

FEDERAL ELECTION REFORM, 1973

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
PRIVELEGES AND ELECTIONS
AND THE
COMMITTEE ON
RULES AND ADMINISTRATION
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
S. 23, S. 343, S. 372, S. 1094, S. 1189, S. 1303, S. 1355,
and S.J. Res. 110
Various Measures Relating to Federal Election Reform

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I support a limit on cash contributions. Any contribution of \$100 or more should be required to be made by check. This would facilitate enforcement of the reporting requirements in the present law.

I must confess that I am concerned about the effect of both contribution limits and expenditure limits without also providing for public financing. There is the danger that these limits could turn into an "incumbent protection plan," which would make effective electoral challenges difficult. On balance, however, I think at least individual contribution limits are necessary. The influence of "big money" must be removed from our political process. The Stevenson-Mathias bill proposes an individual limit of \$3,000. I think the limits should be set at least this low and perhaps lower, and must apply to groups as well as individuals.

In regard to the expenditure limits in S. 372, I would like to raise two points. First, the twenty-five cents per person of voting age formula seems to have the effect of setting relatively low limits on House races and Senate candidates in the small states and unrealistically high limits on the Presidency and Senate candidates in the large states. For example, in 1972 a Senate candidate in California could have spent a total of almost seven million dollars in the primary and general election combined.

Second, the problem of unrealistically high limits is exacerbated by the fact that limits will increase at the same rate as the Consumer Price Index. I have had my staff prepare projections of the growth of the Presidential expenditure limits for a general election in the future, employing population projections from the Census Bureau and assuming a 3½ percent annual growth in the Consumer Price Index. The projections appear in the table below. While we cannot perfectly predict the future, these projections give us some idea of what the limits will look like in the years to come. We can see that by 1980 a Presidential candidate would be permitted to spend up to \$54.5 million in the general election alone, and by the year 2000 the limit would reach the incredible sum of \$136.6 million. If we really want to impose realistic expenditure limits, some change must be made in the proposed formula.

PROJECTION OF EXPENDITURE LIMITS FOR PRESIDENTIAL CAMPAIGNS (GENERAL ELECTION)

Year	Population 18 years and over (millions)	Spending limit (millions)
1976.....	149.4	\$44.6
1980.....	158.9	54.5
1984.....	166.9	65.6
1990.....	176.6	85.4
2000.....	200.4	136.6

In closing, I want to emphasize that while a number of valuable reforms can be made in our system of federal campaigns through the vehicle of S. 372, the truly necessary and desirable reform would be the adoption of a system of public financing of all federal election campaigns.

Senator PELL. The committee will recess until 3:30 this afternoon and the hearing will be resumed at that time.

[Whereupon, at 12:15 p.m., the hearing adjourned to reconvene at 3:30 p.m., the same day.]

AFTERNOON SESSION

Senator PELL. The committee will come to order.

The first witness for this afternoon's session is Senator Biden.

STATEMENT OF HON. JOSEPH R. BIDEN, JR., A U.S. SENATOR FROM
THE STATE OF DELAWARE

Senator BIDEN. Mr. Chairman, I am pleased to be here. I appreciate the opportunity of being able to speak my piece before your committee. I may not be the most experienced man in the Senate, but I

have shared experiences with you Senators, and that is the one of having to finance a campaign to run for the U.S. Senate.

Rather than deliver a prepared statement which I have here, in the interest of conserving the committee's time as best we can, I am going to submit for the record, if I may, a full text of my statement, and I would just like to make a few brief comments to highlight this.

Senator PELL. The full text of your statement will be printed in the record.

Senator BIDEN. Mr. Chairman, although I have no magic formula as to how I feel elections for Federal office should be financed, I do think as a basic principle that there is an absolute need for us to begin to finance elections for all Federal offices—that is, for the Presidency, for the House and for the Senate, out of the Public Treasury. This should be done in the public interest.

I realize there are going to be a number of difficult problems which will have to be resolved if we go the public financing route: (1) how does one qualify as a contender; (2) when is one a "serious candidate"; (3) what proportion of public funds should go into primaries; and (4) a number of other complicated questions which should first be answered.

But I submit that it is a good deal easier to resolve these cumbersome and complicated issues than it is to try to legislate morality into the existing system whereby we, as elected public officials, are required to seek our funds from private sources.

