

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 450
 2 INTRODUCED BY Wayne MacFarlane, Marguerite Gagnier
 3 BY REQUEST OF THE COMMISSIONER OF J. Brown
 4 POLITICAL PRACTICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 7 DISAPPROVAL OF AN APPLICATION TO LOBBY IF REPORTS HAVE NOT
 8 BEEN FILED OR ARE INACCURATE; CLARIFYING THE CONTENTS OF THE
 9 LOBBYING DOCKET; PROVIDING FOR THE ISSUANCE OF ORDERS OF
 10 NONCOMPLIANCE; PROVIDING FOR THE ENFORCEMENT AND REVIEW OF
 11 ORDERS OF NONCOMPLIANCE; REDUCING THE PERIOD OF TIME
 12 LOBBYING RECORDS MUST BE KEPT; REDUCING THE TIME PERIOD FOR
 13 BRINGING AN ACTION FOR A VIOLATION OF THE LOBBYING LAWS; AND
 14 AMENDING SECTIONS 5-7-103, 5-7-201, 5-7-208, 5-7-212, AND
 15 5-7-305, MCA."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 18 **Section 1.** Section 5-7-103, MCA, is amended to read:
 19 "5-7-103. Licenses -- fees -- eligibility. (1) Any
 20 adult of good moral character who is a citizen of the United
 21 States and who is otherwise qualified under this chapter may
 22 be licensed as a lobbyist. The commissioner shall provide a
 23 license application form. The application form may be
 24 obtained in the office of the commissioner and filed
 25 therein. Upon approval of the application and receipt of the

1 license fee of \$10 by the commissioner, a license shall be
 2 issued which entitles the licensee to practice lobbying on
 3 behalf of one or more enumerated principals. Each license
 4 shall expire on December 31 of each even-numbered year or
 5 may be terminated at the request of the lobbyist.

6 (2) (a) No Except as provided in subsection (2)(b), an
 7 application may not be disapproved without affording the
 8 applicant a hearing. The hearing shall must be held and the
 9 decision entered within 10 days of the date of the filing of
 10 the application.

11 (b) An application may not be approved if a principal
 12 has failed to file reports required under 5-7-208.

13 (3) The fines and license fees collected under this
 14 chapter shall be deposited in the state treasury."

15 **Section 2.** Section 5-7-201, MCA, is amended to read:
 16 "5-7-201. Docket -- contents. The commissioner shall
 17 make available to the public the information required by
 18 this chapter, including but not limited to the name and
 19 business address of each lobbyist, the name and business
 20 address of his principal, and the subject or subjects to
 21 which the employment relates or a statement that the
 22 employment relates to all matters in which the principal has
 23 an interest. The docket entry for each principal shall must
 24 also indicate the date of receipt of the principal's
 25 required lobbying reports of payments to influence -- official



1 ~~action-by-a-public-official~~ as required by 5-7-208."

2 NEW SECTION. Section 3. Inspection of applications and
3 reports -- issuance of orders of noncompliance. (1) Each
4 application and report filed with the commissioner must be
5 inspected within 10 days after it is filed. If a person has
6 not satisfied the provisions of this chapter, the
7 commissioner shall immediately notify the person of the
8 noncompliance. An order of noncompliance may be issued when:

9 (a) it is determined that an application or report
10 filed with the commissioner does not conform to the
11 requirements of this chapter; or

12 (b) a person has failed to file an application or
13 report required by law.

14 (2) The person shall submit the necessary information
15 within 5 days after receiving the notice of noncompliance.
16 Upon failure to submit the required information within 5
17 days, the commissioner may initiate a civil or criminal
18 action pursuant to the procedures contained in 5-7-305.

19 NEW SECTION. Section 4. Judicial review of
20 noncompliance orders. A person who receives an order of
21 noncompliance may seek judicial review of the order in the
22 district court of the county in which the person resides or
23 has headquarters in the state. If the person resides or has
24 headquarters outside the state, judicial review may be
25 sought in the district court for the first judicial district

1 in Lewis and Clark County. All petitions for judicial review
2 under this section must be expeditiously reviewed by the
3 district court.

4 **Section 5.** Section 5-7-208, MCA, is amended to read:

5 **"5-7-208. Principals to file accountings reports.** (1) A
6 principal subject to this chapter shall file with the
7 commissioner ~~an-accounting~~ a report of payments made for the
8 purpose of lobbying.

