merit,
30 not by a candidate's fundraising ability;

1 (iii) reducing the ability of a handful of voters to skew election results through the contribution of
2 money;

3 (iv) decreasing the likelihood that candidates will be outspent by substantial amounts, thereby
4 encouraging qualified candidates to run for office; and

5 (v) limiting the ability of wealthy candidates to use a personal fortune or a family fortune to
6 outspend opponents disproportionately;

7 (b) to protect the integrity and appearance of integrity of statewide, judicial, and legislative elected
8 officials by:

9 (i) ensuring that officeholders solicit and act upon the opinions and interests of constituents,
10 regardless of the ability of constituents to make campaign contributions;

11 (ii) protecting officeholders from campaign fundraising pressures that could influence or appear to
12 influence their official behavior; and

13 (iii) reducing the pressures on officeholders to respond to the interests of substantial campaign
14 contributors, thereby protecting the rights of those citizens who do not or cannot contribute to campaigns;

15 (c) to further the equal protection rights of all Montana citizens, as candidates and as voters, to
16 participate in the electoral process by:

17 (i) encouraging candidates to limit the skyrocketing costs of campaigns, thereby opening the
18 electoral process to candidates less able to meet those costs; and

19 (ii) promoting spending limits that, rather than limiting the dissemination of new ideas, encourage
20 a greater variety of and depth to issues presented, thereby providing all voters with a meaningful
21 opportunity to support and vote for the candidate of their choice;

22 (d) to protect the first amendment rights of all Montana citizens to be heard in the electoral process
23 and to hear information from all candidates, regardless of their access to wealth; and

24 (e) to preserve the republican form of government guaranteed in Article I of the United States
25 constitution and Article V of the Montana constitution by replacing the time and energy that Montana's
26 legislative candidates and officeholders must devote to fundraising with time and energy devoted to direct
27 voter contact and constituent service.

28

29 **NEW SECTION. Section 3. Aggregate expenditure limitation amounts.** (1) Except as provided in
30 subsection (5), a candidate may not make aggregate expenditures exceeding the limits prescribed in

1 subsection (2).

2 (2) Aggregate expenditure limits are as follows:

3 (a) for the offices of governor and lieutenant governor combined:

4 (i) \$250,000 in a primary election;

5 (ii) \$750,000 in a general election;

6 (b) for the offices of attorney general, supreme court justice, and chief justice:

7 (i) ~~\$50,000~~ \$40,000 in a primary election;

8 (ii) ~~\$115,000~~ \$120,000 in a general election;

9 (c) for the offices of superintendent of public instruction, state auditor, secretary of state, and clerk
10 of the supreme court:

11 (i) ~~\$35,000~~ \$25,000 in a primary election;

12 (ii) ~~\$65,000~~ \$75,000 in a general election;

13 (d) for public service commissioner:

14 (i) \$15,000 in a primary election;

15 (ii) ~~\$25,000~~ \$45,000 in a general election;

16 (e) for district court judge:

17 (i) \$15,000 in a primary election;

18 (ii) ~~\$20,000~~ \$45,000 in a general election;

19 (f) for state senator, \$20,000 total for the primary and general election; and

20 (g) for state representative, \$10,000 total for the primary and general election.

21 (3) For the purposes of this section and the enforcement provisions of [sections 1 through 6]:

22 (a) "aggregate expenditures" means the sum of all the expenditures made to influence either a state
23 primary or a state general election by a candidate and those expenditures made on the candidate's behalf
24 by the candidate's committee or committees, the candidate's national, state, and local parties, and the
25 candidate's immediate family; and

26 (b) "immediate family" means family members of the candidate or the candidate's spouse who are
27 directly related within two generations of the candidate or the candidate's spouse.

28 (4) Each campaign expenditure limitation amount applies solely and independently to either the
29 state primary or the state general election, except:

30 (A) for a state legislative candidate who is limited under subsection (2)(f) or (2)(g); AND

1 (B) THAT IF AN INDIVIDUAL WHO IS A CANDIDATE FOR ONE OF THE OFFICES SPECIFIED IN
 2 SUBSECTIONS (2)(B) THROUGH (2)(E) FACES AN OPPONENT IN A PRIMARY ELECTION, THE CAMPAIGN
 3 EXPENDITURE LIMITATIONS PROVIDED IN THOSE SUBSECTIONS ARE COMBINED INTO A TOTAL
 4 CAMPAIGN EXPENDITURE LIMITATION FOR BOTH PRIMARY AND GENERAL ELECTIONS.

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

8
 9 NEW SECTION. Section 4. Examination of expenditure reports -- determination of violation --
 10 notice. (1) The commissioner shall examine expenditure reports required pursuant to part 2 of this chapter
 11 to determine compliance with the aggregate expenditure limits prescribed in [section 3].

12 (2) If the commissioner determines that a candidate has exceeded the applicable aggregate
 13 expenditure limits, the commissioner shall send to the candidate a notice of the determination and of the
 14 penalty applicable under [section 5].

15
 16 NEW SECTION. Section 5. Penalty. (1) A candidate who exceeds the aggregate expenditure limits
 17 provided in [section 3] in running for office in either a primary or general election, or both, is subject to the
 18 following fines and penalties:

19 (a) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by less than
 20 the applicable percentage set forth in subsection (2), the commissioner shall impose a civil penalty of three
 21 times the amount of the excess expenditure.

22 (b) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by an amount
 23 that is equal to or greater than the percentage set forth in subsection (2):

24 (i) 75 days or more before the primary election or 85 days or more before the general election,
 25 pursuant to 13-37-126, the candidate's name may not be printed on the ballot;

26 (ii) less than 85 days before the general election, pursuant to 13-37-127, the certificate of election
 27 provided in 13-15-504 may not be issued and the governor shall immediately order an election to be held
 28 no less than 75 days or more than 90 days from the time of the commissioner's directive, unless the
 29 offending candidate is a candidate for judicial office, in which case the lack of certification must be treated
 30 as a vacancy pursuant to Article VII, section 8, of the Montana constitution and Title 3, chapter 1, part 10.

