

1 Senate BILL NO. 225  
 2 INTRODUCED BY Sen. Thomas Ryan  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATEMENTS OF  
 5 ANTICIPATED AND ACTUAL EXPENDITURES FROM EACH PERSON WHO  
 6 EMPLOYS A LOBBYIST OR MAKES OTHER PAYMENTS TO INFLUENCE  
 7 LEGISLATION OR CERTAIN ADMINISTRATIVE PROCEEDINGS; PROVIDING  
 8 FOR THE AUDIT AND ENFORCEMENT OF REPORTING REQUIREMENTS;  
 9 AMENDING SECTIONS 43-801, 43-802, 43-804, 43-805, 43-806,  
 10 AND 43-807, R.C.M. 1947."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. Section 43-801, R.C.M. 1947, is amended to  
 14 read as follows:

15 "43-801. Purpose of act. The purpose of this act is to  
 16 promote a high standard of ethics in the practice of  
 17 lobbying, to prevent unfair and unethical lobbying  
 18 practices, and to provide for the licensing of lobbyists and  
 19 the suspension ~~of~~ or revocation of such licenses, and  
 20 to require disclosure of the amounts of money expended for  
 21 lobbying and influencing certain administrative actions."

22 Section 2. Section 43-802, R.C.M. 1947, is amended to  
 23 read as follows:

24 "43-802. Definitions. The following words and phrases  
 25 shall have the meaning respectively ascribed to them:

1 (1) Lobbying. The practice of promoting or opposing  
 2 the introduction or enactment of legislation before the  
 3 legislature or the members thereof or influencing  
 4 administrative action before officials of the executive  
 5 branch of state government by any person other than a member  
 6 of the legislature or a public official acting in his  
 7 official capacity.

8 (2) Lobbyist. Any person who engages in the practice  
 9 of lobbying for hire except in the manner authorized by  
 10 section 43-807, or any person who makes an expenditure (not  
 11 including payment of membership dues) to solicit others,  
 12 either directly or by an advertising campaign, to  
 13 communicate directly with a legislator or public officer of  
 14 the executive branch for the purpose of influencing  
 15 legislative or administrative action, but excluding an  
 16 individual acting solely on his own behalf who does not  
 17 spend over fifty dollars (\$50) for personal postage and  
 18 telephone calls for such solicitation. Lobbying for hire  
 19 shall include activities of any officers, agents, attorneys  
 20 or employees of any principal who are paid a regular salary  
 21 or retained by such principal and whose duties include  
 22 lobbying. When a person is only reimbursed for his personal  
 23 living and travel expenses, which together do not exceed  
 24 four hundred dollars (\$400) for any single year, he shall  
 25 not be considered to be lobbying for hire. Nothing in this

1 section shall be construed to deprive any citizen not  
2 lobbying for hire of his constitutional right to communicate  
3 with members of the legislature.

4 (3) Unprofessional conduct. A violation of any of the  
5 provisions of this act, or soliciting employment from any  
6 principal, or instigating the introduction of legislation  
7 for the purpose of obtaining employment in opposition  
8 thereto, or attempting to influence the vote of legislators  
9 on any measure pending or to be proposed by the promise of  
10 support or opposition at any future election, or by any  
11 other means than argument on the merits thereof, or by  
12 making public any unsubstantiated charges of improper  
13 conduct on the part of any other lobbyist or of any  
14 legislator, or engaging in practices which reflect discredit  
15 on the practice of lobbying or the legislature.

16 (4) Person. An individual, corporation, association,  
17 firm, partnership, committee, club, or other organization or  
18 group of persons.

19 ~~(4)~~-(5) Principal. (a) Any person, corporation or  
20 association which engages a lobbyist or ~~other-person~~ expends  
21 money in connection with any legislation, pending before the  
22 legislature or to be proposed, affecting the pecuniary  
23 interest of such person, corporation or association.

24 (b) Any board, department, commission or other agency  
25 of the state, or any county or municipal corporation, which

1 engages a lobbyist or ~~other--person~~ expends money in  
2 connection with any legislation pending or to be proposed  
3 affecting the statutory powers, duties or appropriation of  
4 such agency, county or municipal corporation.

5 ~~(5)~~-(6) Docket. The register of licensed lobbyists  
6 maintained by the secretary of state pursuant to section  
7 43-805.

8 ~~(6)~~-(7) Pecuniary interest. This term includes  
9 without limitation any legislation which creates, alters or  
10 repeals any statutory charge by way of tax, license fee,  
11 registration fee or otherwise, or which creates, alters or  
12 repeals any statutory privilege, power, restriction or  
13 obligation of any principal, or which creates, alters or  
14 repeals the powers or duties of any court or governmental  
15 agency before which the principal does business.

16 (8) Administrative action. The proposal, drafting,  
17 consideration, amendment, adoption or rejection by a state  
18 agency as defined in section 82-4202 of a rule, regulation,  
19 or similar action of a quasi-legislative nature under  
20 section 82-4204, plus a decision made under section 70-810.