9 (2) If such payments are made solely to influence
10 legislative action, ~~such-accounting~~ a report shall be made:

11 (a) before February 16th of any year the legislature is
12 in session and shall include all payments made in that
13 calendar year prior to February 1;

14 (b) before the 16th day of the calendar month following
15 any calendar month in which the principal spent \$5,000 or
16 more and shall include all payments made during the prior
17 calendar month; and

18 (c) within 60 days following adjournment of such
19 session and shall include all payments made during such
20 session, except as has previously been reported.

21 (3) If such payments are made to influence any other
22 official action by a public official or made to influence
23 such other action and legislative action, ~~such accounting~~ a
24 report shall be made:

25 (a) before February 16th of the calendar year following

1 such payments and shall include all payments made during the
2 prior calendar year; and

3 (b) before the 16th day of the calendar month following
4 any calendar month in which the principal spent \$5,000 or
5 more and shall include all payments made during the prior
6 calendar month.

7 (4) If no such payments are made during the reporting
8 periods provided in subsections (2)(a), (2)(c), and (3)(a)
9 above, the principal shall file a report stating such.

10 (5) Each accounting report filed under this section
11 shall:

12 (a) list all payments for lobbying in each of the
13 following categories:

- 14 (i) printing;
- 15 (ii) advertising, including production costs;
- 16 (iii) postage;
- 17 (iv) travel expenses;
- 18 (v) salaries and fees, including allowances, rewards,
19 and contingency fees;
- 20 (vi) entertainment, including all foods and
21 refreshments;
- 22 (vii) telephone and telegraph; and
- 23 (viii) other office expenses;

24 (b) itemize, identifying the payee and the beneficiary:

- 25 (i) each separate payment conferring \$25 or more

1 benefit to any public official when the payment was made for
2 the purpose of lobbying; and

3 (ii) each separate payment conferring \$100 or more
4 benefit to more than one public official, regardless of
5 individual benefit when the payment was made for the purpose
6 of lobbying, except that in regard to a dinner or other
7 function to which all senators or all representatives have
8 been invited, the beneficiary may be listed as all members
9 of that group without listing separately each person who
10 attended;

11 (c) list each contribution and membership fee which
12 amounts to \$250 or more when aggregated over the period of 1
13 calendar year paid to the principal for the purpose of
14 lobbying, with the full address of each payer and the issue
15 area, if any, for which such payment was earmarked;

16 (d) list each official action which the principal or
17 his agents exerted a major effort to support, oppose, or
18 modify, together with a statement of the principal's
19 position for or against such action; and

20 (e) be kept by the commissioner for a period of 10
21 years."

22 **Section 6.** Section 5-7-212, MCA, is amended to read:

23 "**5-7-212. Audit of ~~final-accounting-statements~~ lobbying**
24 **reports.** (1) The commissioner ~~shall-examine--and~~ may audit
25 the accountings reports filed under 5-7-208 and shall

1 investigate any irregularities and report any apparent
 2 violations of this chapter to the attorneys having authority
 3 to prosecute. The lobbyist is required to provide and the
 4 principal is required to obtain and keep for a period of 7 3
 5 years from the date of filing all records supporting the
 6 accountings reports filed under 5-7-208.

7 (2) All such records shall be open to inspection on
 8 request of the commissioner or an attorney having authority
 9 to prosecute violations of this chapter. The commissioner
 10 and such attorneys are given the power to:

- 11 (a) subpoena and compel attendance;
- 12 (b) issue enforceable civil investigative demands;
- 13 (c) take evidence; and
- 14 (d) require the production of any books,
 15 correspondence, memoranda, bank account statements, or other
 16 records which are relevant or material for the purpose of
 17 conducting any investigation pursuant to the provisions of
 18 this chapter."

19 **Section 7.** Section 5-7-305, MCA, is amended to read:

20 "5-7-305. Penalties and enforcement. (1) Any person
 21 violating the provisions of this chapter shall be deemed
 22 guilty of a misdemeanor and upon conviction thereof shall be
 23 punished by imprisonment in the county jail not more than 6
 24 months or by a fine not exceeding \$200, or both.

