

HOUSE BILL NO. 472

INTRODUCED BY J. DEBRUYCKER, FAGG, MESSMORE,
SPRING, STICKNEY, RUSSELL, SWYSGOOD, BROOKE,
SQUIRES, ANDERSON, YELLOWTAIL, FRITZ, BECKER
BY REQUEST OF THE COMMISSIONER OF
POLITICAL PRACTICES

IN THE HOUSE

JANUARY 30, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

JANUARY 31, 1991 FIRST READING.

FEBRUARY 8, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 9, 1991 PRINTING REPORT.

FEBRUARY 11, 1991 ON MOTION, CONSIDERATION PASSED.

FEBRUARY 12, 1991 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 13, 1991 ENGROSSING REPORT.

FEBRUARY 14, 1991 THIRD READING, PASSED.
AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FIRST READING.

MARCH 7, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 11, 1991 SECOND READING, CONCURRED IN.

MARCH 12, 1991 ON MOTION, TAKEN FROM THIRD READING
AND PLACED ON SECOND READING NEXT
LEGISLATIVE DAY.

MARCH 13, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 55TH LEGISLATIVE DAY.

MARCH 14, 1991 ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO THE COMMITTEE
ON STATE ADMINISTRATION.

MARCH 22, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 23, 1991 SECOND READING, CONCURRED IN.

MARCH 25, 1991 THIRD READING, CONCURRED IN.
AYES, 38; NOES, 10.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1991 THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 472
 2 INTRODUCED BY J. Baugher Becker J. M. Moore
 3 BY REQUEST OF THE COMMISSIONER OF State Fussell
 4 Surgeon POLITICAL PRACTICES Brake
 5 Anderson Yellowtail Fitz

6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
 7 LOBBYING DISCLOSURE LAW DOES NOT REQUIRE AN INDIVIDUAL TO BE
 8 A CITIZEN; CLARIFYING THE DEFINITIONS RELATING TO LOBBYING;
 9 REVISING LOBBYING REPORTING DATES; AND AMENDING SECTIONS
 10 5-7-101, 5-7-102, 5-7-208, AND 5-7-212, MCA."

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

12 **Section 1.** Section 5-7-101, MCA, is amended to read:

13 **"5-7-101. Purposes of chapter -- applicability.** (1) The
 14 purposes of this chapter are to promote a high standard of
 15 ethics in the practice of lobbying, to prevent unfair and
 16 unethical lobbying practices, to provide for the licensing
 17 of lobbyists and the suspension or revocation of the
 18 licenses, to require elected officials to make public their
 19 business, financial, and occupational interests, and to
 20 require disclosure of the amounts of money spent for
 21 lobbying.

22 (2) Nothing in this chapter subjects any--citizen an
 23 individual lobbying on his own behalf to any reporting
 24 requirements nor deprives any-such-citizen an individual of
 25

1 the constitutional right to communicate with public
 2 officials."

3 **Section 2.** Section 5-7-102, MCA, is amended to read:

4 **"5-7-102. Definitions.** The following definitions apply
 5 in this chapter:

6 (1) "Individual" means a human being.

7 (2) "Person" means an individual, corporation,
 8 association, firm, partnership, state or local government or
 9 subdivision thereof of state or local government, or other
 10 organization or group of persons.

11 (3) "Public official" means any an individual, elected
 12 or appointed, acting in his official capacity for the state
 13 government, but The term does not include those acting in a
 14 judicial or quasi-judicial capacity or performing
 15 ministerial acts.

16 (4) "Lobbying" ~~includes means:~~
 17 (a) the practice of promoting or opposing the
 18 introduction or enactment of legislation before the
 19 legislature or the members thereof of the legislature by any
 20 a person other than a member of the legislature or a public
 21 official ~~acting-in-his-official-capacity;~~ and
 22 (b) ~~the practice of promoting or opposing official~~
 23 ~~action by any public official in the event the person~~
 24 ~~engaged in such practice expends \$1,000 per calendar year or~~
 25 ~~more exclusively of personal travel and living expenses.~~



1 (5) (a) "Lobbyist" means ~~any~~ a person who engages in
2 the practice of lobbying for hire.

3 (b) "Lobbyist" does not include:

4 (i) any an individual citizen acting solely on his own
5 behalf; or

6 (ii) any an individual working for the same principal as
7 a licensed lobbyist, ~~such if the~~ individual having no ~~does~~
8 not have personal contact involving lobbying with any a
9 public official on behalf of his principal.

10 (c) Nothing in this section deprives ~~any-citizen an~~
11 individual not lobbying for hire of the constitutional right
12 to communicate with public officials.

13 (6) "Lobbying for hire" includes activities of any the
14 officers, agents, attorneys, or employees of any a principal
15 who are paid, reimbursed, or retained by such the principal
16 and whose duties include lobbying. ~~When If~~ an individual is
17 reimbursed only for his personal living and travel expenses,
18 which together ~~do--not--exceed~~ are less than \$1,000 per
19 calendar year, that individual ~~shall is~~ not be considered to
20 be lobbying for hire.

21 (7) "Unprofessional conduct" means:

22 (a) ~~a-violation-of~~ violating any of the provisions of
23 this chapter;

24 (b) instigating action by any a public official for the
25 purpose of obtaining employment ~~in-opposition-thereto~~;

1 (c) attempting to influence the action of any a public
2 official on any a measure pending or to be proposed by:

3 (i) ~~promise-of~~ promising financial support; or

4 (ii) making public any unsubstantiated charges of
5 improper conduct on the part of ~~any-other a~~ lobbyist, any a
6 principal, or any a legislator; or

7 (d) attempting to knowingly deceive any a public
8 official with regard to the pertinent facts of an official
9 matter or ~~attempt~~ attempting to knowingly misrepresent
10 pertinent facts of an official matter to any a public
11 official.

12 (8) "Principal" means any a person who ~~makes-payments~~
13 ~~in-excess-of-\$17000-per-calendar-year-to--engage~~ employs a
14 lobbyist.

15 (9) "Docket" means the register ~~and--reports~~ of
16 lobbyists and principals maintained by the commissioner
17 pursuant to 5-7-201.

18 (10) "Payment" means distribution, transfer, loan,
19 advance, deposit, gift, or other rendering made or to be
20 made of money, property, or anything of value.

