

HOUSE BILL 624

Introduced by Kadas, et al.

2/05	Introduced
2/05	Referred to State Administration
2/06	First Reading
2/06	Fiscal Note Requested
2/12	Fiscal Note Received
2/14	Fiscal Note Printed
2/18	Hearing
2/20	Tabled in Committee

1 *HOUSE* BILL NO. *624*
 2 INTRODUCED BY *Kedoo Smith Yellowtail*
 3 *Doonoo B. Bantout* *Ray* *Ream*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
 5 COMMISSIONER OF POLITICAL PRACTICES; INCREASING LOBBYIST
 6 LICENSE FEES AND APPROPRIATING THE FEES TO THE COMMISSIONER;
 7 REQUIRING THE COMMISSIONER OF POLITICAL PRACTICES TO CONDUCT
 8 RANDOM AUDITS OF CERTAIN LOBBYIST AND PRINCIPAL ACCOUNTINGS
 9 AND OF CERTAIN CANDIDATES AND POLITICAL COMMITTEES;
 10 REQUIRING THE RESULTS OF THE AUDITS TO BE PUBLISHED IN AUDIT
 11 REPORTS; REQUIRING THAT THE REPORTS BE MADE AVAILABLE TO THE
 12 PUBLIC; REQUIRING THAT AN ORGANIZATIONAL STATEMENT BE FILED
 13 BY POLITICAL COMMITTEES; REQUIRING FILING FEES AND
 14 APPROPRIATING THE FEES TO THE COMMISSIONER; PROVIDING
 15 STATUTORY APPROPRIATIONS; AND AMENDING SECTIONS 5-7-103,
 16 5-7-212, 13-37-201, 13-37-209, AND 17-7-502, MCA."

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

19 **Section 1.** Section 5-7-103, MCA, is amended to read:
 20 "5-7-103. Licenses -- fees -- eligibility. (1) Any
 21 adult of good moral character who is a citizen of the United
 22 States and who is otherwise qualified under this chapter may
 23 be licensed as a lobbyist. The commissioner shall provide a
 24 license application form. The application form may be
 25 obtained in the office of the commissioner and filed

1 therein. Upon approval of the application and receipt of the
 2 license fee of ~~\$10~~ \$25 by the commissioner, a license shall
 3 be issued which entitles the licensee to practice lobbying
 4 on behalf of one ~~or more enumerated principals~~ principal.
 5 For each additional principal, the commissioner shall
 6 collect a license fee of \$20. Each license shall expire on
 7 December 31 of each even-numbered year or may be terminated
 8 at the request of the lobbyist.

9 (2) No application may be disapproved without affording
 10 the applicant a hearing. The hearing shall be held and the
 11 decision entered within 10 days of the date of the filing of
 12 the application.

13 (3) The fines ~~and license fees~~ collected under this
 14 chapter ~~shall~~ must be deposited in the state treasury. The
 15 license fees collected under this chapter must be deposited
 16 in an account in the state special revenue fund for use by
 17 the commissioner in administering the provisions of this
 18 chapter. The money in the account is statutorily
 19 appropriated to the commissioner as provided in 17-7-502."

20 **Section 2.** Section 5-7-212, MCA, is amended to read:
 21 "5-7-212. Audit of final accounting statements. (1) The
 22 commissioner shall conduct random audits every 2 years of 2%
 23 of the accountings filed under 5-7-208 for which a civil or
 24 criminal action is not barred by the applicable statute of
 25 limitations. The commissioner shall audit all supporting



1 records for an accounting if the audit discloses a violation
 2 of this chapter. The subjects of audits conducted under this
 3 subsection must be chosen by lot.

4 ~~(1)~~(2) The commissioner shall examine and may audit the
 5 accountings filed under 5-7-208 and shall investigate any
 6 irregularities and report any apparent violations of this
 7 chapter discovered pursuant to subsection (1) or this
 8 subsection to the attorneys having authority to prosecute.
 9 The lobbyist is required to provide and the principal is
 10 required to obtain and keep for a period of 7 years from the
 11 date of filing all records supporting the accountings filed
 12 under 5-7-208.