In my opinion, almost implicit in such a system is an element of corruption, and very few of us want to appear in the second editions of "Profiles in Courage." Very few of us, I believe, want to be put in the position where, although we know if we take particular positions during a campaign on a particular issue, it will mean a campaign contribution for us, some of us, at least me would be tempted to say, "Yes, I'll support SST." Would I have supported the SST had I been in Congress last time around, if I knew that that organization, which has asked me the question, is giving \$5,000 to those whom they endorse? I am not particularly stupid, and it is fairly easy for us to determine what answers the people asking us the questions want to hear.

I am not suggesting that anyone in the Senate now, or running for Congress or for the Presidency, is taking any money under the table, or is being told: "We will give you money if you will change your position, or we will support your campaign if you take such and such a position." But there is temptation for a candidate who sees he or she is a point behind in the polls of realizing a lifetime ambition of being a U.S. Senator or Congressman, or President—it is difficult to ask of a man or woman in that position, to not be at least considering prostituting their intellect, at least.

And I think as long as we have the major portion—or quite possibly any portion—of our campaign funding for Federal offices coming from the private sector, we are not going to be able to get at that particular problem. And until we get at that particular problem, in my opinion, we are not going to be able to restore the faith and confidence of the American people in their public institutions and in their elected public officials. We are not going to do that until we have men and women in public office who are totally unfettered, or, at least,

the American people have an impression of their elected officials being significantly unfettered by particular interest groups.

And I don't mean to imply that anyone here is in that position, necessarily. I am just saying the temptation is very great.

My wife, who was less of a politician than I, used to have an expression she used. She said, "You should not burden your elected public officials with too much responsibility." I think she is a true Jeffersonian.

I happen to agree with her. I think that when we ask men and women to go out and raise the hundreds of thousands of dollars that is necessary to run for public office in this Nation, we are putting them in a position of being exposed to great temptation. Not personal financial gain, but great temptation to maybe not say what they think all the time, maybe not take the positions they support all the time, and maybe I feel this way because I am weaker than most of the Senators up here. Maybe I felt that pressure because I don't have the strength of character that many of the men had who have gone before me.

All I know is that I have felt that pressure, and I am one young fellow at 30 years of age who will probably not only be the youngest Senator but the youngest one-term Senator here. But the fact remains I know I have felt it, and I think that it is in the public interest to see to it that we who are running for public office can get about the business of telling the people what we think and not have to worry that if we take a position that is in opposition to any major interest group, whether it be labor or big business, that we are going to have campaign funds cut off that we need for radio and television time and whatever other means we need to get our case before the people.

I have taken more than the 5 minutes; probably if I had delivered my prepared text it would have been shorter, but I feel strongly about this. I think if there is nothing else that I am able to do in the one term that I will be in the U.S. Senate—if there is nothing else I do to make some little impact on moving us toward the public financing of elections, I would consider my stint in the Senate a success.

My constituents probably would not feel as I do—and maybe my colleagues wouldn't either—but I would feel it is that important. I think it is the single most important issue to come before this body in a long, long time.

I appreciate your time, Mr. Chairman.

Senator PELL. Thank you very much, indeed. Your statement, an eloquent one, will be considered seriously by the committee, and I know that many of your colleagues share in your views.

Senator BIDEN. Thank you very much, Mr. Chairman.

[The written statement of Senator Biden follows:]

STATEMENT OF HON. JOSEPH R. BIDEN, JR., A U.S. SENATOR FROM THE STATE OF DELAWARE

Mr. Chairman, I appreciate an opportunity of being able to speak my piece before your committee. I may not be the most experienced man in the Senate, but I've a shared experience with you seniors—financing a campaign and trying to dissolve the debt afterward.

Your willingness to sit here this afternoon to take testimony is one more indication that campaign-financing reform is an idea whose time has come. We may not agree upon specifics, but there is a growing concern that present practices

should be altered and altered they will be. Some steps have been taken: but the journey is yet incomplete.

Many in the Senate deserve credit for advancing the cause of campaign-financing reform. But I don't want the occasion to pass without expressing my admiration for Senator Pastore whose bill, S. 872, is before you this afternoon. I particularly applaud his bill's provisions that would establish limits on the total amount of money which candidates for President, the Senate, and the House of Representatives could spend in both primary and general elections. Before I became a member of this distinguished body, I applauded, while struggling to conform to his handiwork, the 1971 Federal Elections Campaign Act, the first major revision of campaign financing laws in nearly 50 years.