25 (2) Any person who violates any of the provisions of

1 this chapter shall be subject to civil penalties of not less
 2 than \$250 and not more than \$7,500 according to the
 3 discretion of the district court, as court of original
 4 jurisdiction. A lobbyist who violates any of the provisions
 5 of this chapter shall have his license suspended or revoked
 6 according to the discretion of the court. Any public
 7 official holding elective office adjudged in violation of
 8 the provisions of this act is additionally subject to recall
 9 under Montana Recall Act, 2-16-601, et seq., and such
 10 violation shall constitute an additional basis for recall to
 11 those mentioned in 2-16-603(3).

12 (3) The attorney general, commissioner, or the county
 13 attorney of the county in which the violation takes place
 14 may bring criminal or civil actions in the name of the state
 15 for any appropriate criminal or civil remedy.

16 (4) If a prosecution is undertaken by the commissioner
 17 or any county attorney, all costs associated with the
 18 prosecution shall be paid by the state of Montana.

19 (5) (a) Any individual who has notified the
 20 commissioner, the attorney general, and the appropriate
 21 county attorney in writing that there is reason to believe
 22 that some portion of this chapter is being violated may
 23 himself bring in the name of the state an action
 24 (hereinafter referred to as a citizen's action) authorized
 25 under this chapter if:

1 (i) the attorney general and the appropriate county
2 attorney have failed to commence an action hereunder within
3 40 days after such notice; and

4 (ii) said attorneys then fail to commence an action
5 within 10 days after a written notice delivered to them
6 advising them that a citizen's action will be brought if
7 they do not bring an action.

8 (b) Each notification shall toll the statute of
9 limitations applicable until the expiration of the waiting
10 period.

11 (c) If the individual who brings the citizen's action
12 prevails, he shall be entitled to be reimbursed by the state
13 of Montana for costs and attorney's fees incurred; provided
14 that in the case of a citizen's action which is dismissed
15 and which the court also finds was brought without
16 reasonable cause, the court may order the individual
17 commencing the action to pay all costs of trial and
18 reasonable attorney's fees incurred by the defendant.

19 (6) No civil action may be brought under this section
20 more than 7 3 years after the occurrence of the facts which
21 give rise to the action.

22 (7) All civil penalties imposed pursuant to this
23 section shall be deposited in the state general fund.

24 (8) A hearing under this chapter shall be held by the
25 court unless the defendant-licensee demands a jury trial.

1 The trial shall be held as soon as possible but at least 20
2 days after the filing of the charges and shall take
3 precedence over all other matters pending before the court.

4 (9) If the court finds for the plaintiff, judgment
5 shall be rendered revoking or suspending the license and the
6 clerk of court shall file a certified copy of the judgment
7 with the commissioner."

8 NEW SECTION. **Section 8.** Codification instruction.
9 [Sections 3 and 4] are intended to be codified as an
10 integral part of Title 5, chapter 7, and the provisions of
11 Title 5, chapter 7, apply to [sections 3 and 4].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0450, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation provides for the disapproval of an application to lobby if required reports have not been filed or are inaccurate; clarifies the contents of the lobbying docket; provides for the issuance of orders of noncompliance; provides for the enforcement and review of orders of noncompliance; and reduces the time periods for keeping lobbying records and for bringing an action for violation of lobbying laws.

ASSUMPTIONS:

1. A total of 25 orders of noncompliance will be issued by the Commissioner of Political Practices to employers of lobbyists during FY93 for failure to file lobbying disclosure reports.
2. No actions will be brought by the Commissioner in any court of law during the 1993 biennium.
3. Expenses associated with issuing orders of noncompliance, which would primarily be postage for certified mail, will be absorbed without an increase over the executive budget recommendation for the Commissioner of Political Practices for the 1993 biennium.

FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

Rod Sundsted
ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

Hal Harper
HAL HARPER, PRIMARY SPONSOR

DATE

Fiscal Note for HB0450, as introduced

2-4-91
HB 450

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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 3 issued which entitles the licensee to practice lobbying on
 4 behalf of one or more enumerated principals. Each license
 5 shall expire on December 31 of each even-numbered year or
 6 may be terminated at the request of the lobbyist.

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 8 application may not be disapproved without affording the
 9 applicant a hearing. The hearing ~~shall~~ must be held and the
 10 decision entered within 10 days of the date of the filing of
 11 the application.

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 13 has failed to file reports required under 5-7-208.

14 (3) The fines and license fees collected under this
 15 chapter shall be deposited in the state treasury."