21 (11) "Payment to influence official action" means any of
22 the following types of payment:

23 (a) direct or indirect payment to a lobbyist by a
24 principal, such as salary, fee, compensation, or
25 reimbursement for expenses, excluding personal living

1 expenses; or

2 (b) payment in support of or assistance to a lobbyist
3 or a lobbying activities activity, including, but not
4 limited to, the direct payment of expenses incurred at the
5 request or suggestion of the lobbyist.

6 (12) "Business" means:

7 (a) any a holding or interest whose fair market value
8 is greater than \$1,000, in any a corporation, partnership,
9 sole proprietorship, firm, enterprise, franchise,
10 association, self-employed individual person, holding
11 company, joint stock company, receivership, trust, or other
12 entity or property held in anticipation of profit, but does
13 not include nonprofit organizations; and

14 (b) present or past employment from which benefits,
15 including retirement allowances, are received.

16 (13) "Commissioner" means the commissioner of political
17 practices.

18 (14) "Elected official" means a public official holding
19 a state office filled by a statewide vote of all the
20 electors of Montana or a state district office, including,
21 but not limited to legislators, public service
22 commissioners, and district court judges. The term
23 "official-elect" ~~shall also apply-only~~ applies to such the
24 offices."

25 **Section 3.** Section 5-7-208, MCA, is amended to read:

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

5 (2) If such payments are made solely to influence
6 legislative action, ~~such-accounting-shall~~ a report must be
7 made:

8 (a) before by February ~~16th~~ 15th of any year the
9 legislature is in session and ~~shall~~ must include all
10 payments made in that calendar year prior to February 1;

11 (b) before by the ~~16th~~ 15th day of the calendar month
12 following any a calendar month in which the principal spent
13 \$5,000 or more and ~~shall~~ must include all payments made
14 during the prior calendar month; and

15 (c) ~~within--60~~ no later than 30 days following
16 adjournment of such a legislative session and ~~shall~~ must
17 include all payments made during the session, except as
18 has previously been reported.

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

23 (a) before by February ~~16th~~ 15th of the calendar year
24 following such the payments and ~~shall~~ must include all
25 payments made during the prior calendar year; and

1 (b) before by the ~~16th~~ 15th day of the calendar month
 2 following any a calendar month in which the principal spent
 3 \$5,000 or more and ~~shall~~ must include all payments made
 4 during the prior calendar month.

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

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

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

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

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

- 24 (i) each separate payment conferring \$25 or more
 25 benefit to any public official when the payment was made for

1 the purpose of lobbying; and

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

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

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

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

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

22 ***5-7-212. Audit of final accounting statements.** (1) The
 23 commissioner shall examine and may audit the accountings
 24 reports filed under 5-7-208 and shall investigate any
 25 irregularities and report any apparent violations of this

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

6 (2) All ~~such~~ records under subsection (1) ~~shall~~ must be
7 open to inspection on request of the commissioner or an
8 attorney having authority to prosecute violations of this
9 chapter. The commissioner and ~~such~~ the attorneys are given
10 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."

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 472

INTRODUCED BY J. DEBRUYCKER, FAGG, MESSMORE,
SPRING, STICKNEY, RUSSELL, SWYSGOOD, BROOKE,
SQUIRES, ANDERSON, YELLOWTAIL, FRITZ, BECKER

BY REQUEST OF THE COMMISSIONER OF
POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
LOBBYING DISCLOSURE LAW DOES NOT REQUIRE AN INDIVIDUAL TO BE
A CITIZEN; CLARIFYING THE DEFINITIONS RELATING TO LOBBYING;
REVISING LOBBYING REPORTING DATES; AND AMENDING SECTIONS
5-7-101, 5-7-102, 5-7-103, 5-7-208, AND 5-7-212, MCA."

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

Section 1. Section 5-7-101, MCA, is amended to read:

"5-7-101. Purposes of chapter -- applicability. (1) The
purposes of this chapter are to promote a high standard of
ethics in the practice of lobbying, to prevent unfair and
unethical lobbying practices, to provide for the licensing
of lobbyists and the suspension or revocation of the
licenses, to require elected officials to make public their
business, financial, and occupational interests, and to
require disclosure of the amounts of money spent for
lobbying.

(2) Nothing in this chapter subjects ~~any--citizen~~ an

individual lobbying on his own behalf to any reporting
requirements nor deprives ~~any-such-citizen~~ an individual of
the constitutional right to communicate with public
officials."

Section 2. Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply
in this chapter:

(1) "Individual" means a human being.

(2) "Person" means an individual, corporation,
association, firm, partnership, state or local government or
subdivision thereof of state or local government, or other
organization or group of persons.

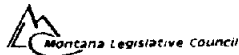
(3) "Public official" means ~~any~~ an individual, elected
or appointed, acting in his official capacity for the state
government, ~~but~~ The term does not include those acting in a
judicial or quasi-judicial capacity or performing
ministerial acts.

(4) "Lobbying" ~~includes~~ means:

~~(a)~~ the practice of promoting or opposing the
introduction or enactment of legislation before the
legislature or the members thereof of the legislature by any
a person other than a member of the legislature or a public
official ~~acting-in-his-official-capacity,-and~~

~~(b)--the--practice--of--promoting--er--opposing--official~~
~~action-by-any--public--official--in--the--event--the--person~~

SECOND READING



1 ~~engaged-in-such-practice-expends-\$1,000-per-calendar-year-or~~
2 ~~more-exclusive-of-personal-travel-and-living-expenses.~~

3 (5) (a) "Lobbyist" means any a person who engages in
4 the practice of lobbying for hire.

5 (b) "Lobbyist" does not include:

6 (i) any an individual citizen acting solely on his own
7 behalf; or

8 (ii) any an individual working for the same principal as
9 a licensed lobbyist, ~~such if the individual having no does~~
10 ~~not have~~ personal contact involving lobbying with any a
11 public official on behalf of his principal.

12 (c) Nothing in this section deprives ~~any-citizen an~~
13 ~~individual~~ not lobbying for hire of the constitutional right
14 to communicate with public officials.

