

SENATE BILL 233

IN THE SENATE

January 24, 1979

Introduced and referred to  
Committee on State Adminis-  
tration.

February 16, 1979

Committee recommend bill,  
do not pass.

On motion, Senate reconsider  
its action taken on Adverse  
Committee report and order  
printed and placed on second  
reading. Motion failed.

1 *Heata* BILL NO. 333  
2 INTRODUCED BY *Mr. Roy Ferguson Blaylock*  
3 *Van Veltkamp Palmer*  
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; PROVIDING FOR THE AUDIT AND ENFORCEMENT OF  
8 REPORTING REQUIREMENTS; AMENDING SECTIONS 5-7-101 THROUGH  
9 5-7-103, 5-7-201, 5-7-207, 5-7-301, AND 5-7-304, MCA; AND  
10 REPEALING SECTIONS 5-7-205 AND 5-7-303, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13 Section 1. Section 5-7-101, MCA, is amended to read:  
14 "5-7-101. Purposes of chapter. The purposes of this  
15 chapter are to promote a high standard of ethics in the  
16 practice of lobbying, to prevent unfair and unethical  
17 lobbying practices, and to provide for the licensing of  
18 lobbyists and the suspension or revocation of the licenses,  
19 and to require disclosure of the amounts of money spent for  
20 lobbying."

21 Section 2. Section 5-7-102, MCA, is amended to read:  
22 "5-7-102. Definitions. The following words and phrases  
23 shall have the meanings respectively ascribed to them  
24 definitions apply in this chapter:

25 (1) "Lobbying" means the practice of promoting or

1 opposing the introduction or enactment of legislation before  
2 the legislature or the members thereof by any person other  
3 than a member of the legislature or a public official acting  
4 in his official capacity on request of a legislator.  
5 (2) "Lobbyist" means any person who engages in the manner  
6 practice of lobbying for hire except in the manner  
7 authorized by 5-7-304 or any person who makes an expenditure  
8 to solicit others, either directly or by an advertising  
9 campaign, to communicate directly with a legislator for the  
10 purpose of influencing legislative actions, but it does not  
11 include an individual acting solely on his own behalf who  
12 does not spend over \$1,000 for such purposes. Lobbying for  
13 hire shall include activities of any officers,  
14 agents, attorneys, or employees of any principal who are  
15 paid a regular salary or retained by such principal and  
16 whose duties include lobbying. When a person is reimbursed  
17 only for his personal living and travel expenses, which  
18 together do not exceed \$1,000 for a single year, he shall  
19 not be considered to be lobbying for hire. Any officer,  
20 agent, attorney, or employee of a principal who devotes less  
21 than a total of 40 hours each year to lobbying shall not be  
22 considered a lobbyist. Nothing in this section shall be  
23 construed to deprive any citizen not lobbying for  
24 hire of his constitutional right to communicate with members  
25 of the legislature.

1       (3) "Unprofessional conduct" means:

2       (a) a violation of any of the provisions of this  
3       chapter;

4       (b) soliciting employment from any principal;

5       (c) instigating the introduction of legislation for  
6       the purpose of obtaining employment in opposition thereto;

7       (d) attempting to influence the vote of legislators on  
8       any measure pending or to be proposed by the promise of  
9       support or opposition at any future elections, by any means  
10      other than argument on the merits thereof, or by making  
11      public any unsubstantiated charges of improper conduct on  
12      the part of any other lobbyist or of any legislator; or

13      (e) engaging in practices which reflect discredit on  
14      the practice of lobbying or the legislature.

15      (f) "Person" means an individual, corporation,  
16      association, firm, partnership, committee, club, or other  
17      organization or group of persons.

18      (g) "Principal" means:

19       (a) any person, corporation, or association which who  
20      engages a lobbyist or other person spends money in excess of  
21      \$1,000 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; or

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

1       engages a lobbyist or other person spends money in excess of  
2      \$1,000 in connection with any legislation pending or to be  
3      proposed affecting the statutory powers, duties, or  
4      appropriation of such agency, county, or municipal  
5      corporation.

6       (f) "Docket" means the register of licensed  
7      lobbyists maintained by the secretary of state pursuant to  
8      5-7-201.

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

17      (g) "Legislative action" means the drafting,  
18      introduction, consideration, amendment, enactment, or defeat  
19      of a bill, resolution, report, nomination, or other matter  
20      by either house of the Montana legislature or a committee,  
21      select committee, interim committee, or member of the  
22      Montana legislature.

23      (h) "Payment" means distribution, transfer, loan,  
24      advance, deposit, gift, or other rendering of money,  
25      property, or anything of value.

1       (10) "Payment to influence legislative action" means  
 2       any of the following types of payment:  
 3       (a) direct or indirect payment to a lobbyist by a  
 4       principal, as salary, fee, or compensation for expenses or  
 5       for any other purpose;

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

10       Section 3. Section 5-7-103, MCA, is amended to read:  
 11       "5-7-103. Licenses -- fees -- eligibility. (1) Any  
 12       adult of good moral character who is a citizen of the United  
 13       States and who is otherwise qualified under this chapter may  
 14       be licensed as a lobbyist. The secretary of state shall  
 15       provide a license application form. The application form may  
 16       be obtained in the office of the secretary of state and  
 17       filed therein. Upon approval of the application by the  
 18       secretary of state and payment of the license fee of \$10 to  
 19       the secretary of state, a license shall be issued which  
 20       entitles the licensee to practice lobbying on behalf of one  
 21       or more principals. Each license shall expire on December  
 22       31 of each odd-numbered even-numbered year.