1 The offending candidate may stand for neither election nor appointment.

2 (2) Percentage limitations applicable to subsection (1) are as follows:

3 (a) for the offices of governor and lieutenant governor, 2%;

4 (b) for the offices of attorney general, supreme court justice, chief justice, superintendent of public
5 instruction, state auditor, secretary of state, and clerk of the supreme court, 3%;

6 (c) for the offices of public service commissioner, district court judge, state senator, and state
7 representative, 5%.

8

9 **NEW SECTION. Section 6. Aggregate expenditure limits included in declaration of nomination.**

10 The secretary of state shall include the aggregate expenditure limits set forth in [section 3] in the
11 declaration of nomination forms provided pursuant to 13-10-201.

12

13 **Section 7.** Section 13-35-107, MCA, is amended to read:

14 **"13-35-107. Voiding election.** (1) If a court finds that the violation of any provision of this title
15 by any person probably affected the outcome of ~~any~~ an election, the result of that election may be held
16 void and a special election held ~~within~~ in not less than 75 days or more than 90 days from the date of that
17 finding. If the violation occurred during a primary election, the court may direct the selection of a new
18 candidate according to the provisions of state law relating to the filling of vacancies on the general election
19 ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within
20 1 year of the date of the election in question.

21 (2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the
22 election in question."

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

25 **"13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed
26 on the official ballot for an election if the candidate or a political treasurer for a candidate fails to file any
27 statement or report as required by this chapter or if the candidate is subject to the penalty pursuant to
28 [section 5(1)(b)(i)].

29 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,
30 but not by the name of the same candidate.

1 SENATE BILL NO. 367

2 INTRODUCED BY BARTLETT, HARP, BAER, FOSTER, GRINDE, WATERMAN, HALLIGAN, JERGESON,
 3 THOMAS, SWYSGOOD, JENKINS, DOHERTY, CRIPPEN, MILLER, SIMON, HIBBARD, EWER,
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5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE REASONABLE SPENDING FOR RESPONSIVE
 7 GOVERNMENT ACT OF 1997; SETTING MANDATORY CAMPAIGN EXPENDITURE LIMITS FOR
 8 STATEWIDE, DISTRICT COURT, PUBLIC SERVICE COMMISSION DISTRICT, AND LEGISLATIVE OFFICES;
 9 PROVIDING PROCEDURES AND PENALTIES FOR ENFORCEMENT; AND AMENDING SECTIONS 13-35-107,
 10 13-37-126, AND 13-37-127, MCA."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it directs the commissioner of political
 14 practices to adopt a rule adjusting campaign expenditure limits for inflation. The commissioner shall conform
 15 the rule to the process provided in 13-37-218.

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
 19 NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Reasonable
 20 Spending for Responsive Government Act of ~~1977~~ 1997".

21
 22 NEW SECTION. Section 2. Purpose and findings. (1) In enacting [sections 1 through 6], the
 23 legislature finds and declares the following:

24 (a) Montana citizens traditionally participate in their government at a remarkably high level.
 25 However, spending levels prevalent in today's political campaigns alienate citizens from their government,
 26 tarnish the integrity of election processes, and erode the people's willingness to continue their high level
 27 of civic participation.

28 (b) (i) Campaign spending for statewide and legislative races in Montana has increased
 29 dramatically.

30 (ii) Accepting the premise that campaign contributions are equivalent to spending, total

1 contributions to both general election candidates for governor skyrocketed from \$437,794 in 1976 to
2 \$2,159,444 in 1992, almost a 500% increase or a 220% increase after adjusting for inflation.

3 (iii) In contested state legislative races, the average cost to win has increased at an alarming rate:

	<u>1980</u>	<u>1992</u>	<u>1994</u>
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5 House	2,610.11	4,496.88	6,066.89

6
7 (c) (i) Unchecked increases in campaign spending undermine public confidence and trust in the
8 electoral processes and the republican form of government. For Montanans in particular, these increases
9 cast a dark shadow of doubt on the integrity of a citizen legislature.

10 (ii) In 1994, almost 25% of the state senate candidates who won contested races spent over
11 \$20,000, approximately four times the amount that a state senator would receive in salary for an entire
12 legislative session.

13 (iii) Campaign spending to win a state senate seat has gone as high as \$36,000, over seven times
14 the salary of this office for a regular legislative session.

15 (d) (i) Campaign spending establishes a minimum price tag for elected office and profoundly
16 influences the outcome of elections. In Montana, as elsewhere, the candidate who raises and spends the
17 most money is overwhelmingly favored to win.

18 (ii) Between 1980 and 1996, in over 90% of Montana's contested statewide partisan races, the
19 candidate who spent the most money won the office.

20 (iii) Potential candidates, intimidated by the level of fundraising required to compete at the level of
21 campaign spending typical in today's politics, choose not to run. Consequently, Montana voters are
22 deprived of the diversity among candidates that is both fundamental and essential to a healthy democracy.
23 Reasonable campaign spending limits enable more candidates to seek office, increasing the quantity, depth,
24 and diversity of ideas presented to the public.

25 (e) (i) Voters lose confidence in their elected officials when they believe that money has more
26 influence on election outcomes than their votes do.

27 (ii) A majority of voters in the Rocky Mountain region believe that people contribute to political
28 campaigns "because they hope to have more access and influence over . . . candidates".

29 (iii) Over 80% of the voters surveyed in the Rocky Mountain region agree with the statement, "Most
30 elected officials are not really in touch with the problems of average people."