15 (6) "Lobbying for hire" includes activities of any the
16 officers, agents, attorneys, or employees of any a principal
17 who are paid, reimbursed, or retained by such the principal
18 and whose duties include lobbying. When If an individual is
19 reimbursed only for his personal living and travel expenses,
20 which together ~~do--not--exceed~~ are less than \$1,000 per
21 calendar year, that individual ~~shall is~~ not be considered to
22 be lobbying for hire.

23 (7) "Unprofessional conduct" means:

24 (a) ~~a-violation-of~~ violating any of the provisions of
25 this chapter;

1 (b) instigating action by any a public official for the
2 purpose of obtaining employment ~~in-opposition-thereto;~~

3 (c) attempting to influence the action of any a public
4 official on any a measure pending or to be proposed by:

5 (i) ~~promise-of~~ promising financial support; or

6 (ii) making public any unsubstantiated charges of
7 improper conduct on the part of ~~any-other a~~ a lobbyist, any a
8 principal, or any a legislator; or

9 (d) attempting to knowingly deceive any a public
10 official with regard to the pertinent facts of an official
11 matter or ~~attempe~~ attempting to knowingly misrepresent
12 pertinent facts of an official matter to any a public
13 official.

14 (8) "Principal" means any a person who ~~makes-payments~~
15 ~~in-excess-of-\$1,000-per-calendar-year-to--engage~~ employs a
16 lobbyist.

17 (9) "Docket" means the register ~~and--reports~~ of
18 lobbyists and principals maintained by the commissioner
19 pursuant to 5-7-201.

20 (10) "Payment" means distribution, transfer, loan,
21 advance, deposit, gift, or other rendering made or to be
22 made of money, property, or anything of value.

23 (11) "Payment to influence official action" means any of
24 the following types of payment:

25 (a) direct or indirect payment to a lobbyist by a

1 principal, such as salary, fee, compensation, or
 2 reimbursement for expenses, excluding personal living
 3 expenses; or

4 (b) payment in support of or assistance to a lobbyist
 5 or a lobbying ~~activities~~ activity, including, but not
 6 limited to, the direct payment of expenses incurred at the
 7 request or suggestion of the lobbyist.

8 (12) "Business" means:

9 (a) ~~any~~ a holding or interest whose fair market value
 10 is greater than \$1,000, in ~~any~~ a corporation, partnership,
 11 sole proprietorship, firm, enterprise, franchise,
 12 association, self-employed ~~individual~~ person, holding
 13 company, joint stock company, receivership, trust, or other
 14 entity or property held in anticipation of profit, but does
 15 not include nonprofit organizations; and

16 (b) present or past employment from which benefits,
 17 including retirement allowances, are received.

18 (13) "Commissioner" means the commissioner of political
 19 practices.

20 (14) "Elected official" means a public official holding
 21 a state office filled by a statewide vote of all the
 22 electors of Montana or a state district office, including,
 23 but not limited to legislators, public service
 24 commissioners, and district court judges. The term
 25 "official-elect" ~~shall~~ also ~~apply-only~~ applies to ~~such~~ the

1 offices."

2 **SECTION 3. SECTION 5-7-103, MCA, IS AMENDED TO READ:**

3 "5-7-103. Licenses -- fees -- eligibility. (1) Any
 4 adult of good moral character ~~who-is-a-citizen-of-the-United~~
 5 ~~States-and~~ who is otherwise qualified under this chapter may
 6 be licensed as a lobbyist. The commissioner shall provide a
 7 license application form. The application form may be
 8 obtained in the office of the commissioner and filed
 9 therein. Upon approval of the application and receipt of the
 10 license fee of \$10 by the commissioner, a license shall be
 11 issued which entitles the licensee to practice lobbying on
 12 behalf of one or more enumerated principals. Each license
 13 shall expire on December 31 of each even-numbered year or
 14 may be terminated at the request of the lobbyist.

15 (2) No application may be disapproved without affording
 16 the applicant a hearing. The hearing shall be held and the
 17 decision entered within 10 days of the date of the filing of
 18 the application.

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

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

22 "5-7-208. Principals to file accountings reports. (1) A
 23 principal subject to this chapter shall file with the
 24 commissioner ~~an-accounting~~ a report of payments made for the
 25 purpose of lobbying.

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

4 (a) ~~before by~~ February ~~16th~~ 15th of any year the
5 legislature is in session and ~~shall~~ must include all
6 payments made in that calendar year prior to February 1;

7 (b) ~~before by~~ the ~~16th~~ 15th day of the calendar month
8 following ~~any a~~ calendar month in which the principal spent
9 \$5,000 or more and ~~shall~~ must include all payments made
10 during the prior calendar month; and

11 (c) ~~within--60~~ no later than 30 days following
12 adjournment of ~~such a legislative session~~ and ~~shall~~ must
13 include all payments made during ~~such the~~ session, except as
14 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~~
18 ~~shall a report must~~ be made:

19 (a) ~~before by~~ February ~~16th~~ 15th of the calendar year
20 following ~~such the~~ payments and ~~shall~~ must include all
21 payments made during the prior calendar year; and

22 (b) ~~before by~~ the ~~16th~~ 15th day of the calendar month
23 following ~~any a~~ calendar month in which the principal spent
24 \$5,000 or more and ~~shall~~ must include all payments made
25 during the prior 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 that~~
4 fact.

5 (5) Each accounting report filed under this section
6 ~~shall~~ must:

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

9 (i) printing;

10 (ii) advertising, including production costs;

11 (iii) postage;

12 (iv) travel expenses;

13 (v) salaries and fees, including allowances, rewards,
14 and contingency fees;

15 (vi) entertainment, including all foods and
16 refreshments;

17 (vii) telephone and telegraph; and

18 (viii) other office expenses;

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

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

23 (ii) each separate payment conferring \$100 or more
24 benefit to more than one public official, regardless of
25 individual benefit when the payment was made for the purpose

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

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

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

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

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

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

1 reports filed under 5-7-208.

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

- 7 (a) subpoena and compel attendance;
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- 10 (d) require the production of any books,
 11 correspondence, memoranda, bank account statements, or other
 12 records which are relevant or material for the purpose of
 13 conducting any investigation pursuant to the provisions of
 14 this chapter."