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17 "5-7-201. Docket -- contents. The commissioner shall
 18 make available to the public the information required by
 19 this chapter, including but not limited to the name and
 20 business address of each lobbyist, the name and business
 21 address of his principal, and the subject or subjects to
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 23 employment relates to all matters in which the principal has
 24 an interest. The docket entry for each principal ~~shall~~ must
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1 required lobbying reports of ~~payments to influence official~~
 2 ~~action by a public official~~ as required by 5-7-208."

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 12 requirements of this chapter; or

13 (b) a person has failed to file an application or
 14 report required by law.

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 16 within 5 days after receiving the notice of noncompliance.
 17 Upon failure to submit the required information within 5
 18 days, the commissioner may initiate a civil or criminal
 19 action pursuant to the procedures contained in 5-7-305.

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 23 ~~district court of the county in which the person resides or~~
 24 ~~has headquarters in the state. If the person resides or has~~
 25 ~~headquarters outside the state, judicial review may be~~

1 sought in the district court for the first judicial district
 2 in Lewis and Clark County. All petitions for judicial review
 3 under this section must be expeditiously reviewed by the
 4 district court.

5 Section 5. Section 5-7-208, MCA, is amended to read:

6 "5-7-208. Principals to file accountings reports. (1) A
 7 principal subject to this chapter shall file with the
 8 commissioner an accounting a report of payments made for the
 9 purpose of lobbying:

10 (2) If such payments are made solely to influence
 11 legislative action, such accounting a report shall be made:

12 (a) before February 16th of any year the legislature is
 13 in session and shall include all payments made in that
 14 calendar year prior to February 1;

15 (b) before the 16th day of the calendar month following
 16 any calendar month in which the principal spent \$5,000 or
 17 more and shall include all payments made during the prior
 18 calendar month; and

19 (c) within 60 days following adjournment of such
 20 session and shall include all payments made during such
 21 session, except as has previously been reported;

22 (3) If such payments are made to influence any other
 23 official action by a public official or made to influence
 24 such other action and legislative action, such accounting a
 25 report shall be made:

1 (a) before February 16th of the calendar year following
2 such payments and shall include all payments made during the
3 prior calendar year; and

4 (b) before the 16th day of the calendar month following
5 any calendar month in which the principal spent \$5,000 or
6 more and shall include all payments made during the prior
7 calendar month;

8 (4) If no such payments are made during the reporting
9 periods provided in subsections (2)(a), (2)(c), and (3)(a)
10 above, the principal shall file a report stating such:

11 (5) Each accounting report filed under this section
12 shall:

13 (a) list all payments for lobbying in each of the
14 following categories:

- 15 (i) printing;
- 16 (ii) advertising, including production costs;
- 17 (iii) postage;
- 18 (iv) travel expenses;
- 19 (v) salaries and fees, including allowances, rewards,
20 and contingency fees;
- 21 (vi) entertainment, including all foods and
22 refreshments;
- 23 (vii) telephone and telegraph; and
- 24 (viii) other office expenses;
- 25 (b) itemize, identifying the payee and the beneficiary;

1 (i) each separate payment conferring \$25 or more
2 benefit to any public official when the payment was made for
3 the purpose of lobbying; and

4 (ii) each separate payment conferring \$100 or more
5 benefit to more than one public official, regardless of
6 individual benefit when the payment was made for the purpose
7 of lobbying, except that in regard to a dinner or other
8 function to which all senators or all representatives have
9 been invited, the beneficiary may be listed as all members
10 of that group without listing separately each person who
11 attended;

12 (c) list each contribution and membership fee which
13 amounts to \$250 or more when aggregated over the period of a
14 calendar year paid to the principal for the purpose of
15 lobbying, with the full address of each payer and the issue
16 area, if any, for which such payment was earmarked;

17 (d) list each official action which the principal or
18 his agents exerted a major effort to support, oppose or
19 modify, together with a statement of the principal's
20 position for or against such action; and

21 (e) be kept by the commissioner for a period of 10
22 years."

23 **Section 4.** Section 5-7-212, MCA, is amended to read:

24 "5-7-212. Audit of final accounting statements lobbying
25 reports. (1) The commissioner shall examine and may audit

1 the accountings reports filed under 5-7-208 and shall
 2 investigate any irregularities and report any apparent
 3 violations of this chapter to the attorneys having authority
 4 to prosecute. The lobbyist is required to provide and the
 5 principal is required to obtain and keep for a period of 7 3
 6 years from the date of filing all records supporting the
 7 accountings reports filed under 5-7-208.