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

1       filing of the application.

2       (3) The license fees collected by the secretary of  
 3       state under this chapter shall be deposited by him in the  
 4       state treasury."

5       Section 4. Section 5-7-201, MCA, is amended to read:  
 6       "5-7-201. Docket -- contents. The secretary of state  
 7       shall prepare and keep a docket in which shall be entered  
 8       the name and business address of each lobbyist, the name and  
 9       business address of his principal, and the subject or  
 10       subjects of legislation to which the employment relates or a  
 11       statement that the employment relates to all matters in  
 12       which the principal has an interest. The docket entry for  
 13       each principal shall also indicate the principal's report of  
 14       total anticipated payments to influence legislative action."

15       Section 5. Section 5-7-207, MCA, is amended to read:  
 16       "5-7-207. Report to legislature. Beginning with the  
 17       first week Tuesday following the beginning of any regular or  
 18       special session of the legislature and on every the first  
 19       Tuesday thereafter for the duration of such session of every  
 20       month thereafter during which the legislature is in session.  
 21       The secretary of state shall from his records report to each  
 22       member of each house of the legislature the names of  
 23       lobbyists registered under this chapter, not previously  
 24       reported, the names of the persons whom they represent as  
 25       such--lobbyist lobbyists, and the subject subjects of

1 legislation in which they are interested."

2 Section 6. Section 5-7-301, MCA, is amended to read:

3 "5-7-301. Prohibition of practice without license and  
4 registration. (f) No person may practice as a lobbyist  
5 unless he has been licensed under 5-7-103 and unless he is  
6 listed on the docket as employed in respect to such matters  
7 as he is promoting or opposing.

8 (f) No principal may directly or indirectly authorize  
9 or permit any lobbyist employed by him to practice lobbying  
10 in respect to any legislation affecting the pecuniary  
11 interest of the principal until the lobbyist is duly  
12 licensed and the name of the lobbyist is duly entered on the  
13 docket."

14 Section 7. Section 5-7-304, MCA, is amended to read:

15 "5-7-304. Exemption from license and registration  
16 requirement. Any person who limits his lobbying solely to  
17 appearances before legislative committees of either house  
18 without receiving a fee or compensation for his efforts and  
19 registers his appearance on the records of such committees  
20 in writing shall not be required to be licensed as a  
21 lobbyist, pay a license fee, or register with the secretary  
22 of state."

23 NEW SECTION. Section 8. Principals to file  
24 accounting. A principal subject to this chapter shall file  
25 an accounting of actual payments to influence legislative

1 action made during the month of January on or before  
2 February 15 of that year and shall file an accounting of  
3 such payments made during the entire calendar year on or  
4 before February 15 of the following year. In a year in which  
5 the legislature is in session, a principal shall file an  
6 accounting of actual payments to influence legislative  
7 action within 60 days following the adjournment of the  
8 legislature, and if no further such payments are made after  
9 that date, the principal need not file an accounting for  
10 that calendar year. Each accounting filed under this section  
11 shall:

12 (1) list all expenditures in each of the following  
13 categories:

14 (a) original and derivative research done to support  
15 an argument or presentation;

16 (b) the cost for publication and distribution of each  
17 publication used in lobbying;

18 (c) other printing;

19 (d) news media;

20 (e) advertising, including production costs;

21 (f) postage;

22 (g) travel;

23 (h) salaries and fees, including allowances, rewards,  
24 and contingency fees;

25 (i) entertainment; and

10 (3) List each contribution and membership fee of \$500  
11 or more paid to the principal, regardless of whether it was  
12 paid solely for the purpose of lobbying, with the full name  
13 and complete address of each payer and the issue area, if  
14 any, for which such payment was earmarked;

15 (4) List each political contribution, including a  
16 service or anything of value, paid to any candidate for  
17 elective public office, to any committee established to  
18 support or oppose a candidate for elective public office, or  
19 to any committee to support or oppose any initiative,  
20 referendum, or other ballot issue, whether such contribution  
21 is made by the principal, any officer or employee of the  
22 principal, or any lobbyist who received compensation or  
23 reimbursement for expenses from the principal; and

24 (5) List each bill which the principal or his agents  
25 exerted a major effort to support, oppose, or modify.

1 together with a statement of the principal's position for or  
2 against such action.

3            NEW SECTION Section 9. Principals required to  
4 register -- penalty for failure to register or for false  
5 statement. A person may not employ a lobbyist or make  
6 payments to influence legislative action unless he files the  
7 reports required under this chapter. A principal who fails  
8 to file a required report is subject to the penalty provided  
9 in 5-7-305. A principal who knowingly files a false,  
10 erroneous, or incomplete statement commits the offense of  
11 unsworn falsification to authorities.

12        NEW SECTION. Section 10. Audit of final accounting  
13 statements. The secretary of state may audit the accounting  
14 filed under [section 8] and shall investigate any  
15 irregularities and report any apparent violations of this  
16 chapter to the attorney having authority to prosecute.

17 NEW SECTION. Section 11. Secretary of state to make  
18 rules for allocation of expenses. The secretary of state  
19 shall promulgate and publish rules necessary to carry out  
20 the provisions of [this act] in conformance with the Montana  
21 Administrative Procedure Act and, in particular, shall  
22 provide rules necessary to allocate salary, expenses, and  
23 any other payments between lobbying activities and other  
24 activities not connected with lobbying for any person whose  
25 activities are not solely limited to lobbying.

LC 0934/01

1       Section 12. Repealer. Sections 5-7-205 and 5-7-303,  
2 MCA, are repealed.

-End-