1 (f) (i) Montana voters, for the most part, do not use campaign contributions as a vehicle for their
2 participation in our democracy.

3 (ii) Less than 1/3 of 1% of Montana's registered voters contributed \$500 or more to any candidate
4 in 1992. However, those contributions composed almost 30% of the total amount contributed to all
5 candidates in 1992.

6 (iii) Less than 1% of Montana's registered voters contributed \$200 or more to any candidate in
7 1992. However, those contributions composed 43% of the total amount contributed to candidates in
8 1992.

9 (iv) Less than 3% of Montana's registered voters contributed \$35 or more to any candidate for
10 office in 1992. However, those contributions composed more than 58% of the total amount contributed
11 to candidates in 1992.

12 (v) Clearly, over 97% of Montana's voters did not participate in the 1992 electoral process by
13 contributing as much as \$35 or more to any candidate for statewide or legislative office.

14 (g) At a time when policymakers are striving to limit government spending, the unrestrained growth
15 in campaign spending for elected government office creates suspicions about and gives rise to the
16 appearance of corruption in our democratic processes. All attempts to root out that appearance by limiting
17 campaign contributions have failed because of the upward spiral of increased campaign spending.

18 (h) The least distorted and most instructive channels of campaign communication are inexpensive
19 and often free. Debates, call-in programs, local interviews, door-to-door visits in legislative districts, and
20 other forms of direct voter contact that are not dependent on money offer information in greater depth and
21 detail. Expanded use of these low-cost communication methods, stimulated by the adoption of reasonable
22 spending limits, benefits political discourse by increasing candidates' direct engagement with and
23 accountability to the voters. Reasonable limits on campaign spending would assist, rather than impede,
24 voters' access to candidates and ability to make informed choices among candidates.

25 (2) The purposes of [sections 1 through 6] are:

26 (a) to prevent corruption and the appearance of corruption in the electoral process by:

27 (i) restoring public confidence and trust in the electoral process and in the ability of voters to affect
28 this process;

29 (ii) increasing the likelihood that the outcome of an election is determined by a candidate's merit,
30 not by a candidate's fundraising ability;

- 1 (iii) reducing the ability of a handful of voters to skew election results through the contribution of
2 money;
- 3 (iv) decreasing the likelihood that candidates will be outspent by substantial amounts, thereby
4 encouraging qualified candidates to run for office; and
- 5 (v) limiting the ability of wealthy candidates to use a personal fortune or a family fortune to
6 outspend opponents disproportionately;
- 7 (b) to protect the integrity and appearance of integrity of statewide, judicial, and legislative elected
8 officials by:
- 9 (i) ensuring that officeholders solicit and act upon the opinions and interests of constituents,
10 regardless of the ability of constituents to make campaign contributions;
- 11 (ii) protecting officeholders from campaign fundraising pressures that could influence or appear to
12 influence their official behavior; and
- 13 (iii) reducing the pressures on officeholders to respond to the interests of substantial campaign
14 contributors, thereby protecting the rights of those citizens who do not or cannot contribute to campaigns;
- 15 (c) to further the equal protection rights of all Montana citizens, as candidates and as voters, to
16 participate in the electoral process by:
- 17 (i) encouraging candidates to limit the skyrocketing costs of campaigns, thereby opening the
18 electoral process to candidates less able to meet those costs; and
- 19 (ii) promoting spending limits that, rather than limiting the dissemination of new ideas, encourage
20 a greater variety of and depth to issues presented, thereby providing all voters with a meaningful
21 opportunity to support and vote for the candidate of their choice;
- 22 (d) to protect the first amendment rights of all Montana citizens to be heard in the electoral process
23 and to hear information from all candidates, regardless of their access to wealth; and
- 24 (e) to preserve the republican form of government guaranteed in Article I of the United States
25 constitution and Article V of the Montana constitution by replacing the time and energy that Montana's
26 legislative candidates and officeholders must devote to fundraising with time and energy devoted to direct
27 voter contact and constituent service.

28

29 **NEW SECTION. Section 3. Aggregate expenditure limitation amounts.** (1) Except as provided in
30 subsection (5), a candidate may not make aggregate expenditures exceeding the limits prescribed in

1 subsection (2).

2 (2) Aggregate expenditure limits are as follows:

3 (a) for the offices of governor and lieutenant governor combined:

4 (i) \$250,000 in a primary election;

5 (ii) \$750,000 in a general election;

6 (b) for the offices of attorney general, supreme court justice, and chief justice:

7 (i) ~~\$50,000~~ \$40,000 in a primary election;

8 (ii) ~~\$115,000~~ \$120,000 in a general election;

9 (c) for the offices of superintendent of public instruction, state auditor, secretary of state, and clerk
10 of the supreme court:

11 (i) ~~\$35,000~~ \$25,000 in a primary election;

12 (ii) ~~\$65,000~~ \$75,000 in a general election;

13 (d) for public service commissioner:

14 (i) \$15,000 in a primary election;

15 (ii) ~~\$25,000~~ ~~\$45,000~~ \$30,000 in a general election;

16 (e) for district court judge:

17 (i) \$15,000 in a primary election;

18 (ii) ~~\$20,000~~ ~~\$45,000~~ \$30,000 in a general election;

19 (f) for state senator, \$20,000 total for the primary and general election; and

20 (g) for state representative, \$10,000 total for the primary and general election.

