

1 H BILL NO. 435
 2 INTRODUCED BY *Vincent Bader, Duane Palmer, Holmes, Bob Tracy, Cooney, [unclear], [unclear], [unclear], [unclear], [unclear], [unclear], [unclear]*
 3 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATEMENTS OF
 4 ACTUAL EXPENDITURES FROM EACH PERSON WHO EMPLOYS A LOBBYIST
 5 OR MAKES OTHER PAYMENTS TO INFLUENCE LEGISLATION; PROVIDING
 6 FOR THE AUDIT AND ENFORCEMENT OF REPORTING REQUIREMENTS;
 7 AMENDING SECTIONS 43-801, 43-802, 43-804, 43-805, AND
 8 43-806, R.C.M. 1947." *Sheldon Kecker, [unclear], [unclear]*

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

14 "43-801. Purpose of act. The purpose of this act is to
 15 promote a high standard of ethics in the practice of
 16 lobbying, to prevent unfair and unethical lobbying
 17 practices, and to provide for the licensing of lobbyists and
 18 the suspension ~~of~~ [for] revocation of such licenses, and to
 19 require disclosure of the amounts of money expended for
 20 lobbying."

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

23 "43-802. Definitions. The following words and phrases
 24 shall have the meaning respectively ascribed to them:

25 (1) Lobbying. The practice of ~~presenting or opposing~~

1 ~~the introduction or enactment of legislation before the~~
 2 ~~legislature or the members thereof~~ communicating directly or
 3 soliciting others to communicate with any official in the
 4 legislative branch of state government with the purpose of
 5 influencing any legislative action, by any person other than
 6 a member of the legislature or a public official acting in
 7 his 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 for the purpose of
 14 influencing legislative action, but excluding an individual
 15 acting solely on his own behalf who does not spend over \$50
 16 for personal postage and telephone calls for such
 17 solicitation. Lobbying for hire shall include activities of
 18 any officers, agents, attorneys, or employees of any
 19 principal who are paid a regular salary or retained by such
 20 principal and whose duties include lobbying. When a person
 21 is only reimbursed for his personal living and travel
 22 expenses, which together do not exceed \$1,000 for any single
 23 year, he shall not be considered to be lobbying for hire.
 24 Nothing in this section shall be construed to deprive any
 25 citizen not lobbying for hire of his constitutional right to

1 communicate with members of the legislature.

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

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

17 ~~(4)(5) Principal. (a) Any person, corporation or~~
18 ~~association which who~~ engages a lobbyist or ~~other person~~
19 expends \$250 or more in a quarter-year to influence in
20 connection with any legislation, pending before the
21 legislature or to be proposed, affecting the interest of
22 such person, ~~corporation or association.~~

23 (b) Any board, department, commission, or other agency
24 of the state, or any county or municipal corporation, which
25 engages a lobbyist or ~~other person in connection with~~

1 expends \$250 or more in a quarter-year to influence any
2 legislation pending or to be proposed affecting the
3 statutory powers, duties, or appropriation of such agency,
4 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 without
9 limitation any legislation which creates, alters, or repeals
10 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 any person from whom the
14 principal receives money for the purpose of procuring
15 lobbying services or which creates, alters, or repeals the
16 powers or duties of any court or governmental agency before
17 which the principal does business.

18 (8) Legislative action. The drafting, introduction,
19 consideration, amendment, enactment, or defeat of a bill,
20 resolution, report, nomination, or other matter by either
21 house of the legislature or a committee, select committee,
22 interim committee, or member of the legislature or of a
23 referendum, initiative, or constitutional amendment by the
24 people.

25 (9) Payment. A distribution, transfer, loan, advance,

1 deposit, gift, or other rendering of money, property,
2 services, or anything of value.

3 (10) Payment to influence legislative action. Any of
4 the following types of payment:

5 (a) direct or indirect payment to a lobbyist, as
6 salary, fee, compensation for expenses, or for any other
7 purpose, by a principal;

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

12 (c) payment for soliciting or urging other persons to
13 enter into direct communication with any elective state
14 officer or state agency."