13 ~~(2)~~(3) All such records shall be open to inspection on
 14 request of the commissioner or an attorney having authority
 15 to prosecute violations of this chapter. The commissioner
 16 and such attorneys are given the power to:

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

25 **Section 3.** Section 13-37-201, MCA, is amended to read:

1 "13-37-201. Campaign treasurer -- political committee
 2 organizational statement -- filing fee. (1) Except as
 3 provided in 13-37-206, each candidate and each political
 4 committee shall appoint one campaign treasurer and certify
 5 the full name and complete address of the campaign treasurer
 6 pursuant to this section. A candidate shall file the
 7 certification within 5 days after becoming a candidate. A
 8 political committee shall file the certification, which
 9 shall include an organizational statement and set forth the
 10 name and address of all other officers, if any, within 5
 11 days after it makes an expenditure or authorizes another
 12 person to make an expenditure on its behalf, whichever
 13 occurs first.

14 (2) In addition to the certification and organizational
 15 statement required by subsection (1), a political committee
 16 shall also file a certification and organizational statement
 17 by January 31 of any even-numbered year in which it plans to
 18 make an expenditure or accept a contribution, or the
 19 political committee may authorize another person to do so on
 20 its behalf.

21 (3) The certification of a candidate or political
 22 committee shall be filed with the commissioner and the
 23 appropriate county clerk and recorder as specified for the
 24 filing of reports in 13-37-225.

25 (4) Upon filing the certification and organizational

1 statements required by either subsection (1) or (2), the
 2 committee shall pay to the commissioner a registration fee
 3 of \$100. The fee must be deposited in the account in the
 4 state special revenue fund created pursuant to 5-7-103 for
 5 use by the commissioner in administering the provisions of
 6 this chapter. The money in the account is statutorily
 7 appropriated to the commissioner as provided in 17-7-502."

8 **Section 4.** Section 13-37-209, MCA, is amended to read:

9 "13-37-209. Inspection of records -- random audits
 10 required. (1) Accounts kept by the campaign treasurer of a
 11 candidate or political committee may be inspected under
 12 reasonable circumstances before, during, or after the
 13 election to which the accounts refer by the campaign
 14 treasurer of any opposing candidate or political committee
 15 in the same electoral district. The right of inspection may
 16 be enforced by appropriate writ issued by any court of
 17 competent jurisdiction. The campaign treasurers of political
 18 committees supporting a candidate may be joined with the
 19 campaign treasurer of the candidate as respondents in such a
 20 proceeding.

21 (2) The commissioner shall conduct random audits every
 22 2 years of the statements, records, funds, accounts, and
 23 reports of 2% of all candidates and political committees
 24 designated by this subsection for which a criminal or civil
 25 action for a violation of this chapter is not barred by the

1 applicable statute of limitations. Committees and candidates
 2 to be audited must be chosen by lot but may not include
 3 candidates for office in political subdivisions or political
 4 committees supporting or opposing candidates for office in
 5 or issues concerning political subdivisions. The
 6 commissioner shall conduct the audits to determine whether:

7 (a) expenditures have been made only in furtherance of
 8 authorized activities and in accordance with applicable
 9 laws;

10 (b) the candidate or committee collected and accounted
 11 properly for all revenues and receipts arising from its
 12 activities; and

13 (c) any reports and statements required by law are
 14 prepared in accordance with applicable laws and standard
 15 principles of accounting and fully disclose the nature and
 16 scope of the activities conducted by the candidate or
 17 committee.

18 (3) The result of any audit conducted under this
 19 section must be published by the commissioner in written
 20 audit reports. The reports are public documents and must be
 21 made available by the commissioner upon request to any
 22 member of the public."

23 **Section 5.** Section 17-7-502, MCA, is amended to read:

24 "17-7-502. Statutory appropriations -- definition --
 25 requisites for validity. (1) A statutory appropriation is an

1 appropriation made by permanent law that authorizes spending
2 by a state agency without the need for a biennial
3 legislative appropriation or budget amendment.

4 (2) Except as provided in subsection (4), to be
5 effective, a statutory appropriation must comply with both
6 of the following provisions:

7 (a) The law containing the statutory authority must be
8 listed in subsection (3).

9 (b) The law or portion of the law making a statutory
10 appropriation must specifically state that a statutory
11 appropriation is made as provided in this section.