21 (3) For the purposes of this section and the enforcement provisions of [sections 1 through 6]:

22 (a) "aggregate expenditures" means the sum of all the expenditures, INCLUDING USE OF IN-KIND
23 CONTRIBUTIONS, made to influence either a state primary or a state general election by a candidate and
24 those expenditures made on the candidate's behalf by:

25 (I) the candidate's committee or committees;

26 (II) the candidate's national, state, and local parties, ~~and~~;

27 (III) the candidate's immediate family; AND

28 (IV) AN INDEPENDENT COMMITTEE REFERRED TO IN 13-37-226; and

29 (b) "immediate family" means family members of the candidate or the candidate's spouse who are
30 directly related within two generations of the candidate or the candidate's spouse.

1 (4) Each campaign expenditure limitation amount applies solely and independently to either the
2 state primary or the state general election, except:

3 (A) for a state legislative candidate who is limited under subsection (2)(f) or (2)(g); AND

4 (B) THAT IF AN INDIVIDUAL WHO IS A CANDIDATE FOR ONE OF THE OFFICES SPECIFIED IN
5 SUBSECTIONS (2)(B) THROUGH (2)(E) FACES AN OPPONENT IN A PRIMARY ELECTION, THE CAMPAIGN
6 EXPENDITURE LIMITATIONS PROVIDED IN THOSE SUBSECTIONS ARE COMBINED INTO A TOTAL
7 CAMPAIGN EXPENDITURE LIMITATION FOR BOTH PRIMARY AND GENERAL ELECTIONS.

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

11
12 **NEW SECTION. Section 4. Examination of expenditure reports -- determination of violation --**
13 **notice.** (1) The commissioner shall examine expenditure reports required pursuant to part 2 of this chapter
14 to determine compliance with the aggregate expenditure limits prescribed in [section 3].

15 (2) If the commissioner determines that a candidate has exceeded the applicable aggregate
16 expenditure limits, the commissioner shall send to the candidate a notice of the determination and of the
17 penalty applicable under [section 5].

18
19 **NEW SECTION. Section 5. Penalty.** (1) A candidate who exceeds the aggregate expenditure limits
20 provided in [section 3] in running for office in either a primary or general election, or both, is subject to the
21 following fines and penalties:

22 (a) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by less than
23 the applicable percentage set forth in subsection (2), the commissioner shall impose a civil penalty of three
24 times the amount of the excess expenditure.

25 (b) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by an amount
26 that is equal to or greater than the percentage set forth in subsection (2):

27 (i) 75 days or more before the primary election or 85 days or more before the general election,
28 pursuant to 13-37-126, the candidate's name may not be printed on the ballot;

29 (ii) less than 85 days before the general election, pursuant to 13-37-127, the certificate of election
30 provided in 13-15-504 may not be issued and the governor shall immediately order an election to be held

1 no less than 75 days or more than 90 days from the time of the commissioner's directive, unless the
 2 offending candidate is a candidate for judicial office, in which case the lack of certification must be treated
 3 as a vacancy pursuant to Article VII, section 8, of the Montana constitution and Title 3, chapter 1, part 10.
 4 The offending candidate may stand for neither election nor appointment.

5 (2) Percentage limitations applicable to subsection (1) are as follows:

6 (a) for the offices of governor and lieutenant governor, 2%;

7 (b) for the offices of attorney general, supreme court justice, chief justice, superintendent of public
 8 instruction, state auditor, secretary of state, and clerk of the supreme court, 3%;

9 (c) for the offices of public service commissioner, district court judge, state senator, and state
 10 representative, 5%.

11
 12 **NEW SECTION. Section 6. Aggregate expenditure limits included in declaration of nomination.**

13 The secretary of state shall include the aggregate expenditure limits set forth in [section 3] in the
 14 declaration of nomination forms provided pursuant to 13-10-201.

15
 16 **Section 7.** Section 13-35-107, MCA, is amended to read:

17 "**13-35-107. Voiding election.** (1) If a court finds that the violation of any provision of this title
 18 by any person probably affected the outcome of ~~any~~ an election, the result of that election may be held
 19 void and a special election held ~~within~~ in not less than 75 days or more than 90 days from the date of that
 20 finding. If the violation occurred during a primary election, the court may direct the selection of a new
 21 candidate according to the provisions of state law relating to the filling of vacancies on the general election
 22 ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within
 23 1 year of the date of the election in question.

24 (2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the
 25 election in question."

26
 27 **Section 8.** Section 13-37-126, MCA, is amended to read:

28 "**13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed
 29 on the official ballot for an election if the candidate or a political treasurer for a candidate fails to file any
 30 statement or report as required by this chapter or if the candidate is subject to the penalty pursuant to

1 [section 5(1)(b)(i)].

2 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,
3 but not by the name of the same candidate.

4 (3) In carrying out the mandate of this section, the commissioner must, by a written statement,
5 notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has
6 not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's
7 name should not be printed on the official ballot."

8

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

10 "**13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~
11 may not be granted to any candidate until he or his the candidate or the candidate's political treasurer has
12 filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~No~~ A
13 candidate for an elective office may not assume the powers and duties of that office until he the candidate
14 has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued
15 by the public official responsible for issuing a certificate or commission of election.

16 (2) A certificate of election may not be granted to a candidate who is subject to the penalty
17 pursuant to [section 5(1)(b)(ii)].

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

22

23 **NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
25 applications, the part remains in effect in all valid applications that are severable from the invalid
26 applications.

27

28 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 ~~AND-3~~ through 6] are intended
29 to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply
30 to [sections 1 ~~AND-3~~ through 6].