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

17 "43-804. Principal of lobbyists — ~~entering name of~~
18 ~~lobbyists on docket registration and expenditure reporting.~~
19 Except as provided in ~~section~~ 43-807, every principal who
20 employs any lobbyist shall within ~~one~~ (1) week after such
21 employment cause the name of said lobbyist to be entered
22 upon the docket. It shall also be the duty of ~~the~~ any
23 lobbyist who receives compensation of \$250 or more in a
24 quarter-year, from all sources, to enter his name upon the
25 docket. Upon the termination of such employment such fact

1 may be entered opposite the name of the lobbyist either by
2 the lobbyist or the principal."

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

5 "43-805. Docket — contents — report to legislature
6 — subjects of legislation — written authorization. (1) The
7 secretary of state shall prepare and keep a docket in which
8 shall be entered the name and business address of each
9 lobbyist and the name and business address of his principal,
10 and the subject or subjects of legislation to which the
11 employment relates or a statement that the employment
12 relates to all matters in which the principal has an
13 interest. Such docket shall be a public record and open to
14 the inspection of any citizen upon demand at any time during
15 the regular business hours of the office of the secretary of
16 state. Beginning with the first ~~week~~ Tuesday following the
17 beginning of any regular or special session of the
18 legislature and on ~~every the first~~ every the first ~~thereafter~~ thereafter ~~for~~
19 ~~the duration of such of every month thereafter during which~~
20 the legislature is in session, the secretary of state shall
21 from his records report to each house of the legislature the
22 names of lobbyists registered under this act, not previously
23 reported, the names of the persons whom they represent as
24 such lobbyist, and subject of legislation in which they are
25 interested.

1 (2) Any principal employing any lobbyist shall, when
 2 further subjects of legislation are introduced or arise
 3 which such lobbyist is to promote or oppose, make or cause
 4 to be made additional entries in the docket stating such
 5 employment so that the docket will show at all times all
 6 subjects of legislation in relation to which the lobbyist is
 7 employed or the general statement provided above.

8 (3) Within ~~ten~~ (10) days after his registration in the
 9 docket, a lobbyist shall file with the secretary of state a
 10 written authorization to act as such signed by his
 11 principal."

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

14 "43-806. Practice without license and registration
 15 prohibited -- copies of statements, briefs, etc. --
 16 restrictions applicable when. ~~(4)~~ No person shall practice
 17 as a lobbyist unless he has been duly licensed under the
 18 provisions of ~~section~~ 43-803 and unless his name appears
 19 upon the docket as employed in respect to such matters as he
 20 shall be promoting or opposing. ~~No principal shall directly~~
 21 ~~or indirectly authorize or permit any lobbyist employed by~~
 22 ~~him to practice lobbying in respect to any legislation~~
 23 ~~affecting the pecuniary interest of such principal until~~
 24 ~~such lobbyist is duly licensed and the name of such lobbyist~~
 25 ~~is duly entered on the docket. No person shall be employed~~

1 ~~as a lobbyist for a compensation dependent in any manner~~
 2 ~~upon the passage or defeat of any proposed or pending~~
 3 ~~legislation or upon any other contingency connected with the~~
 4 ~~action of the legislature or of either branch thereof or of~~
 5 ~~any committee thereof.~~

6 ~~(2) Before or within five (5) days after delivering~~
 7 ~~any written or printed statement, argument, or brief to the~~
 8 ~~entire membership of either or both houses of the~~
 9 ~~legislature, three (3) copies shall be deposited with the~~
 10 ~~secretary of state.~~

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

14 Section 6. There is a new R.C.M. section that reads as
 15 follows:

16 Activity reports. (1) Each principal shall register
 17 with the secretary of state between the 1st and 10th day of
 18 April, July, October, and January a report signed under
 19 penalty of perjury concerning his lobbying activities during
 20 the previous calendar quarter. If there has been no
 21 activity, no report is required. If the registrant is not
 22 an individual, an authorized officer or agent of the
 23 registrant shall sign the form. In addition, each registrant
 24 who attempts to influence legislative action shall file with
 25 the secretary of state between the 1st and 10th day of each

1 month subsequent to each month that the legislature is in
 2 session a report concerning such lobbying activities during
 3 the previous month. Such report shall be on a form
 4 prescribed by the secretary of state and shall include:

5 (a) a complete and current statement of the
 6 information required to be supplied under 43-804;

7 (b) total expenditures on lobbying; if over \$250 a
 8 quarter, this shall be broken down into the following
 9 categories, according to the registrant's best estimate:

10 (i) compensation to others;

11 (ii) reimbursement to others;

12 (iii) office overhead, advertising and publication, and
 13 other expenses; and

14 (c) each expenditure, gift, honorarium, or political
 15 contribution of \$25 or more made by the registrant or anyone
 16 acting on behalf of the registrant to benefit an official in
 17 the legislature, a member of his staff or immediate family,
 18 or a campaign or testimonial committee established for the
 19 benefit of the official which shall be itemized by date,
 20 beneficiary, amount, and circumstances of the transaction;
 21 also, the aggregate of all such expenditures that are less
 22 than \$25.

23 (2) Each registrant shall obtain and preserve all
 24 accounts, bills, receipts, books, papers, and documents
 25 necessary to substantiate the activity reports required to

1 be made pursuant to this section for 6 years from the date
 2 of filing of the report containing such items. These
 3 materials shall be made available for inspection upon
 4 request by the legislative auditor after reasonable notice.

-End-

Committee on State Administration

Objection Raised to Adverse Committee Report

1 INTRODUCTION BY ^H ~~Vincent Badonery, Duane Palmer~~ BILL NO. 435
 2 ~~Volmer, Courtney Cooney, Andy Mussall, Fiddle, Steve~~
 3 ~~Samuel, South, League~~
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATEMENTS OF
 5 ACTUAL EXPENDITURES FROM EACH PERSON WHO EMPLOYS A LOBBYIST ^{Shella}
 6 OR MAKES OTHER PAYMENTS TO INFLUENCE LEGISLATION; PROVIDING ^{Keeler}
 7 FOR THE AUDIT AND ENFORCEMENT OF REPORTING REQUIREMENTS;
 8 AMENDING SECTIONS 43-801, 43-802, 43-804, 43-805, ^{Hiersman} AND
 9 43-806, R.C.M. 1947." ^{South}

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

Section 1. Section 43-801, R.C.M. 1947, is amended to read as follows:

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

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

(1) Lobbying. The practice of ~~presenting or opposing~~

~~the introduction or enactment of legislation before the legislature or the members thereof communicating directly or soliciting others to communicate with any official in the legislative branch of state government with the purpose of influencing any legislative action, by any person other than a member of the legislature or a public official acting in his official capacity.~~

(2) Lobbyist. Any person who engages in the practice of lobbying for hire except in the manner authorized by section 43-807 or any person who makes an expenditure (not including payment of membership dues) to solicit others, either directly or by an advertising campaign, to communicate directly with a legislator for the purpose of influencing legislative action, but excluding an individual acting solely on his own behalf who does not spend over \$50 for personal postage and telephone calls for such solicitation. Lobbying for hire shall include activities of any officers, agents, attorneys, or employees of any principal who are paid a regular salary or retained by such principal and whose duties include lobbying. When a person is only reimbursed for his personal living and travel expenses, which together do not exceed \$1,000 for any single year, he shall not be considered to be lobbying for hire. Nothing in this section shall be construed to deprive any citizen not lobbying for hire of his constitutional right to

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1 communicate with members of the legislature.

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

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

17 ~~(4)(5) Principal. (a) Any person, corporation or~~
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19 expends \$250 or more in a quarter-year to influence in
20 connection with any legislation, pending before the
21 legislature or to be proposed, affecting the interest of
22 such person, ~~corporation or association.~~

23 (b) Any board, department, commission, or other agency
24 of the state, or any county or municipal corporation, which
25 engages a lobbyist or ~~other person in connection with~~

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2 legislation pending or to be proposed affecting the
3 statutory powers, duties, or appropriation of such agency,
4 county, or municipal corporation.

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9 limitation any legislation which creates, alters, or repeals
10 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 any person from whom the
14 principal receives money for the purpose of procuring
15 lobbying services or which creates, alters, or repeals the
16 powers or duties of any court or governmental agency before
17 which the principal does business.

18 (8) Legislative action. The drafting, introduction,
19 consideration, amendment, enactment, or defeat of a bill,
20 resolution, report, nomination, or other matter by either
21 house of the legislature or a committee, select committee,
22 interim committee, or member of the legislature or of a
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25 docket. Upon the termination of such employment such fact

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2 the lobbyist or the principal."