8 (2) All such records shall be open to inspection on
 9 request of the commissioner or an attorney having authority
 10 to prosecute violations of this chapter. The commissioner
 11 and such attorneys are given the power to:

- 12 (a) subpoena and compel attendance;
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 16 correspondence, memoranda, bank account statements, or other
 17 records which are relevant or material for the purpose of
 18 conducting any investigation pursuant to the provisions of
 19 this chapter."

20 **Section 5.** Section 5-7-305, MCA, is amended to read:

21 "5-7-305. **Penalties and enforcement.** (1) Any person
 22 violating the provisions of this chapter shall be deemed
 23 guilty of a misdemeanor and upon conviction thereof shall be
 24 punished by imprisonment in the county jail not more than 6
 25 months or by a fine not exceeding \$200, or both.

1 (2) Any person who violates any of the provisions of
 2 this chapter shall be subject to civil penalties of not less
 3 than \$250 and not more than \$7,500 according to the
 4 discretion of the district court, as court of original
 5 jurisdiction. A lobbyist who violates any of the provisions
 6 of this chapter shall have his license suspended or revoked
 7 according to the discretion of the court. Any public
 8 official holding elective office adjudged in violation of
 9 the provisions of this act is additionally subject to recall
 10 under Montana Recall Act, 2-16-601, et seq., and such
 11 violation shall constitute an additional basis for recall to
 12 those mentioned in 2-16-603(3).

13 (3) The attorney general, commissioner, or the county
 14 attorney of the county in which the violation takes place
 15 may bring criminal or civil actions in the name of the state
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17 (4) If a prosecution is undertaken by the commissioner
 18 or any county attorney, all costs associated with the
 19 prosecution shall be paid by the state of Montana.

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 21 commissioner, the attorney general, and the appropriate
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3 days after the filing of the charges and shall take
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7 clerk of court shall file a certified copy of the judgment
8 with the commissioner."

9 NEW SECTION. Section 6. Codification instruction.
10 [~~Sections SECTION 3 and-4~~] are IS intended to be codified as
11 an integral part of Title 5, chapter 7, and the provisions
12 of Title 5, chapter 7, apply to [~~sections SECTION 3 and-4~~].

-End-

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 25 headquarters outside the state, judicial review may be

1 sought in the district court for the first judicial district
 2 in Lewis and Clark County. All petitions for judicial review
 3 under this section must be expeditiously reviewed by the
 4 district court.

5 Section 5. Section 5-7-208, MEA, is amended to read:

6 "5-7-208. Principals to file accountings reports. (1) A
 7 principal subject to this chapter shall file with the
 8 commissioner an accounting a report of payments made for the
 9 purpose of lobbying.

10 (2) If such payments are made solely to influence
 11 legislative action, such accounting a report shall be made:

12 (a) before February 16th of any year the legislature is
 13 in session and shall include all payments made in that
 14 calendar year prior to February 17

15 (b) before the 16th day of the calendar month following
 16 any calendar month in which the principal spent \$5,000 or
 17 more and shall include all payments made during the prior
 18 calendar month; and

19 (c) within 60 days following adjournment of such
 20 session and shall include all payments made during such
 21 session, except as has previously been reported.

22 (3) If such payments are made to influence any other
 23 official action by a public official or made to influence
 24 such other action and legislative action, such accounting a
 25 report shall be made.

1 (a) before February 16th of the calendar year following
 2 such payments and shall include all payments made during the
 3 prior calendar year; and
 4 (b) before the 16th day of the calendar month following
 5 any calendar month in which the principal spent \$5,000 or
 6 more and shall include all payments made during the prior
 7 calendar month.
 8 (4) If no such payments are made during the reporting
 9 periods provided in subsections (2)(a), (2)(c), and (3)(a)
 10 above, the principal shall file a report stating such:
 11 (5) Each accounting report filed under this section
 12 shall:
 13 (a) list all payments for lobbying in each of the
 14 following categories:
 15 (i) printing;
 16 (ii) advertising, including production costs;
 17 (iii) postage;
 18 (iv) travel expenses;
 19 (v) salaries and fees, including allowances, rewards,
 20 and contingency fees;
 21 (vi) entertainment, including all foods and
 22 refreshments;
 23 (vii) telephone and telegraph; and
 24 (viii) other office expenses;
 25 (b) itemize, identifying the payee and the beneficiary;