-END-

MOTION TO TAKE FROM TABLE,
PRINT & PLACE ON 2ND READING

COMMITTEE ON STATE
ADMINISTRATION

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13 A statement of intent is required for this bill because it directs the commissioner of political
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29 **NEW SECTION. Section 3. Aggregate expenditure limitation amounts.** (1) Except as provided in
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2 (2) Aggregate expenditure limits are as follows:

3 (a) for the offices of governor and lieutenant governor combined:

4 (i) \$250,000 in a primary election;

5 (ii) \$750,000 in a general election;

6 (b) for the offices of attorney general, supreme court justice, and chief justice:

7 (i) ~~\$50,000~~ \$40,000 in a primary election;

8 (ii) ~~\$115,000~~ \$120,000 in a general election;

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10 of the supreme court:

11 (i) ~~\$35,000~~ \$25,000 in a primary election;

12 (ii) ~~\$65,000~~ \$75,000 in a general election;

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14 (i) \$15,000 in a primary election;

15 (ii) ~~\$25,000~~ \$45,000 \$30,000 in a general election;

16 (e) for district court judge:

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19 (f) for state senator, \$20,000 total for the primary and general election; and

20 (g) for state representative, \$10,000 total for the primary and general election.

21 (3) For the purposes of this section and the enforcement provisions of [sections 1 through 6]:

22 (a) "aggregate expenditures" means the sum of all the expenditures, INCLUDING USE OF IN-KIND
23 CONTRIBUTIONS, made to influence either a state primary or a state general election by a candidate and
24 those expenditures made on the candidate's behalf by:

25 (I) the candidate's committee or committees;

26 (II) the candidate's national, state, and local parties, ~~and~~;

27 (III) the candidate's immediate family; AND

28 (IV) AN INDEPENDENT COMMITTEE REFERRED TO IN 13-37-226; and

29 (b) "immediate family" means family members of the candidate or the candidate's spouse who are
30 directly related within two generations of the candidate or the candidate's spouse.

1 (4) Each campaign expenditure limitation amount applies solely and independently to either the
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3 (A) for a state legislative candidate who is limited under subsection (2)(f) or (2)(g); AND
4 (B) THAT IF AN INDIVIDUAL WHO IS A CANDIDATE FOR ONE OF THE OFFICES SPECIFIED IN
5 SUBSECTIONS (2)(B) THROUGH (2)(E) FACES AN OPPONENT IN A PRIMARY ELECTION, THE CAMPAIGN
6 EXPENDITURE LIMITATIONS PROVIDED IN THOSE SUBSECTIONS ARE COMBINED INTO A TOTAL
7 CAMPAIGN EXPENDITURE LIMITATION FOR BOTH PRIMARY AND GENERAL ELECTIONS.

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

11
12 **NEW SECTION. Section 4. Examination of expenditure reports -- determination of violation --**
13 **notice.** (1) The commissioner shall examine expenditure reports required pursuant to part 2 of this chapter
14 to determine compliance with the aggregate expenditure limits prescribed in [section 3].

15 (2) If the commissioner determines that a candidate has exceeded the applicable aggregate
16 expenditure limits, the commissioner shall send to the candidate a notice of the determination and of the
17 penalty applicable under [section 5].

18
19 **NEW SECTION. Section 5. Penalty.** (1) A candidate who exceeds the aggregate expenditure limits
20 provided in [section 3] in running for office in either a primary or general election, or both, is subject to the
21 following fines and penalties:

22 (a) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by less than
23 the applicable percentage set forth in subsection (2), the commissioner shall impose a civil penalty of three
24 times the amount of the excess expenditure.

25 (b) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by an amount
26 that is equal to or greater than the percentage set forth in subsection (2):

27 (i) 75 days or more before the primary election or 85 days or more before the general election,
28 pursuant to 13-37-126, the candidate's name may not be printed on the ballot;

29 (ii) less than 85 days before the general election, pursuant to 13-37-127, the certificate of election
30 provided in 13-15-504 may not be issued and the governor shall immediately order an election to be held

1 no less than 75 days or more than 90 days from the time of the commissioner's directive, unless the
 2 offending candidate is a candidate for judicial office, in which case the lack of certification must be treated
 3 as a vacancy pursuant to Article VII, section 8, of the Montana constitution and Title 3, chapter 1, part 10.
 4 The offending candidate may stand for neither election nor appointment.

5 (2) Percentage limitations applicable to subsection (1) are as follows:

6 (a) for the offices of governor and lieutenant governor, 2%;

7 (b) for the offices of attorney general, supreme court justice, chief justice, superintendent of public
 8 instruction, state auditor, secretary of state, and clerk of the supreme court, 3%;

9 (c) for the offices of public service commissioner, district court judge, state senator, and state
 10 representative, 5%.

11
 12 **NEW SECTION. Section 6. Aggregate expenditure limits included in declaration of nomination.**

13 The secretary of state shall include the aggregate expenditure limits set forth in [section 3] in the
 14 declaration of nomination forms provided pursuant to 13-10-201.

15
 16 **Section 7. Section 13-35-107, MCA, is amended to read:**

17 **"13-35-107. Voiding election.** (1) If a court finds that the violation of any provision of this title
 18 by any person probably affected the outcome of ~~any~~ an election, the result of that election may be held
 19 void and a special election held ~~within~~ in not less than 75 days or more than 90 days from the date of that
 20 finding. If the violation occurred during a primary election, the court may direct the selection of a new
 21 candidate according to the provisions of state law relating to the filling of vacancies on the general election
 22 ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within
 23 1 year of the date of the election in question.

24 (2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the
 25 election in question."

26
 27 **Section 8. Section 13-37-126, MCA, is amended to read:**

28 **"13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed
 29 on the official ballot for an election if the candidate or a political treasurer for a candidate fails to file any
 30 statement or report as required by this chapter or if the candidate is subject to the penalty pursuant to

1 [section 5(1)(b)(i)].

2 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,
3 but not by the name of the same candidate.