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6 -- subjects of legislation -- written authorization. (1) The
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9 lobbyist and the name and business address of his principal,
10 and the subject or subjects of legislation to which the
11 employment relates or a statement that the employment
12 relates to all matters in which the principal has an
13 interest. Such docket shall be a public record and open to
14 the inspection of any citizen upon demand at any time during
15 the regular business hours of the office of the secretary of
16 state. Beginning with the first ~~week~~ Tuesday following the
17 beginning of any regular or special session of the
18 legislature and on ~~every~~ the first Tuesday ~~hereafter~~ for
19 ~~the duration of each of every month thereafter during which~~
20 the legislature is in session, the secretary of state shall
21 from his records report to each house of the legislature the
22 names of lobbyists registered under this act, not previously
23 reported, the names of the persons whom they represent as
24 such lobbyist, and subject of legislation in which they are
25 interested.

1 (2) Any principal employing any lobbyist shall, when
2 further subjects of legislation are introduced or arise
3 which such lobbyist is to promote or oppose, make or cause
4 to be made additional entries in the docket stating such
5 employment so that the docket will show at all times all
6 subjects of legislation in relation to which the lobbyist is
7 employed or the general statement provided above.

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9 docket, a lobbyist shall file with the secretary of state a
10 written authorization to act as such signed by his
11 principal."

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

14 "43-806. Practice without license and registration
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17 as a lobbyist unless he has been duly licensed under the
18 provisions of ~~section~~ 43-803 and unless his name appears
19 upon the docket as employed in respect to such matters as he
20 shall be promoting or opposing. ~~No principal shall directly~~
21 ~~or indirectly authorize or permit any lobbyist employed by~~
22 ~~him to practice lobbying in respect to any legislation~~
23 ~~affecting the pecuniary interest of such principal until~~
24 ~~such lobbyist is duly licensed and the name of such lobbyist~~
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1 ~~as a lobbyist for a compensation dependent in any manner~~
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3 ~~legislation or upon any other contingency connected with the~~
4 ~~action of the legislature or of either branch thereof or of~~
5 ~~any committee thereof,~~

6 ~~(2) Before or within five (5) days after delivering~~
7 ~~any written or printed statement, argument, or brief to the~~
8 ~~entire membership of either or both houses of the~~
9 ~~legislature, three (3) copies shall be deposited with the~~
10 ~~secretary of state.~~

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

14 Section 6. There is a new R.C.M. section that reads as
15 follows:

16 Activity reports. (1) Each principal shall register
17 with the secretary of state between the 1st and 10th day of
18 April, July, October, and January a report signed under
19 penalty of perjury concerning his lobbying activities during
20 the previous calendar quarter. If there has been no
21 activity, no report is required. If the registrant is not
22 an individual, an authorized officer or agent of the
23 registrant shall sign the form. In addition, each registrant
24 who attempts to influence legislative action shall file with
25 the secretary of state between the 1st and 10th day of each

1 month subsequent to each month that the legislature is in
2 session a report concerning such lobbying activities during
3 the previous month. Such report shall be on a form
4 prescribed by the secretary of state and shall include:

5 (a) a complete and current statement of the
6 information required to be supplied under 43-804;

7 (b) total expenditures on lobbying; if over \$250 a
8 quarter, this shall be broken down into the following
9 categories, according to the registrant's best estimate:

10 (i) compensation to others;

11 (ii) reimbursement to others;

12 (iii) office overhead, advertising and publication, and
13 other expenses; and

14 (c) each expenditure, gift, honorarium, or political
15 contribution of \$25 or more made by the registrant or anyone
16 acting on behalf of the registrant to benefit an official in
17 the legislature, a member of his staff or immediate family,
18 or a campaign or testimonial committee established for the
19 benefit of the official which shall be itemized by date,
20 beneficiary, amount, and circumstances of the transaction;
21 also, the aggregate of all such expenditures that are less
22 than \$25.

23 (2) Each registrant shall obtain and preserve all
24 accounts, bills, receipts, books, papers, and documents
25 necessary to substantiate the activity reports required to

1 be made pursuant to this section for 6 years from the date
2 of filing of the report containing such items. These
3 materials shall be made available for inspection upon
4 request by the legislative auditor after reasonable notice.

-End-