-End-

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INTRODUCED BY J. DEBRUYCKER, FAGG, MESSMORE,
 SPRING, STICKNEY, RUSSELL, SWYSGOOD, BROOKE,
 SQUIRES, ANDERSON, YELLOWTAIL, FRITZ, BECKER

BY REQUEST OF THE COMMISSIONER OF

POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
 LOBBYING DISCLOSURE LAW DOES NOT REQUIRE AN INDIVIDUAL TO BE
 A CITIZEN; CLARIFYING THE DEFINITIONS RELATING TO LOBBYING;
 REVISING LOBBYING REPORTING DATES; ADJUSTING MINIMUM
REPORTABLE CONTRIBUTION AMOUNTS BY THE INCREASE IN THE
PREVIOUS YEAR'S CONSUMER PRICE INDEX; AND AMENDING SECTIONS
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(2) Nothing in this chapter subjects ~~any--citizen~~ an
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(3) "Public official" means ~~any~~ an individual, elected
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 government, ~~but~~ The term does not include those acting in a
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 ministerial acts.

(4) "Lobbying" ~~includes~~ means:

~~(a)~~ (A) the practice of promoting or opposing the
 introduction or enactment of legislation before the
 legislature or the members thereof of the legislature by any
a person other than a member of the legislature or a public
 official ~~acting-in-his-official-capacity~~; and; AND

~~{b}--the--practice--of--promoting--or--opposing--official
action--by--any--public--official--in--the--event--the--person
engaged--in--such--practice--expends--\$1,000--per--calendar--year--or
more--exclusive--of--personal--travel--and--living--expenses~~

(B) THE PRACTICE OF PROMOTING OR OPPOSING OFFICIAL
ACTION BY ANY PUBLIC OFFICIAL.

(5) (a) "Lobbyist" means any a person who engages in the practice of lobbying for hire.

(b) "Lobbyist" does not include:

(i) any an individual citizen acting solely on his own behalf; or

(ii) any an individual working for the same principal as a licensed lobbyist, such if the individual having no does not have personal contact involving lobbying with any a public official on behalf of his principal.

(c) Nothing in this section deprives any--citizen an individual not lobbying for hire of the constitutional right to communicate with public officials.

(6) "Lobbying for hire" includes activities of any the officers, agents, attorneys, or employees of any a principal who are paid, reimbursed, or retained by such the principal and whose duties include lobbying. When If an individual is reimbursed only for his personal living and travel expenses, which together do--not--exceed are less than \$1,000 per calendar year, that individual ~~shall~~ is not be considered to

be lobbying for hire.

(7) "Unprofessional conduct" means:

(a) ~~a--violation--of~~ violating any of the provisions of this chapter;

(b) instigating action by any a public official for the purpose of obtaining employment ~~in--opposition--thereto~~;

(c) attempting to influence the action of any a public official on any a measure pending or to be proposed by:

(i) ~~promise--of~~ promising financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of any-ether a lobbyist, any a principal, or any a legislator; or

(d) attempting to knowingly deceive any a public official with regard to the pertinent facts of an official matter or ~~attempt~~ attempting to knowingly misrepresent pertinent facts of an official matter to any a public official.

(8) "Principal" means any a person who ~~makes--payments in--excess--of--\$1,000--per--calendar--year--to--engage~~ employs a lobbyist.

(9) "Docket" means the register ~~and--reports~~ of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(10) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be

1 made of money, property, or anything of value.

2 (11) "Payment to influence official action" means any of
3 the following types of payment:

4 (a) direct or indirect payment to a lobbyist by a
5 principal, such as salary, fee, compensation, or
6 reimbursement for expenses, excluding personal living
7 expenses; or

8 (b) payment in support of or assistance to a lobbyist
9 or a lobbying ~~activities~~ activity, including, but not
10 limited to, the direct payment of expenses incurred at the
11 request or suggestion of the lobbyist.

12 (12) "Business" means:

13 (a) any a holding or interest whose fair market value
14 is greater than \$1,000, in any a corporation, partnership,
15 sole proprietorship, firm, enterprise, franchise,
16 association, self-employed individual person, holding
17 company, joint stock company, receivership, trust, or other
18 entity or property held in anticipation of profit, but does
19 not include nonprofit organizations; and

20 (b) present or past employment from which benefits,
21 including retirement allowances, are received.

22 (13) "Commissioner" means the commissioner of political
23 practices.

24 (14) "Elected official" means a public official holding
25 a state office filled by a statewide vote of all the

1 electors of Montana or a state district office, including
2 but not limited to legislators, public service
3 commissioners, and district court judges. The term
4 "official-elect" ~~shall also apply-only~~ applies to such the
5 offices."

6 **SECTION 3. SECTION 5-7-103, MCA, IS AMENDED TO READ:**

7 **"5-7-103. Licenses -- fees -- eligibility.** (1) Any
8 adult of good moral character ~~who-is-a-citizen-of-the-United~~
9 ~~States-and~~ who is otherwise qualified under this chapter may
10 be licensed as a lobbyist. The commissioner shall provide a
11 license application form. The application form may be
12 obtained in the office of the commissioner and filed
13 therein. Upon approval of the application and receipt of the
14 license fee of \$10 by the commissioner, a license shall be
15 issued which entitles the licensee to practice lobbying on
16 behalf of one or more enumerated principals. Each license
17 shall expire on December 31 of each even-numbered year or
18 may be terminated at the request of the lobbyist.

19 (2) No application may be disapproved without affording
20 the applicant a hearing. The hearing shall be held and the
21 decision entered within 10 days of the date of the filing of
22 the application.

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

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

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

5 (2) If such payments are made solely to influence
 6 legislative action, such-accounting-shall a report must be
 7 made:

8 (a) before by February ~~16th~~ 15th of any year the
 9 legislature is in session and shall must include all
 10 payments made in that calendar year prior to February 1;

11 (b) before by the ~~16th~~ 15th day of the calendar month
 12 following any a calendar month in which the principal spent
 13 \$5,000 or more and shall must include all payments made
 14 during the prior calendar month; and

15 (c) ~~within---~~ no later than 30 days following
 16 adjournment of such a legislative session and shall must
 17 include all payments made during such the session, except as
 18 has previously been reported.