4 (3) In carrying out the mandate of this section, the commissioner must, by a written statement,
5 notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has
6 not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's
7 name should not be printed on the official ballot."
8

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

10 **"13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~
11 may not be granted to any candidate until ~~he or his~~ the candidate or the candidate's political treasurer has
12 filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~He~~ A
13 candidate for an elective office may not assume the powers and duties of that office until ~~he~~ the candidate
14 has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued
15 by the public official responsible for issuing a certificate or commission of election.

16 (2) A certificate of election may not be granted to a candidate who is subject to the penalty
17 pursuant to [section 5(1)(b)(ii)].

18 (3) In carrying out the mandate of this section, the commissioner ~~must~~ shall, by written statement,
19 notify the public official responsible for issuing a certificate of nomination or election that a candidate or
20 ~~he~~ the candidate's treasurer has complied with the provisions of this chapter, as described in subsection
21 (1), and that a certificate of nomination or election may be issued."
22

23 **NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
25 applications, the part remains in effect in all valid applications that are severable from the invalid
26 applications.
27

28 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 ~~AND 3~~ through 6] are intended
29 to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply
30 to [sections 1 ~~AND 3~~ through 6].

-END-

1 SENATE BILL NO. 367

2 INTRODUCED BY BARTLETT, HARP, BAER, FOSTER, GRINDE, WATERMAN, HALLIGAN, JERGESON,
3 THOMAS, SWYSGOOD, JENKINS, DOHERTY, CRIPPEN, MILLER, SIMON, HIBBARD, EWER,
4 COCCHIARELLA, HURDLE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE REASONABLE SPENDING FOR RESPONSIVE
7 GOVERNMENT ACT OF 1997; SETTING MANDATORY CAMPAIGN EXPENDITURE LIMITS FOR
8 STATEWIDE, DISTRICT COURT, PUBLIC SERVICE COMMISSION DISTRICT, AND LEGISLATIVE OFFICES;
9 PROVIDING PROCEDURES AND PENALTIES FOR ENFORCEMENT; AND AMENDING SECTIONS 13-35-107,
10 13-37-126, AND 13-37-127, MCA."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it directs the commissioner of political
14 practices to adopt a rule adjusting campaign expenditure limits for inflation. The commissioner shall conform
15 the rule to the process provided in 13-37-218.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Reasonable
20 Spending for Responsive Government Act of ~~1977~~ 1997".

21
22 NEW SECTION. Section 2. Purpose and findings. (1) In enacting [sections 1 through 6], the
23 legislature finds and declares the following:

24 (a) Montana citizens traditionally participate in their government at a remarkably high level.
25 However, spending levels prevalent in today's political campaigns MAY alienate citizens from their
26 government, MAY tarnish the integrity of election processes, and MAY EVENTUALLY erode the people's
27 willingness to continue their high level of civic participation.

28 (b) (i) Campaign spending for statewide and legislative races in Montana has increased
29 dramatically.

30 (ii) Accepting the premise that campaign contributions are equivalent to spending, total

1 contributions to both general election candidates for governor skyrocketed from \$437,794 in 1976 to
2 \$2,159,444 in 1992, almost a 500% increase or a 220% increase after adjusting for inflation.

3 (iii) In contested state legislative races, the average cost to win has increased at an alarming rate:

	<u>1980</u>	<u>1992</u>	<u>1994</u>
4 Senate	\$5,300.48	\$8,327.93	\$13,250.25
6 House	2,610.11	4,496.88	6,066.89

7 (c) (i) Unchecked increases in campaign spending undermine public confidence and trust in the
8 electoral processes and the republican form of government. For Montanans in particular, these increases
9 cast a dark shadow of doubt on the integrity of a citizen legislature.

10 (ii) In 1994, almost 25% of the state senate candidates who won contested races spent over
11 \$20,000, approximately four times the amount that a state senator would receive in salary for an entire
12 legislative session.

13 (iii) Campaign spending to win a state senate seat has gone as high as \$36,000, over seven times
14 the salary of this office for a regular legislative session.

15 (d) (i) Campaign spending establishes a minimum price tag for elected office and profoundly
16 influences the outcome of elections. In Montana, as elsewhere, the candidate who raises and spends the
17 most money is overwhelmingly favored to win.

18 (ii) Between 1980 and 1996, in over 90% of Montana's contested statewide partisan races, the
19 candidate who spent the most money won the office.

20 (iii) Potential candidates, intimidated by the level of fundraising required to compete at the level of
21 campaign spending typical in today's politics, choose not to run. Consequently, Montana voters are
22 deprived of the diversity among candidates that is both fundamental and essential to a healthy democracy.
23 Reasonable campaign spending limits enable more candidates to seek office, increasing the quantity, depth,
24 and diversity of ideas presented to the public.

25 (e) (i) Voters lose confidence in their elected officials when they believe that money has more
26 influence on election outcomes than their votes do.

27 (ii) A majority of voters in the Rocky Mountain region believe that people contribute to political
28 campaigns "because they hope to have more access and influence over . . . candidates".

29 (iii) Over 80% of the voters surveyed in the Rocky Mountain region agree with the statement, "Most
30 elected officials are not really in touch with the problems of average people."

1 (f) (i) Montana voters, for the most part, do not use campaign contributions as a vehicle for their
2 participation in our democracy.

3 (ii) Less than 1/3 of 1% of Montana's registered voters contributed \$500 or more to any candidate
4 in 1992. However, those contributions composed almost 30% of the total amount contributed to all
5 candidates in 1992.

6 (iii) Less than 1% of Montana's registered voters contributed \$200 or more to any candidate in
7 1992. However, those contributions composed 43% of the total amount contributed to candidates in
8 1992.

9 (iv) Less than 3% of Montana's registered voters contributed \$35 or more to any candidate for
10 office in 1992. However, those contributions composed more than 58% of the total amount contributed
11 to candidates in 1992.