Senator Pastore's achievement is particularly commendable because it came about in a sector of political life where there are enormous pressures to do nothing.

Therefore, it is with no disrespect for past achievement that I appear here this afternoon to urge a change in course—one that may more swiftly lead to our mutually shared goal—competitive, open elections wherein merit, not wealth, dominates.

In furtherance of this objective, I support the concept of public financing of primary and general federal elections.

Earlier today Senator Abourezk offered this subcommittee a collective statement in support of public financing—a statement in which I, among others, joined. This statement is consistent with the action of the Senate Democratic Conference which on May 9 of this year endorsed the idea of public financing of Federal elections—that is, public subsidy to candidates for Congress and the Presidency.

Why do I support public financing?

The answer lies not in our stars but in our statistics, Mr. Chairman.

In reviewing the history of Federal election campaigns in modern times, I am impressed by several factors:

1. No candidate has ever been prosecuted for violation of the 1925 Corrupt Practices Act.
2. No more than 20 corporations and a couple of trade unions have ever been prosecuted for violating prohibitions contained in this act.
3. Total costs of all political campaigns in 1972 apparently exceeded \$400 million, a 25 percent increase from the 1968 elections.
4. The National Committee for an Effective Congress suggests that more than half of political spending goes unreported and that the expenditure per voter in a Presidential campaign has doubled in 12 years to more than 60 cents.
5. Not unrelated, incumbents since 1954 have won 9 of 10 races in the House and 4 of 5 races in the Senate, according to the Twentieth Century Fund (in 1972, I am pleased to report to myself I was in that fifth race in which a non-incumbent won a Senate seat.)

I'm pleased I won—so are my campaign contributors. But I do think there is a condition in politics which is best described as a "tyranny of the incumbency." Without disrespect to incumbents, it is difficult for a challenger to get a fair-shake, as the statistics I've just offered suggest.

I'm now an incumbent myself. Nevertheless, I do not believe the old ways of campaign financing are sufficient. In fact, they are deficient. The time has come for all good men of both major political parties to come to the aid of the system by changing it.

These are sober times. Here in this building—on this very floor—there is unfolding a disastrous chapter in the history of American campaigns. There is reason to think that shoddy men, with access to great gobs of unreported money, have savaged our political system. Watergate, like Pearl Harbor, is a name that will go down in history as an event of infamy.

I share with Americans a rising sense of dismay about the abuses in the electoral process.

The outrageous cost of getting elected to public office—that is, the influence of money-in-politics—has been commented on by Republican and Democratic Presidents alike—General Eisenhower, John Kennedy and Lyndon Johnson, among others.

The 1984 of Presidential elections will come about when there are no candidates available who can each raise the trillion-dollars to finance the campaigns. Even now, the rising cost of running for office is disqualifying many otherwise well-qualified persons who can not or are unwilling to rely heavily upon large contributors.

This is an unhealthy condition and, consequently, the American electoral system suffers—the American voters suffer.

Fortunately, the accumulation of campaign financing indiscretions—or worse—have jarred us. American voters now realize the scandalous grip money holds over the outcome of elections. And their distrust is not being directed at Republicans—whose party organization, in fact, is not involved in the Watergate affair—or at Democrats. The dangerous clue, that I discover in my travels within and without my State of Delaware, is that the Watergate is breeding distrust, even disgust, at both political parties and all politicians.

As a result, we politicians are in deep trouble both in Washington and in the river cities of America. The political system is in trouble because, as someone has said for us, democracy is less a *form* of government than a *system* that assures we shall be governed no better than we deserve.

The hazard is not necessarily that the voters will rise and vote us all out of office within the next few years. A clear-and-present danger is that the voters may turn away from the ballot-box—after all the 1972 Presidential voter turnout was the lowest in this century.

The real danger, then is that the dismayed American voter may act like Mark Twain's cat which sat down on a hot stove lid—the cat never will sit on a hot-stove lid again, but also the cat will never sit down again.

The winds of change are already blowing through the Congress. Various steps have been taken within the last couple of years in both the Senate and the House to open the legislative process itself to public scrutiny.

But these improvements, in my judgment, are largely quarantined by the scandalous grip of money on politics.

The rapid increase in the cost of campaigning is the most important element in degrading both our politics and our politicians. The high cost of running places even the most innocent candidate in the position of being in the pocket of such contributors—or assumed to be by the contributor and, more importantly, by the public.