1 (i) each separate payment conferring \$25 or more
 2 benefit to any public official when the payment was made for
 3 the purpose of lobbying; and
 4 (ii) each separate payment conferring \$100 or more
 5 benefit to more than one public official, regardless of
 6 individual benefit when the payment was made for the purpose
 7 of lobbying, except that in regard to a dinner or other
 8 function to which all senators or all representatives have
 9 been invited, the beneficiary may be listed as all members
 10 of that group without listing separately each person who
 11 attended;
 12 (c) list each contribution and membership fee which
 13 amounts to \$250 or more when aggregated over the period of 1
 14 calendar year paid to the principal for the purpose of
 15 lobbying, with the full address of each payer and the issue
 16 area, if any, for which such payment was earmarked;
 17 (d) list each official action which the principal or
 18 his agents exerted a major effort to support, oppose, or
 19 modify, together with a statement of the principal's
 20 position for or against such action; and
 21 (e) be kept by the commissioner for a period of 10
 22 years."

SECTION 4. SECTION 5-7-208, MCA, IS AMENDED TO READ:

23 "5-7-208. Principals to file accountings report. (1) A
 24 principal subject to this chapter shall file with the
 25

1 commissioner an-accounting a report of payments made for the
2 purpose of lobbying.

3 (2) If such payments are made solely to influence
4 legislative action, such-accounting a report shall be made:

5 (a) before February 16th of any year the legislature is
6 in session and shall include all payments made in that
7 calendar year prior to February 1;

8 (b) before the 16th day of the calendar month following
9 any calendar month in which the principal spent \$5,000 or
10 more and shall include all payments made during the prior
11 calendar month; and

12 (c) within 60 days following adjournment of such
13 session and shall include all payments made during such
14 session, except as has previously been reported.

15 (3) If such payments are made to influence any other
16 official action by a public official or made to influence
17 such other action and legislative action, such-accounting a
18 report shall be made:

19 (a) before February 16th of the calendar year following
20 such payments and shall include all payments made during the
21 prior calendar year; and

22 (b) before the 16th day of the calendar month following
23 any calendar month in which the principal spent \$5,000 or
24 more and shall include all payments made during the prior
25 calendar month.

1 (4) If no such payments are made during the reporting
2 periods provided in subsections (2)(a), (2)(c), and (3)(a)
3 above, the principal shall file a report stating such.

4 (5) Each accounting report filed under this section
5 shall:

6 (a) list all payments for lobbying in each of the
7 following categories:

- 8 (i) printing;
- 9 (ii) advertising, including production costs;
- 10 (iii) postage;
- 11 (iv) travel expenses;
- 12 (v) salaries and fees, including allowances, rewards,
13 and contingency fees;
- 14 (vi) entertainment, including all foods and
15 refreshments;
- 16 (vii) telephone and telegraph; and
- 17 (viii) other office expenses;

18 (b) itemize, identifying the payee and the beneficiary:
19 (i) each separate payment conferring \$25 or more
20 benefit to any public official when the payment was made for
21 the purpose of lobbying; and

22 (ii) each separate payment conferring \$100 or more
23 benefit to more than one public official, regardless of
24 individual benefit when the payment was made for the purpose
25 of lobbying, except that in regard to a dinner or other

1 function to which all senators or all representatives have
 2 been invited, the beneficiary may be listed as all members
 3 of that group without listing separately each person who
 4 attended;

5 (c) list each contribution and membership fee which
 6 amounts to \$250 or more when aggregated over the period of 1
 7 calendar year paid to the principal for the purpose of
 8 lobbying, with the full address of each payer and the issue
 9 area, if any, for which such payment was earmarked;

10 (d) list each official action which the principal or
 11 his agents exerted a major effort to support, oppose, or
 12 modify, together with a statement of the principal's
 13 position for or against such action; and

14 (e) be kept by the commissioner for a period of 10
 15 years."