12 (v) Clearly, over 97% of Montana's voters did not participate in the 1992 electoral process by
13 contributing as much as \$35 or more to any candidate for statewide or legislative office.

14 (g) At a time when policymakers are striving to limit government spending, the unrestrained growth
15 in campaign spending for elected government office creates suspicions about and gives rise to the
16 appearance of corruption in our democratic processes. All attempts to root out that appearance by limiting
17 campaign contributions have failed because of the upward spiral of increased campaign spending.

18 (h) The least distorted and most instructive channels of campaign communication are inexpensive
19 and often free. Debates, call-in programs, local interviews, door-to-door visits in legislative districts, and
20 other forms of direct voter contact that are not dependent on money offer information in greater depth and
21 detail. Expanded use of these low-cost communication methods, stimulated by the adoption of reasonable
22 spending limits, benefits political discourse by increasing candidates' direct engagement with and
23 accountability to the voters. Reasonable limits on campaign spending would assist, rather than impede,
24 voters' access to candidates and ability to make informed choices among candidates.

25 (2) The purposes of [sections 1 through 6] are:

26 (a) to prevent corruption and the appearance of corruption in the electoral process by:

27 (i) restoring public confidence and trust in the electoral process and in the ability of voters to affect
28 this process;

29 (ii) increasing the likelihood that the outcome of an election is determined by a candidate's merit,
30 not by a candidate's fundraising ability;

1 (iii) reducing the ability of a handful of voters to skew election results through the contribution of
2 money;

3 (iv) decreasing the likelihood that candidates will be outspent by substantial amounts, thereby
4 encouraging qualified candidates to run for office; and

5 (v) limiting the ability of wealthy candidates to use a personal fortune or a family fortune to
6 outspend opponents disproportionately;

7 (b) to protect the integrity and appearance of integrity of statewide, judicial, and legislative elected
8 officials by:

9 (i) ensuring that officeholders solicit and act upon the opinions and interests of constituents,
10 regardless of the ability of constituents to make campaign contributions;

11 (ii) protecting officeholders from campaign fundraising pressures that could influence or appear to
12 influence their official behavior; and

13 (iii) reducing the pressures on officeholders to respond to the interests of substantial campaign
14 contributors, thereby protecting the rights of those citizens who do not or cannot contribute to campaigns;

15 (c) to further the equal protection rights of all Montana citizens, as candidates and as voters, to
16 participate in the electoral process by:

17 (i) encouraging candidates to limit the skyrocketing costs of campaigns, thereby opening the
18 electoral process to candidates less able to meet those costs; and

19 (ii) promoting spending limits that, rather than limiting the dissemination of new ideas, encourage
20 a greater variety of and depth to issues presented, thereby providing all voters with a meaningful
21 opportunity to support and vote for the candidate of their choice;

22 (d) to protect the first amendment rights of all Montana citizens to be heard in the electoral process
23 and to hear information from all candidates, regardless of their access to wealth; and

24 (e) to preserve the republican form of government guaranteed in ~~Article 4~~ ARTICLE IV, SECTION
25 4, of the United States constitution and Article V of the Montana constitution by replacing the time and
26 energy that Montana's legislative candidates and officeholders must devote to fundraising with time and
27 energy devoted to direct voter contact and constituent service.

28

29 **NEW SECTION. Section 3. Aggregate expenditure limitation amounts.** (1) **(A)** Except as provided
30 in subsection (5), a candidate may not make aggregate expenditures exceeding the limits prescribed in

1 subsection (2).

2 (B) INDEPENDENT EXPENDITURES MAY NOT EXCEED \$500 BY A POLITICAL COMMITTEE ON
 3 A PRIMARY OR GENERAL ELECTION CAMPAIGN OR \$250 BY AN INDIVIDUAL PERSON ON A PRIMARY
 4 OR GENERAL ELECTION CAMPAIGN, INCLUDING THE VALUE OF IN-KIND CONTRIBUTIONS USED.

5 (2) Aggregate expenditure limits are as follows:

6 (a) for the offices of governor and lieutenant governor combined:

7 (i) \$250,000 in a primary election;

8 (ii) \$750,000 in a general election;

9 (b) for the offices of attorney general, supreme court justice, and chief justice:

10 (i) ~~\$50,000~~ \$40,000 in a primary election;

11 (ii) ~~\$115,000~~ \$120,000 in a general election;

12 (c) for the offices of superintendent of public instruction, state auditor, secretary of state, and clerk
 13 of the supreme court:

14 (i) ~~\$35,000~~ \$25,000 in a primary election;

15 (ii) ~~\$65,000~~ \$75,000 in a general election;

16 (d) for public service commissioner:

17 (i) \$15,000 in a primary election;

18 (ii) ~~\$25,000~~ \$45,000 \$30,000 in a general election;

19 (e) for district court judge:

20 (i) \$15,000 in a primary election;

21 (ii) ~~\$20,000~~ \$45,000 \$30,000 in a general election;

22 (f) for state senator, \$20,000 total for the primary and general election; and

23 (g) for state representative, \$10,000 total for the primary and general election.

24 (3) For the purposes of this section and the enforcement provisions of [sections 1 through 6]:

25 (a) "aggregate expenditures" means the sum of all the expenditures, INCLUDING USE OF IN-KIND
 26 CONTRIBUTIONS, made to influence either a state primary or a state general election by a candidate and
 27 those expenditures made on the candidate's behalf by:

28 (I) the candidate's committee or committees;

29 (II) the candidate's national, state, and local parties; and; AND

30 (III) the candidate's immediate family; AND

1 ~~(IV) AN INDEPENDENT COMMITTEE REFERRED TO IN 13-37-226;~~ and

2 (b) "immediate family" means family members of the candidate or the candidate's spouse who are
3 directly related within two generations of the candidate or the candidate's spouse.