Slowly, Mr. Chairman, I have become convinced that efforts to place ceilings on overall campaign expenditures, to prohibit certain groups from contributing funds, to restrict the size of campaign contributions—these and other devices, however well-intentioned and well-designed—are not fully effective.

Disclosure and ceilings have merit, but the ingenuity of political operators outranks that of an Einstein in finding ways of funneling private funds of undisclosed, if not dubious origins, into campaign coffers.

Public-subsidy would allow candidates—incumbents and challengers alike—to compete more on the basis of merit than on the size of the pocketbook—free from potentially corroding dependence on personal or family fortune or the gifts of special interest backers—be they those of business, organized labor or conservative or liberal interests.

Public subsidy has an honorable ancestry, Mr. Chairman.

Theodore Roosevelt proposed this approach in an effort to insulate political parties from the influence of wealthy contributors and to permit candidates of modest means to seek elective office and to assure that opposing candidates and their parties will have more respectable resources.

In 1967, the Senate Finance Committee reported out a subsidy plan as title II of the Honest Elections Act, H.R. 4890, although the bill was never discussed on the floor.

As you know, we now have in law a provision authorizing a taxpayer to assign \$1.00 of his Federal individual income tax obligation to the 1976 Presidential campaign fund.

The point I am making, Mr. Chairman, is that the concept of public subsidy is not a startling new one. It has been discussed here in the Senate. The tax check-off provision is now law. I hope that we can now discuss the possibility of taking larger steps.

Public subsidy is not without problems, of course. Previous provisions, such as that in the Honest Elections Act, did not treat minor parties fairly.

And, if a public-subsidy statute is enacted that barred the use of private funds in campaigns, then there should be a provision to accommodate future minor parties that may develop.

But these problems surely could be resolved.

The issue remains that of money-in-politics, if money by itself does not win elections, absence of money guarantees defeat.

Senator Hart's pending bill addresses itself commendably to this problem, although I plan to offer a differently tailored bill.

In my judgment, the ideal public subsidy program would combine public subsidy as the only source of campaign financing—combined with compulsory free radio and television time.

The solution may appear stiff: but the penalty, in the form of further erosion of voter confidence in the electoral system, is stiffer.

I suggest an additional benefit may accrue from adoption of public-subsidy campaign financing. I believe it would hasten the day when we in the Congress enact tax-reform for the American people. Revision of the Federal tax code so as to make it fairer is made more difficult, in my opinion, because those wealthy who benefit by existing tax shelters also make large campaign contributions.

In summary, Mr. Chairman, I support public subsidy but I discredit no other method.

I simply assert my judgment as an individual Senator that adoption of public subsidy is the swiftest and surest way to purge our elections system of the corruption that, whatever the safeguards, money inevitably brings.

Thank you.

Senator PELL. Senator Abourezk?

STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. Thank you. I, first of all, want to echo the sentiments expressed by my colleague Senator Biden.

Second, I want to submit my written testimony for the record, and also the testimony that is drafted separately on behalf of five Democratic Senators, including myself, Senator Biden, Senator Clark, Senator Haskell, and Senator Huddleston on this particular piece of legislation.

Senator PELL. That will be entered into the record, together with the table?

Senator ABOUREZK. Yes, and the table, and that is merely a proposal to be added on to S. 372 if the committee sees fit, that would take care of the problem, Mr. Chairman, of large States with sparse populations such as South Dakota or other States where it takes a minimum base amount of campaign money to run in spite of the fact that there aren't many people. I would submit that for the record as well.

I just want to take this opportunity to express publicly my real gratitude for your pledge and your participation in this public financing effort that a lot of us have taken an interest in. I sincerely appreciate the fact that you are holding hearings, that you are listening to testimony and that you intend to do something about this.

Senator PELL. "Try" to do something about it.

Senator ABOUREZK. Yes, to try to do something about it.

I think the farm bill that is coming up today points out with more specificity, what Senator Biden is talking about. It is really the appearance of corruption that harms us. I think, more than any corruption that does go on, because there are certain controversial amendments up today that I would like to vote for, but because I received contributions from dairy farmers around the country, I am almost afraid to vote for them because it is set up now in the press that anybody who does vote for them who has taken money from the dairy farmers has been bought off.

It is a very difficult thing that you cannot vote for your friends without being accused. This is one of the things that I think public financing would take care of.