16 **Section 5.** Section 5-7-212, MCA, is amended to read:

17 "5-7-212. ~~Audit of final-accounting-statements~~ lobbying
 18 reports. (1) The commissioner ~~shall-examine--and~~ may audit
 19 the accountings reports filed under 5-7-208 and shall
 20 investigate any irregularities and report any apparent
 21 violations of this chapter to the attorneys having authority
 22 to prosecute. The lobbyist is required to provide and the
 23 principal is required to obtain and keep for a period of 7 3
 24 years from the date of filing all records supporting the
 25 accountings reports filed under 5-7-208.

1 (2) All such records shall be open to inspection on
 2 request of the commissioner or an attorney having authority
 3 to prosecute violations of this chapter. The commissioner
 4 and such attorneys are given the power to:

5 (a) subpoena and compel attendance;

6 (b) issue enforceable civil investigative demands;

7 (c) take evidence; and

8 (d) require the production of any books,
 9 correspondence, memoranda, bank account statements, or other
 10 records which are relevant or material for the purpose of
 11 conducting any investigation pursuant to the provisions of
 12 this chapter."

13 **Section 6.** Section 5-7-305, MCA, is amended to read:

14 "5-7-305. Penalties and enforcement. (1) Any person
 15 violating the provisions of this chapter shall be deemed
 16 guilty of a misdemeanor and upon conviction thereof shall be
 17 punished by imprisonment in the county jail not more than 6
 18 months or by a fine not exceeding \$200, or both.

19 (2) Any person who violates any of the provisions of
 20 this chapter shall be subject to civil penalties of not less
 21 than \$250 and not more than \$7,500 according to the
 22 discretion of the district court, as court of original
 23 jurisdiction. A lobbyist who violates any of the provisions
 24 of this chapter shall have his license suspended or revoked
 25 according to the discretion of the court. Any public

1 official holding elective office adjudged in violation of
 2 the provisions of this act is additionally subject to recall
 3 under Montana Recall Act, 2-16-601, et seq., and such
 4 violation shall constitute an additional basis for recall to
 5 those mentioned in 2-16-603(3).

6 (3) The attorney general, commissioner, or the county
 7 attorney of the county in which the violation takes place
 8 may bring criminal or civil actions in the name of the state
 9 for any appropriate criminal or civil remedy.

10 (4) If a prosecution is undertaken by the commissioner
 11 or any county attorney, all costs associated with the
 12 prosecution shall be paid by the state of Montana.

13 (5) (a) Any individual who has notified the
 14 commissioner, the attorney general, and the appropriate
 15 county attorney in writing that there is reason to believe
 16 that some portion of this chapter is being violated may
 17 himself bring in the name of the state an action
 18 (hereinafter referred to as a citizen's action) authorized
 19 under this chapter if:

20 (i) the attorney general and the appropriate county
 21 attorney have failed to commence an action hereunder within
 22 40 days after such notice; and

23 (ii) said attorneys then fail to commence an action
 24 within 10 days after a written notice delivered to them
 25 advising them that a citizen's action will be brought if

1 they do not bring an action.

2 (b) Each notification shall toll the statute of
 3 limitations applicable until the expiration of the waiting
 4 period.

5 (c) If the individual who brings the citizen's action
 6 prevails, he shall be entitled to be reimbursed by the state
 7 of Montana for costs and attorney's fees incurred; provided
 8 that in the case of a citizen's action which is dismissed
 9 and which the court also finds was brought without
 10 reasonable cause, the court may order the individual
 11 commencing the action to pay all costs of trial and
 12 reasonable attorney's fees incurred by the defendant.

13 (6) No civil action may be brought under this section
 14 more than 7 3 years after the occurrence of the facts which
 15 give rise to the action.

16 (7) All civil penalties imposed pursuant to this
 17 section shall be deposited in the state general fund.

18 (8) A hearing under this chapter shall be held by the
 19 court unless the defendant-licensee demands a jury trial.
 20 The trial shall be held as soon as possible but at least 20
 21 days after the filing of the charges and shall take
 22 precedence over all other matters pending before the court.

23 (9) If the court finds for the plaintiff, judgment
 24 shall be rendered revoking or suspending the license and the
 25 clerk of court shall file a certified copy of the judgment

1 with the commissioner."

2 NEW SECTION. **Section 7.** Codification instruction.

3 [~~Sections SECTION 3 and-4~~] are IS intended to be codified as
4 an integral part of Title 5, chapter 7, and the provisions
5 of Title 5, chapter 7, apply to [~~sections SECTION 3 and-4~~].

-End-