4 (4) Each campaign expenditure limitation amount applies solely and independently to either the
5 state primary or the state general election, except:

6 ~~(A) for a state legislative candidate who is limited under subsection (2)(f) or (2)(g); AND~~

7 ~~(B) THAT IF AN INDIVIDUAL WHO IS A CANDIDATE FOR ONE OF THE OFFICES SPECIFIED IN~~
8 ~~SUBSECTIONS (2)(B) THROUGH (2)(E) FACES AN OPPONENT IN A PRIMARY ELECTION, THE CAMPAIGN~~
9 ~~EXPENDITURE LIMITATIONS PROVIDED IN THOSE SUBSECTIONS ARE COMBINED INTO A TOTAL~~
10 ~~CAMPAIGN EXPENDITURE LIMITATION FOR BOTH PRIMARY AND GENERAL ELECTIONS.~~

11 (5) ~~(A)~~ The commissioner shall multiply the limits contained in this section by the inflation factor,
12 as defined in 15-30-101, for the year in which general elections are held. The resulting figure must be
13 rounded off to the nearest \$50 increment. The commissioner shall publish the revised limits as a rule.

14 ~~(B) AN AMOUNT PRESCRIBED IN SUBSECTION (2) THAT IS NOT SPENT IN A PRIMARY ELECTION~~
15 ~~MAY BE SPENT IN THE GENERAL ELECTION IN ADDITION TO THE AMOUNT PRESCRIBED IN SUBSECTION~~
16 ~~(2) FOR THE GENERAL ELECTION.~~

17

18 **NEW SECTION. Section 4. Examination of expenditure reports -- determination of violation --**
19 **notice.** (1) The commissioner shall examine expenditure reports required pursuant to part 2 of this chapter
20 to determine compliance with the aggregate expenditure limits prescribed in [section 3].

21 (2) If the commissioner determines that a candidate has exceeded the applicable aggregate
22 expenditure limits, the commissioner shall send to the candidate a notice of the determination and of the
23 penalty applicable under [section 5].

24

25 **NEW SECTION. Section 5. Penalty.** (1) A candidate who exceeds the aggregate expenditure limits
26 provided in [section 3] in running for office in either a primary or general election, or both, is subject to the
27 following fines and penalties:

28 (a) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by less than
29 the applicable percentage set forth in subsection (2), the commissioner shall impose a civil penalty of three
30 times the amount of the excess expenditure.

1 (b) If a candidate's aggregate expenditures exceed the limits provided in [section 3] by an amount
2 that is equal to or greater than the percentage set forth in subsection (2):

3 (i) 75 days or more before the primary election or 85 days or more before the general election,
4 pursuant to 13-37-126, the candidate's name may not be printed on the ballot;

5 (ii) less than 85 days before the general election, pursuant to 13-37-127, the certificate of election
6 provided in 13-15-504 may not be issued and the governor shall immediately order an election to be held
7 no less than 75 days or more than 90 days from the time of the commissioner's directive, unless the
8 offending candidate is a candidate for judicial office, in which case the lack of certification must be treated
9 as a vacancy pursuant to Article VII, section 8, of the Montana constitution and Title 3, chapter 1, part 10.
10 The offending candidate may stand for neither election nor appointment.

11 (2) Percentage limitations applicable to subsection (1) are as follows:

12 (a) for the offices of governor and lieutenant governor, 2%;

13 (b) for the offices of attorney general, supreme court justice, chief justice, superintendent of public
14 instruction, state auditor, secretary of state, and clerk of the supreme court, 3%;

15 (c) for the offices of public service commissioner, district court judge, state senator, and state
16 representative, 5%.

17
18 **NEW SECTION. Section 6. Aggregate expenditure limits included in declaration of nomination.**

19 The secretary of state shall include the aggregate expenditure limits set forth in [section 3] in the
20 declaration of nomination forms provided pursuant to 13-10-201.

21
22 **Section 7.** Section 13-35-107, MCA, is amended to read:

23 "**13-35-107. Voiding election.** (1) If a court finds that the violation of any provision of this title
24 by any person probably affected the outcome of ~~any~~ an election, the result of that election may be held
25 void and a special election held ~~within~~ in not less than 75 days or more than 90 days from the date of that
26 finding. If the violation occurred during a primary election, the court may direct the selection of a new
27 candidate according to the provisions of state law relating to the filling of vacancies on the general election
28 ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within
29 1 year of the date of the election in question.

30 (2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the

1 election in question."

2

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

4 **"13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed
5 on the official ballot for an election if the candidate or a political treasurer for a candidate fails to file any
6 statement or report as required by this chapter or if the candidate is subject to the penalty pursuant to
7 [section 5(1)(b)(i)].

8 (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,
9 but not by the name of the same candidate.

10 (3) In carrying out the mandate of this section, the commissioner must, by a written statement,
11 notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has
12 not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's
13 name should not be printed on the official ballot."

14

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

16 **"13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~
17 may not be granted to any candidate until ~~he or his~~ the candidate or the candidate's political treasurer has
18 filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~No~~ A
19 candidate for an elective office may not assume the powers and duties of that office until ~~he~~ the candidate
20 has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued
21 by the public official responsible for issuing a certificate or commission of election.

22 (2) A certificate of election may not be granted to a candidate who is subject to the penalty
23 pursuant to [section 5(1)(b)(ii)].

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

28

29 NEW SECTION. **Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are
30 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its

1 applications, the part remains in effect in all valid applications that are severable from the invalid
2 applications.

3
4 NEW SECTION. Section 11. Codification instruction. [Sections 1 ~~AND 3~~ through 6] are intended
5 to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply
6 to [sections 1 ~~AND 3~~ through 6].

7 -END-