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

23 (a) before by February ~~16th~~ 15th of the calendar year
 24 following such the payments and shall must include all
 25 payments made during the prior calendar year; and

1 (b) before by the ~~16th~~ 15th day of the calendar month
 2 following any a calendar month in which the principal spent
 3 \$5,000 or more and shall must include all payments made
 4 during the prior calendar month.

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

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

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

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

23 (b) itemize, identifying the payee and the beneficiary:
 24 (i) each separate payment conferring \$25 or more
 25 benefit to any public official when the payment was made for

1 the purpose of lobbying; and

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

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

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

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

21 (6) BEGINNING ON JULY 1, 1992, AND ON JULY 1 OF EACH
22 SUCCEEDING YEAR, THE COMMISSIONER SHALL INCREASE THE DOLLAR
23 AMOUNTS CONTAINED IN SUBSECTIONS (5)(B)(I), (5)(B)(II), AND
24 (5)(C) BY AN AMOUNT EQUAL TO THE PERCENTAGE INCREASE IN THE
25 PREVIOUS CALENDAR YEAR'S CONSUMER PRICE INDEX FOR ALL URBAN

1 CONSUMERS, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR
2 STATISTICS, OR ANY OTHER INDEX THAT THE BUREAU OF BUSINESS
3 AND ECONOMIC RESEARCH OF THE UNIVERSITY OF MONTANA MAY IN
4 THE FUTURE RECOGNIZE AS THE SUCCESSOR TO THAT INDEX. THE
5 COMMISSIONER SHALL ADOPT THE NEW AMOUNTS BY RULE."

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

7 "5-7-212. **Audit of final accounting statements.** (1) The
8 commissioner shall examine and may audit the **accountings**
9 **reports** filed under 5-7-208 and shall investigate any
10 irregularities and report any apparent violations of this
11 chapter to the attorneys having authority to prosecute. The
12 lobbyist is required to provide and the principal is
13 required to obtain and keep for a period of 7 years from the
14 date of filing all records supporting the **accountings**
15 **reports** filed under 5-7-208.

16 (2) All such records under subsection (1) ~~shall~~ must be
17 open to inspection on request of the commissioner or an
18 attorney having authority to prosecute violations of this
19 chapter. The commissioner and ~~such~~ the attorneys are given
20 the power to:

- 21 (a) subpoena and compel attendance;
22 (b) issue enforceable civil investigative demands;
23 (c) take evidence; and
24 (d) require the production of any books,
25 correspondence, memoranda, bank account statements, or other

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1 records which are relevant or material for the purpose of
2 conducting any investigation pursuant to the provisions of
3 this chapter."

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 472 (third reading copy -- blue), respectfully report that House Bill No. 472 be amended and as so amended be concurred in:

1. Title, lines 11 through 13.

Strike: "ADJUSTING on line 11 through "INDEX;" on line 13

2. Page 2, line 20.

Strike: "i"

3. Page 2, line 21.

Strike: "(A)"

4. Page 2, line 25.

Strike: "; AND"

5. Page 3, lines 5 and 6.

Following: line 4

Strike: subdivision (B) in its entirety

6. Page 9, line 21 through line 5 on page 10.

Following: line 20

Strike: subsection (6) in its entirety

Signed: Eleanor Vaughn

Eleanor Vaughn, Chairman

Jan 3-7-91
Amd. Coord.

SB 3-7 2:55
Sec. of Senate

HB 472

SENATE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 21, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 472 (reference reading copy as amended -- salmon), respectfully report that House Bill No. 472 be amended and as so amended be concurred in:

1. Page 2, line 20.

Following: "I"

Insert: "I"

2. Page 2, line 21.

Following: "(A)"

Insert: "(a)"

3. Page 2, line 25.

Following: "AND"

Insert: "; and"

4. Page 3, line 6.

Following: "OFFICIAL"

Insert: "(b) the practice of promoting or opposing official action by any public official"

Signed: *Eleanor Vaughn*
Eleanor Vaughn, Chairman

LB 3/21/91
Amd. Coord.

SB 3-21-91 3:45
Sec. of Senate

SENATE
HB 472

HOUSE BILL NO. 472

INTRODUCED BY J. DEBRUYCKER, FAGG, MESSMORE,
 SPRING, STICKNEY, RUSSELL, SWYSGOOD, BROOKE,
 SQUIRES, ANDERSON, YELLOWTAIL, FRITZ, BECKER

BY REQUEST OF THE COMMISSIONER OF
 POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
 LOBBYING DISCLOSURE LAW DOES NOT REQUIRE AN INDIVIDUAL TO BE
 A CITIZEN; CLARIFYING THE DEFINITIONS RELATING TO LOBBYING;
 REVISING LOBBYING REPORTING DATES; ~~ADJUSTING--MINIMUM~~
~~REPORTABLE--CONTRIBUTION--AMOUNTS--BY--THE--INCREASE--IN--THE~~
~~PREVIOUS-YEAR'S-CONSUMER-PRICE-INDEX;~~ AND AMENDING SECTIONS
 5-7-101, 5-7-102, 5-7-103, 5-7-208, AND 5-7-212, MCA."

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

Section 1. Section 5-7-101, MCA, is amended to read:

"5-7-101. Purposes of chapter -- applicability. (1) The
 purposes of this chapter are to promote a high standard of
 ethics in the practice of lobbying, to prevent unfair and
 unethical lobbying practices, to provide for the licensing
 of lobbyists and the suspension or revocation of the
 licenses, to require elected officials to make public their
 business, financial, and occupational interests, and to
 require disclosure of the amounts of money spent for

lobbying.

(2) Nothing in this chapter subjects ~~any--citizen~~ an
individual lobbying on his own behalf to any reporting
 requirements nor deprives ~~any-such-citizen~~ an individual of
 the constitutional right to communicate with public
 officials."

Section 2. Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply
 in this chapter:

(1) "Individual" means a human being.

(2) "Person" means an individual, corporation,
 association, firm, partnership, state or local government or
 subdivision ~~thereof~~ of state or local government, or other
 organization or group of persons.

(3) "Public official" means ~~any~~ an individual, elected
 or appointed, acting in his official capacity for the state
 government, ~~but~~ The term does not include those acting in a
 judicial or quasi-judicial capacity or performing
 ministerial acts.