12 (3) The following laws are the only laws containing
13 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
14 5-7-103; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-201;
15 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112;
16 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
17 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504;
18 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506;
19 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604;
20 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610;
21 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501;
22 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121;
23 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123;
24 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215;
25 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No.

1 861, Laws of 1985.

2 (4) There is a statutory appropriation to pay the
3 principal, interest, premiums, and costs of issuing, paying,
4 and securing all bonds, notes, or other obligations, as due,
5 that have been authorized and issued pursuant to the laws of
6 Montana. Agencies that have entered into agreements
7 authorized by the laws of Montana to pay the state
8 treasurer, for deposit in accordance with 17-2-101 through
9 17-2-107, as determined by the state treasurer, an amount
10 sufficient to pay the principal and interest as due on the
11 bonds or notes have statutory appropriation authority for
12 such payments. (In subsection (3), pursuant to sec. 10, Ch.
13 664, L. 1987, the inclusion of 39-71-2504 terminates June
14 30, 1991.)"

15 NEW SECTION. **Section 6. Severability.** If a part of
16 [this act] is invalid, all valid parts that are severable
17 from the invalid part remain in effect. If a part of [this
18 act] is invalid in one or more of its applications, the part
19 remains in effect in all valid applications that are
20 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0624, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act relating to the commissioner of political practices; increasing lobbyist license fees and appropriating the fees to the commissioner; requiring the commissioner of political practices to conduct random audits of certain lobbyist and principal accountings and of certain candidates and political committees; requiring the results of the audits to be published in audit reports; requiring that the reports be made available to the public; requiring that an organizational statement be filed by political committees; requiring filing fees and appropriating the fees to the commissioner; providing statutory appropriations.

ASSUMPTIONS:

1. A total of 390 principals file lobbying reports, and a 2% audit provision would require 8 audits.
2. A total of 600 candidates and political committees file campaign finance reports, and a 2% audit provision would require 12 audits.
3. An additional 1.00 FTE (grade 12) will be required to conduct the 20 audits, to prepare findings, and to advise the commissioner.
4. The 20 field audits to be conducted during the 1993 biennium will include one out-of-state audit, and fourteen in-state audits to be conducted outside of Helena.
5. Remodeling of office space in the basement of the Commissioner's office will be necessary.
6. A one-time cost for office furnishings and equipment will occur in FY92.
7. A total of 372 lobbyists pay a fee of \$25 for one principal. 60% of the lobbyists will pay a \$20 fee for a second or additional principals.
8. A total of 280 political committees register every even-numbered year and pay \$100 registration fees. Total revenue from these fees is expected to be \$28,000 in FY92.
9. Current law is represented by the executive budget recommendation for the Commissioner of Political Practices.

FISCAL IMPACT:

see next page

 2-11-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

MIKE KADAS, PRIMARY SPONSOR DATE

Fiscal Note for HB0624, as introduced

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Fiscal Note Request, HB0624, as introduced

Form BD-15

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FISCAL IMPACT:

Expenditures:

	<u>FY92</u>			<u>FY93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	3.00	4.00	1.00	3.00	4.00	1.00
Personal Services	86,600	111,115	24,515	85,800	111,800	26,000
Operating Costs	25,450	29,800	4,350	27,500	33,130	5,630
Capital Outlay	<u>1,600</u>	<u>8,580</u>	<u>7,980</u>	<u>2,100</u>	<u>2,100</u>	<u>0</u>
Total	113,650	150,495	36,845	115,400	147,030	31,630
<u>Funding:</u>						
General Fund	113,650	122,495	8,845	115,400	133,250	17,850
Lobbyist/Pol. Comm. Fees (02)	<u>0</u>	<u>28,000</u>	<u>28,000</u>	<u>0</u>	<u>13,780</u>	<u>13,780</u>
Total	113,650	150,495	36,845	115,400	147,030	31,630
<u>Revenues:</u>						
Lobbyist Permits (01)	0	0	0	4,500	0	(4,500)
Lobbyist/Pol. Comm. Fees (02)	<u>0</u>	<u>28,000</u>	<u>28,000</u>	<u>0</u>	<u>13,780</u>	<u>13,780</u>
Total	0	28,000	28,000	4,500	13,780	9,280
General Fund Impact			(8,845)			(22,350)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

None.