21 (9) Legislative action. The drafting, introduction,  
22 consideration, amendment, enactment or defeat of a bill,  
23 resolution, report, nomination, or other matter by either  
24 house of the legislature or a committee, select committee,  
25 interim committee, or member of the legislature, or of a

1 referendum, initiative, or constitutional amendment by the  
2 people.

3 (10) Payment. A distribution, transfer, loan,  
4 advance, deposit, gift or other rendering of money,  
5 property, services, or anything of value.

6 (11) Payment to influence legislative or administrative  
7 action. Any of the following types of payment:

8 (a) direct or indirect payment to a lobbyist, as  
9 salary, fee, compensation for expenses, or for any other  
10 purpose, by a principal;

11 (b) payment in support or assistance of a lobbyist or  
12 his activities, including but not limited to the direct  
13 payment of expenses incurred at the request or suggestion of  
14 the lobbyist;

15 (c) payment for soliciting or urging other persons to  
16 enter into direct communication with any elective state  
17 officer or state agency."

18 Section 3. Section 43-804, R.C.M. 1947, is amended to  
19 read as follows:

20 "43-804. Principal of lobbyists--~~entering name of~~  
21 ~~lobbyists-on-docket~~ registration and expenditure reporting.

22 (1) Except as provided in section 43-807 every principal who  
23 employs any lobbyist shall within one (1) week after such  
24 employment cause the name of said lobbyist to be entered  
25 upon the docket. It shall also be the duty of the lobbyist

1 to enter his name upon the docket. Upon the termination of  
2 such employment such fact may be entered opposite the name  
3 of the lobbyist either by the lobbyist or the principal.

4 (2) A principal who employs a lobbyist or who makes  
5 any other payment to influence administrative or legislative  
6 action shall file with the secretary of state an estimate of  
7 anticipated expenditures for those purposes, as follows:  
8 The principal shall file this report by December 31 for  
9 expenditures anticipated or budgeted for the next following  
10 calendar year itemized according to the ten (10) categories  
11 set forth in section [7 of this act]. A principal who does  
12 not employ a lobbyist or make a payment to influence  
13 administrative or legislative action until after December 31  
14 shall file the report required by this subsection within two  
15 (2) weeks of the time he employs the lobbyist or makes such  
16 payment."

17 Section 4. Section 43-805, R.C.M. 1947, is amended to  
18 read as follows:

19 "43-805. Docket -- contents -- report to legislature  
20 -- subjects of legislation -- written authorization. (1) The  
21 secretary of state shall prepare and keep a docket in which  
22 shall be entered the name and business address of each  
23 lobbyist and the name and business address of his principal,  
24 and the subject or subjects of legislation to which the  
25 employment relates or a statement that the employment

1 relates to all matters in which the principal has an  
 2 interest. The docket entry for each principal shall also  
 3 indicate the principal's report of total anticipated  
 4 payments to influence administrative or legislative action.  
 5 Such docket shall be a public record and open to the  
 6 inspection of any citizen upon demand at any time during the  
 7 regular business hours of the office of the secretary of  
 8 state. Beginning with the first ~~week~~ Tuesday following the  
 9 beginning of any regular or special session of the  
 10 legislature and on ~~every the first~~ Tuesday thereafter--for  
 11 ~~the--duration--of--such--session~~ of every month thereafter  
 12 during which the legislature is in session, the secretary of  
 13 state shall from his records report to each member of each  
 14 house of the legislature the names of lobbyists registered  
 15 under this act, not previously reported, the names of the  
 16 persons whom they represent as such lobbyist, and subject of  
 17 legislation in which they are interested.

18 (2) Any principal employing any lobbyist shall when  
 19 further subjects of legislation are introduced or arise  
 20 which such lobbyist is to promote or oppose, make or cause  
 21 to be made additional entries in the docket stating such  
 22 employment so that the docket will show at all times all  
 23 subjects of legislation in relation to which the lobbyist is  
 24 employed or the general statement provided above.

25 (3) Within ten (10) days after his registration in the

1 docket, a lobbyist shall file with the secretary of state a  
 2 written authorization to act as such signed by his  
 3 principal."

4 Section 5. Section 43-806, R.C.M. 1947, is amended to  
 5 read as follows:

6 "43-806. Practice without license and registration  
 7 prohibited--copies of statements, briefs, etc.--restrictions  
 8 applicable when. (1) No person shall practice as a lobbyist  
 9 unless he has been duly licensed under the provisions of  
 10 section 43-803 and unless his name appears upon the docket  
 11 as employed in respect to such matters as he shall be  
 12 promoting or opposing. ~~No--principal--shall--directly--or~~  
 13 ~~indirectly--authorize--or--permit--any--lobbyist--employed--by--him~~  
 14 ~~to--practice--lobbying--in--respect--to--any--legislation--affecting~~  
 15 ~~the--pecuniary--interest--of--such--principal--until--such--lobbyist~~  
 16 ~~is--duly--licensed--and--the--name--of--such--lobbyist--is--duly~~  
 17 ~~entered--on--the--docket.~~ No person shall be employed as a  
 18 lobbyist for a compensation dependent in any manner upon the  
 19 passage or defeat of any proposed or pending legislation or  
 20 upon any other contingency connected with the action of the  
 21 legislature or of either branch thereof or of any committee  
 22 thereof.