(4) "Lobbying" ~~includes~~ means:

~~(a) (A)~~ the practice of promoting or opposing the
 introduction or enactment of legislation before the
 legislature or the members ~~thereof~~ of the legislature by ~~any~~
a person other than a member of the legislature or a public
 official ~~acting-in-his-official-capacity;~~ and; ~~AND~~

~~(b) the practice of promoting or opposing official action by any public official in the event the person engaged in such practice expends \$1,000 per calendar year or more exclusive of personal travel and living expenses~~

~~(B) THE PRACTICE OF PROMOTING OR OPPOSING OFFICIAL ACTION BY ANY PUBLIC OFFICIAL.~~

(5) (a) "Lobbyist" means any a person who engages in the practice of lobbying for hire.

(b) "Lobbyist" does not include:

(i) any an individual citizen acting solely on his own behalf; or

(ii) any an individual working for the same principal as a licensed lobbyist, such if the individual having no does not have personal contact involving lobbying with any a public official on behalf of his principal.

(c) Nothing in this section deprives any citizen an individual not lobbying for hire of the constitutional right to communicate with public officials.

(6) "Lobbying for hire" includes activities of any the officers, agents, attorneys, or employees of any a principal who are paid, reimbursed, or retained by such the principal and whose duties include lobbying. When If an individual is reimbursed only for his personal living and travel expenses, which together do not exceed are less than \$1,000 per calendar year, that individual shall is not be considered to

be lobbying for hire.

(7) "Unprofessional conduct" means:

(a) a violation of violating any of the provisions of this chapter;

(b) instigating action by any a public official for the purpose of obtaining employment in opposition thereto;

(c) attempting to influence the action of any a public official on any a measure pending or to be proposed by:

(i) promise of promising financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of any other a lobbyist, any a principal, or any a legislator; or

(d) attempting to knowingly deceive any a public official with regard to the pertinent facts of an official matter or attempt attempting to knowingly misrepresent pertinent facts of an official matter to any a public official.

(8) "Principal" means any a person who makes payments in excess of \$1,000 per calendar year to engage employs a lobbyist.

(9) "Docket" means the register and reports of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(10) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be

1 made of money, property, or anything of value.

2 (11) "Payment to influence official action" means any of
3 the following types of payment:

4 (a) direct or indirect payment to a lobbyist by a
5 principal, such as salary, fee, compensation, or
6 reimbursement for expenses, excluding personal living
7 expenses; or

8 (b) payment in support of or assistance to a lobbyist
9 or a lobbying activities activity, including, but not
10 limited to, the direct payment of expenses incurred at the
11 request or suggestion of the lobbyist.

12 (12) "Business" means:

13 (a) any a holding or interest whose fair market value
14 is greater than \$1,000, in any a corporation, partnership,
15 sole proprietorship, firm, enterprise, franchise,
16 association, self-employed individual person, holding
17 company, joint stock company, receivership, trust, or other
18 entity or property held in anticipation of profit, but does
19 not include nonprofit organizations; and

20 (b) present or past employment from which benefits,
21 including retirement allowances, are received.

22 (13) "Commissioner" means the commissioner of political
23 practices.

24 (14) "Elected official" means a public official holding
25 a state office filled by a statewide vote of all the

1 electors of Montana or a state district office, including,
2 but not limited to legislators, public service
3 commissioners, and district court judges. The term
4 "official-elect" ~~shall~~ also ~~apply-only~~ applies to such the
5 offices."

6 **SECTION 3. SECTION 5-7-103, MCA, IS AMENDED TO READ:**

7 "5-7-103. Licenses -- fees -- eligibility. (1) Any
8 adult of good moral character ~~who-is-a-citizen-of-the-United~~
9 ~~States-and~~ who is otherwise qualified under this chapter may
10 be licensed as a lobbyist. The commissioner shall provide a
11 license application form. The application form may be
12 obtained in the office of the commissioner and filed
13 therein. Upon approval of the application and receipt of the
14 license fee of \$10 by the commissioner, a license shall be
15 issued which entitles the licensee to practice lobbying on
16 behalf of one or more enumerated principals. Each license
17 shall expire on December 31 of each even-numbered year or
18 may be terminated at the request of the lobbyist.

19 (2) No application may be disapproved without affording
20 the applicant a hearing. The hearing shall be held and the
21 decision entered within 10 days of the date of the filing of
22 the application.

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

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

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

5 (2) If ~~such~~ payments are made solely to influence
6 legislative action, ~~such accounting shall~~ a report must be
7 made:

8 (a) ~~before by~~ February ~~16th~~ 15th of any year the
9 legislature is in session and ~~shall~~ must include all
10 payments made in that calendar year prior to February 1;

11 (b) ~~before by~~ the ~~16th~~ 15th day of the calendar month
12 following ~~any a~~ calendar month in which the principal spent
13 \$5,000 or more and ~~shall~~ must include all payments made
14 during the prior calendar month; and

15 (c) ~~within---60~~ no later than 30 days following
16 adjournment of ~~such a legislative~~ session and ~~shall~~ must
17 include all payments made during ~~such the~~ session, except as
18 ~~has~~ previously been reported.

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

23 (a) ~~before by~~ February ~~16th~~ 15th of the calendar year
24 following ~~such the~~ payments and ~~shall~~ must include all
25 payments made during the prior calendar year; and

1 (b) ~~before by~~ the ~~16th~~ 15th day of the calendar month
2 following ~~any a~~ calendar month in which the principal spent
3 \$5,000 or more and ~~shall~~ must include all payments made
4 during the prior calendar month.