23 (2) Before or within five (5) days after delivering any  
 24 written or printed statement, argument or brief to the  
 25 entire membership of either or both houses of the

1 legislature, three (3) copies shall be deposited with the  
2 secretary of state.

3 ~~(3)--The--restrictions--upon--the--practice--of--lobbying~~  
4 ~~provided--by--this--act--shall--be--effective--only--during--the~~  
5 ~~regular--and--special--sessions--of--the--legislature."~~

6 Section 6. Section 43-807, R.C.M. 1947, is amended to  
7 read as follows:

8 "43-807. Persons not required to be licensed or  
9 registered. Any person who limits his lobbying solely to  
10 appearances before legislative committees of either house  
11 without receiving a fee or compensation for his efforts, and  
12 registers his appearance on the records of such committee in  
13 writing, shall not be required to be licensed as a lobbyist,  
14 pay a license fee, or register with the secretary of state."

15 Section 7. There is a new R.C.M. section that reads as  
16 follows:

17 Principals to file accounting. A principal subject to  
18 this chapter shall file an accounting of actual payments to  
19 influence administrative or legislative action during the  
20 month of January, on or before February 15 of that year and  
21 during the entire calendar year, on or before February 15 of  
22 the following year. In a year when the legislature is in  
23 session, a principal shall file an accounting of actual  
24 payments to influence legislative action within sixty (60)  
25 days following the adjournment of the legislature, and if no

1 further such payments are made after that date, the  
2 principal need not file an accounting for that calendar  
3 year. Each accounting filed under this section shall:

4 (1) reiterate the estimate for the period previously  
5 filed under section 43-804(2); and

6 (2) list all expenditures in one of the following ten  
7 (10) categories:

8 (a) original and derivative research done to support  
9 an argument or presentation;

10 (b) the cost for publication and distribution of each  
11 publication used in lobbying;

12 (c) other printing;

13 (d) news media;

14 (e) advertising, including production costs;

15 (f) postage;

16 (g) travel;

17 (h) salaries and fees, including allowances, rewards,  
18 and contingency fees;

19 (i) entertainment; and

20 (j) telephone and telegraph.

21 (3) itemize each payment exceeding one hundred dollars  
22 (\$100), identifying the payee and the beneficiary, if the  
23 beneficiary of the expenditure was one or more legislators  
24 or public officers, except that a dinner or other function  
25 to which all legislators, all senators, all representatives,

1 or all members of an indentifiable group, have been invited  
2 may be listed as all members of that group without listing  
3 separately each person who attended; and

4 (4) list each contribution and membership fee of five  
5 hundred dollars (\$500) or more paid to the principal,  
6 regardless of whether it was paid solely for the purpose of  
7 lobbying, with the full name and complete address of each  
8 payer and the issue area, if any, for which such payment was  
9 earmarked; and

10 (5) list each political contribution, including a  
11 service or anything of value, paid to any candidate for  
12 elective public office or to any committee established to  
13 support or oppose a candidate for elective public office, or  
14 to any committee to support or oppose any initiative,  
15 referendum or other ballot issue whether such contribution  
16 is made by the principal, any officer or employee of the  
17 principal, or any lobbyist who received compensation or  
18 reimbursement for expenses from the principal; and

19 (6) list each bill and administrative proceeding which  
20 the principal or his agents exerted a major effort to  
21 support, oppose, or modify, together with a statement of the  
22 principal's position for or against such action.

23 Section 8. There is a new R.C.M. section that reads as  
24 follows:

25 Principals required to register; penalty for failure to

1 register or for false statement. A person may not employ a  
2 lobbyist or make payments to influence administrative or  
3 legislative action unless he files the reports required  
4 under this chapter. A principal who fails to file a  
5 required report is subject to the penalty provided in  
6 section 43-808. A principal who knowingly files a false,  
7 erroneous, or incomplete statement commits the offense of  
8 perjury.

9 Section 9. There is a new R.C.M. section that reads as  
10 follows:

11 Audit of final accounting statements. The legislative  
12 auditor shall audit the accountings filed under section [7  
13 of this act], and shall investigate any irregularities and  
14 report any apparent violations of this chapter to the  
15 attorney having authority to prosecute.

16 Section 10. There is a new R.C.M. section that reads  
17 as follows:

18 Citizen suit for civil enforcement. A citizen of the  
19 state of Montana may maintain an action in the district  
20 court for the first judicial district to compel a person  
21 acting as a principal to comply with the filing requirements  
22 of this chapter. The defendant in this action is the  
23 alleged principal. Upon finding that the defendant is  
24 acting as a principal with respect to legislative or  
25 administrative action, the court shall order the defendant

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1 to either comply with the filing requirements for principals  
2 or to refrain from making any further payment to influence  
3 legislative or administrative action. Any such citizen, who  
4 is successful shall be awarded reasonable attorneys' fees.  
5 A principal shall not be entitled to receive attorneys' fees  
6 under any circumstances.

-End-