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

9 (5) Each accounting report filed under this section
10 ~~shall~~ must:

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

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

23 (b) itemize, identifying the payee and the beneficiary:
24 (i) each separate payment conferring \$25 or more
25 benefit to any public official when the payment was made for

1 the purpose of lobbying; and

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

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

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

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

21 ~~{6}--BEGINNING-ON-JULY-1-1992-AND-ON-JULY-1-OF-EACH~~
22 ~~SUCCESSIVE-YEAR-THE-COMMISSIONER-SHALL-INCREASE-THE-DOLLAR~~
23 ~~AMOUNTS-CONTAINED-IN-SUBSECTIONS-(5)(B)(I)-AND~~
24 ~~(5)(C)-BY-AN-AMOUNT-EQUAL-TO-THE-PERCENTAGE-INCREASE-IN-THE~~
25 ~~PREVIOUS-CALENDAR-YEAR'S-CONSUMER-PRICE-INDEX-FOR-ALL-URBAN~~

1 ~~CONSUMERS--U.S.--DEPARTMENT--OF--LABOR--BUREAU--OF--LABOR~~
2 ~~STATISTICS--OR-ANY-OTHER-INDEX-THAT-THE-BUREAU--OF--BUSINESS~~
3 ~~AND--ECONOMIC--RESEARCH--OF-THE-UNIVERSITY-OF-MONTANA-MAY-IN~~
4 ~~THE-FUTURE-RECOGNIZE-AS-THE-SUCCESSOR--TO--THAT--INDEX--THE~~
5 ~~COMMISSIONER-SHALL-ADOPT-THE-NEW-AMOUNTS-BY-RULE--"~~

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

7 "5-7-212. Audit of final accounting statements. (1) The
8 commissioner shall examine and may audit the accountings
9 reports filed under 5-7-208 and shall investigate any
10 irregularities and report any apparent violations of this
11 chapter to the attorneys having authority to prosecute. The
12 lobbyist is required to provide and the principal is
13 required to obtain and keep for a period of 7 years from the
14 date of filing all records supporting the accountings
15 reports filed under 5-7-208.

16 (2) All such records under subsection (1) shall must be
17 open to inspection on request of the commissioner or an
18 attorney having authority to prosecute violations of this
19 chapter. The commissioner and such the attorneys are given
20 the power to:

- 21 (a) subpoena and compel attendance;
- 22 (b) issue enforceable civil investigative demands;
- 23 (c) take evidence; and
- 24 (d) require the production of any books,
- 25 correspondence, memoranda, bank account statements, or other

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1 records which are relevant or material for the purpose of
2 conducting any investigation pursuant to the provisions of
3 this chapter."

-End-

1 HOUSE BILL NO. 472

2 INTRODUCED BY J. DEBRUYCKER, FAGG, MESSMORE,
3 SPRING, STICKNEY, RUSSELL, SWYSGOOD, BROOKE,
4 SQUIRES, ANDERSON, YELLOWTAIL, FRITZ, BECKER

5 BY REQUEST OF THE COMMISSIONER OF
6 POLITICAL PRACTICES

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
9 LOBBYING DISCLOSURE LAW DOES NOT REQUIRE AN INDIVIDUAL TO BE
10 A CITIZEN; CLARIFYING THE DEFINITIONS RELATING TO LOBBYING;
11 REVISING LOBBYING REPORTING DATES; ~~ADJUSTING---MINIMUM~~
12 ~~REPORTABLE---CONTRIBUTION---AMOUNTS---BY---THE---INCREASE---IN---THE~~
13 ~~PREVIOUS-YEAR'S-CONSUMER-PRICE-INDEX;~~ AND AMENDING SECTIONS
14 5-7-101, 5-7-102, 5-7-103, 5-7-208, AND 5-7-212, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 5-7-101, MCA, is amended to read:

18 "5-7-101. **Purposes of chapter -- applicability.** (1) The
19 purposes of this chapter are to promote a high standard of
20 ethics in the practice of lobbying, to prevent unfair and
21 unethical lobbying practices, to provide for the licensing
22 of lobbyists and the suspension or revocation of the
23 licenses, to require elected officials to make public their
24 business, financial, and occupational interests, and to
25 require disclosure of the amounts of money spent for

1 lobbying.

2 (2) Nothing in this chapter subjects ~~any--citizen~~ an
3 individual lobbying on his own behalf to any reporting
4 requirements nor deprives ~~any-such-citizen~~ an individual of
5 the constitutional right to communicate with public
6 officials."

7 **Section 2.** Section 5-7-102, MCA, is amended to read:

8 "5-7-102. **Definitions.** The following definitions apply
9 in this chapter:

10 (1) "Individual" means a human being.

11 (2) "Person" means an individual, corporation,
12 association, firm, partnership, state or local government or
13 subdivision thereof of state or local government, or other
14 organization or group of persons.

15 (3) "Public official" means any an individual, elected
16 or appointed, acting in his official capacity for the state
17 government, ~~but~~ The term does not include those acting in a
18 judicial or quasi-judicial capacity or performing
19 ministerial acts.

20 (4) "Lobbying" ~~includes~~ means:

21 ~~(A)~~ (A) the practice of promoting or opposing the
22 introduction or enactment of legislation before the
23 legislature or the members thereof of the legislature by any
24 a person other than a member of the legislature or a public
25 official ~~acting-in-his-official-capacity; and; AND; AND~~

1 ~~(b) the practice of promoting or opposing official~~
2 ~~action by any public official in the event the person~~
3 ~~engaged in such practice expends \$1,000 per calendar year or~~
4 ~~more exclusive of personal travel and living expenses~~

5 ~~(B) THE PRACTICE OF PROMOTING OR OPPOSING OFFICIAL~~
6 ~~ACTION BY ANY PUBLIC OFFICIAL~~

7 ~~(B) THE PRACTICE OF PROMOTING OR OPPOSING OFFICIAL~~
8 ~~ACTION BY ANY PUBLIC OFFICIAL.~~

9 (5) (a) "Lobbyist" means any a person who engages in
10 the practice of lobbying for hire.

11 (b) "Lobbyist" does not include:

12 (i) any an individual citizen acting solely on his own
13 behalf; or

14 (ii) any an individual working for the same principal as
15 a licensed lobbyist, such if the individual having no does
16 not have personal contact involving lobbying with any a
17 public official on behalf of his principal.

18 (c) Nothing in this section deprives any-citizen an
19 individual not lobbying for hire of the constitutional right
20 to communicate with public officials.

21 (6) "Lobbying for hire" includes activities of any the
22 officers, agents, attorneys, or employees of any a principal
23 who are paid, reimbursed, or retained by such the principal
24 and whose duties include lobbying. When If an individual is
25 reimbursed only for his personal living and travel expenses,

1 which together do not exceed are less than \$1,000 per
2 calendar year, that individual shall is not be considered to
3 be lobbying for hire.

4 (7) "Unprofessional conduct" means:

5 (a) a-violation-of violating any of the provisions of
6 this chapter;

7 (b) instigating action by any a public official for the
8 purpose of obtaining employment in-opposition-thereto;

9 (c) attempting to influence the action of any a public
10 official on any a measure pending or to be proposed by:

11 (i) promise-of promising financial support; or

12 (ii) making public any unsubstantiated charges of
13 improper conduct on the part of any-other a lobbyist, any a
14 principal, or any a legislator; or

15 (d) attempting to knowingly deceive any a public
16 official with regard to the pertinent facts of an official
17 matter or attempt attempting to knowingly misrepresent
18 pertinent facts of an official matter to any a public
19 official.

20 (8) "Principal" means any a person who makes-payments
21 in-excess-of-\$1,000-per-calendar-year-to--engage employs a
22 lobbyist.

23 (9) "Docket" means the register and--reports of
24 lobbyists and principals maintained by the commissioner
25 pursuant to 5-7-201.

1 (10) "Payment" means distribution, transfer, loan,
2 advance, deposit, gift, or other rendering made or to be
3 made of money, property, or anything of value.

4 (11) "Payment to influence official action" means any of
5 the following types of payment:

6 (a) direct or indirect payment to a lobbyist by a
7 principal, such as salary, fee, compensation, or
8 reimbursement for expenses, excluding personal living
9 expenses; or

10 (b) payment in support of or assistance to a lobbyist
11 or a lobbying ~~activities~~ activity, including, but not
12 limited to, the direct payment of expenses incurred at the
13 request or suggestion of the lobbyist.

14 (12) "Business" means:

15 (a) any a holding or interest whose fair market value
16 is greater than \$1,000, in any a corporation, partnership,
17 sole proprietorship, firm, enterprise, franchise,
18 association, self-employed ~~individual~~ person, holding
19 company, joint stock company, receivership, trust, or other
20 entity or property held in anticipation of profit, but does
21 not include nonprofit organizations; and

22 (b) present or past employment from which benefits,
23 including retirement allowances, are received.

24 (13) "Commissioner" means the commissioner of political
25 practices.

1 (14) "Elected official" means a public official holding
2 a state office filled by a statewide vote of all the
3 electors of Montana or a state district office, including,
4 but not limited to legislators, public service
5 commissioners, and district court judges. The term
6 "official-elect" ~~shall also apply-only~~ applies to ~~such~~ the
7 offices."

8 **SECTION 3. SECTION 5-7-103, MCA, IS AMENDED TO READ:**

9 **"5-7-103. Licenses -- fees -- eligibility. (1) Any**
10 **adult of good moral character ~~who-is-a-citizen-of-the-United~~**
11 **States-and** who is otherwise qualified under this chapter may
12 be licensed as a lobbyist. The commissioner shall provide a
13 license application form. The application form may be
14 obtained in the office of the commissioner and filed
15 therein. Upon approval of the application and receipt of the
16 license fee of \$10 by the commissioner, a license shall be
17 issued which entitles the licensee to practice lobbying on
18 behalf of one or more enumerated principals. Each license
19 shall expire on December 31 of each even-numbered year or
20 may be terminated at the request of the lobbyist.

21 (2) No application may be disapproved without affording
22 the applicant a hearing. The hearing shall be held and the
23 decision entered within 10 days of the date of the filing of
24 the application.

25 (3) The fines and license fees collected under this

1 chapter shall be deposited in the state treasury."

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

3 **"5-7-208. Principals to file accountings reports.** (1) A
4 principal subject to this chapter shall file with the
5 commissioner an accounting a report of payments made for the
6 purpose of lobbying.

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

10 (a) before by February ~~16th~~ 15th of any year the
11 legislature is in session and shall must include all
12 payments made in that calendar year prior to February 1;

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

17 (c) ~~within--60~~ no later than 30 days following
18 adjournment of such a legislative session and shall must
19 include all payments made during such the session, except as
20 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
24 shall a report must be made:

25 (a) before by February ~~16th~~ 15th of the calendar year

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

3 (b) before by the ~~16th~~ 15th day of the calendar month
4 following any a calendar month in which the principal spent
5 \$5,000 or more and shall must include all payments made
6 during the prior 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 that
10 fact.

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

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 the payment was earmarked;

17 (d) list each official action on 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 the action; and

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

23 ~~(6) BEGINNING ON JUNE 17 1992 AND ON JUNE 1 OF EACH~~
24 ~~SUCCESSING YEAR THE COMMISSIONER SHALL INCREASE THE BOBBAR~~
25 ~~AMOUNTS CONTAINED IN SUBSECTIONS (5)(B)(I) AND~~

1 ~~(5)(E) BY AN AMOUNT EQUAL TO THE PERCENTAGE INCREASE IN THE~~
2 ~~PREVIOUS CALENDAR YEAR'S CONSUMER PRICE INDEX FOR ALL URBAN~~
3 ~~CONSUMERS, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR~~
4 ~~STATISTICS, OR ANY OTHER INDEX THAT THE BUREAU OF BUSINESS~~
5 ~~AND ECONOMIC RESEARCH OF THE UNIVERSITY OF MONTANA MAY IN~~
6 ~~THE FUTURE RECOGNIZE AS THE SUCCESSOR TO THAT INDEX. THE~~
7 ~~COMMISSIONER SHALL ADOPT THE NEW AMOUNTS BY RULE.~~

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

9 "5-7-212. Audit of final accounting statements. (1) The
10 commissioner shall examine and may audit the accountings
11 reports filed under 5-7-208 and shall investigate any
12 irregularities and report any apparent violations of this
13 chapter to the attorneys having authority to prosecute. The
14 lobbyist is required to provide and the principal is
15 required to obtain and keep for a period of 7 years from the
16 date of filing all records supporting the accountings
17 reports filed under 5-7-208.

18 (2) All such records under subsection (1) shall must be
19 open to inspection on request of the commissioner or an
20 attorney having authority to prosecute violations of this
21 chapter. The commissioner and such the attorneys are given
22 the power to:

- 23 (a) subpoena and compel attendance;
- 24 (b) issue enforceable civil investigative demands;
- 25 (c) take evidence; and

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1 (d) require the production of any books,
2 correspondence, memoranda, bank account statements, or other
3 records which are relevant or material for the purpose of
4 conducting any investigation pursuant to the provisions of
5 this chapter."

-End-