

Senate Bill 109

In The Senate

January 13, 1981	Introduced and referred to Committee on State Administration.
	Fiscal note requested.
January 19, 1981	Fiscal note returned.
February 21, 1981	Committee recommend bill do pass as amended.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading do pass.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading passed.

In The House

March 2, 1981	Introduced and referred to Committee on State Administration.
March 24, 1981	Committee recommend bill concurred as amended.
March 28, 1981	On motion to take from second reading and refer to State Administration. Motion adopted.
	Rereferred to Committee on State Administration.
April 23, 1981	Died in Committee.

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Senate BILL NO. 109
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INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST DISCLOSURE INITIATIVE, NO. 85, TO CLARIFY THAT ITS PROVISIONS APPLY TO ALL LOBBYING ACTIVITIES OF STATE AND LOCAL GOVERNMENTAL ENTITIES OR SUBDIVISIONS THEREOF, INCLUDING LOBBYING BY PUBLIC OFFICIALS; TO FURTHER ENUMERATE THE ACCOUNTING REQUIREMENTS OF PRINCIPALS; AND TO DECREASE THE CONTRIBUTION AMOUNT FOR ACCOUNTING BY PRINCIPALS; AMENDING SECTIONS 2, 11, AND 14 OF THE INITIATIVE."

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

Section 1. Section 2 of Initiative 85, is amended to read:

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

"5-7-102. Definitions. The following ~~words-and-phrases shall--have--the--meanings--respectively--described--to--them~~ 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, or other organization or group of persons.
- (3) "Public official" means any individual, elected or

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~~appointed, acting in his official capacity for the state or local government or any political subdivision thereof, but does not include those acting in a judicial or quasi-judicial capacity.~~

~~(4)(1)~~ "Lobbying" means includes

(a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members thereof by any person other than a member of the legislature ~~OR-A-PUBLIC-OFFICIAL-ACTING-IN HIS-OFFICIAL-CAPACITY; 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.~~

(5) ~~(a)(2)~~ "Lobbyist" means any person who engages in the practice of lobbying for hire ~~except--in--the--manner authorized-by-5-7-304.~~

~~(b) "Lobbyist" does not include~~

~~(i) any individual Montana citizen acting solely on his/her own behalf, or~~

~~(ii) any individual working for the same principal as a licensed lobbyist, such individual having no personal contact with any public official on behalf of his/her principal.~~

~~(C) "LOBBYIST" SPECIFICALLY INCLUDES ANY PUBLIC~~

1 OFFICIAL, PUBLIC EMPLOYEE, INDEPENDENT CONTRACTOR, ATTORNEY,
 2 OR OTHER AGENT WHO ENGAGES IN LOBBYING ON BEHALF OF ANY
 3 STATE OR LOCAL GOVERNMENTAL ENTITY OR SUBDIVISION THEREOF.

4 ~~(e)(D)~~ Nothing in this section shall be construed to
 5 deprive ~~deprives~~ any citizen not lobbying for hire of his
 6 ~~the~~ constitutional right to communicate with ~~members of the~~
 7 legislature public officials.

8 ~~(6)~~ "Lobbying for hire" shall ~~include~~ includes
 9 activities of any officers, agents, attorneys, or employees
 10 of any principal who are paid, reimbursed ~~a regular salary~~
 11 or retained by such principal and whose duties include
 12 lobbying. When ~~a person~~ an individual is reimbursed only for
 13 his personal living and travel expenses, ~~which together do~~
 14 not exceed \$1,000 per calendar year, ~~he that individual~~
 15 shall not be considered to be lobbying for hire.

16 ~~(7)(3)~~ "Unprofessional conduct" means:

17 (a) a violation of any of the provisions of this
 18 chapter;

19 ~~(b) soliciting employment from any principal;~~

20 ~~(b)(c)~~ instigating ~~the introduction of legislation~~
 21 action by any public official for the purpose of obtaining
 22 employment in opposition thereto;

23 ~~(c)(d)~~ attempting to influence the ~~vote of legislators~~
 24 action of any public official on any measure pending or to
 25 be proposed by

1 (i) the promise of support or opposition at any future
 2 election, ~~by any means other than argument on the merits~~
 3 thereof; or

4 (ii) promise of financial support;

5 (iii) by making public any unsubstantiated charges of
 6 improper conduct on the part of any other lobbyist, ~~any~~
 7 principals, or of any legislator,

8 (iv) any improper economic reprisal or other unlawful
 9 retaliation against any public official, or

10 (v) any means other than argument on the merits
 11 thereof;

12 (d) attempting to influence a decision or vote by a
 13 hearing examiner or quasi-judicial officer in any contested
 14 case proceeding under Part 6, Chapter 4, Title 2, MCA except
 15 as provided therein;

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

20 (f) ~~(e)~~ engaging in practices which reflect discredit
 21 on the practice of lobbying or the legislature.

22 ~~(8)(4)~~ "Principal" means any person who makes payments
 23 in excess of \$1,000 per calendar year for any of the
 24 following:

25 (a) to engage a lobbyist, or any person, corporation,

1 or--association--which--engages--a--lobbyist--or--other--person--in
2 connection--with--any--legislation--pending--before--the
3 legislature--or--to--be--proposed--affecting--the--pecuniary
4 interest--of--such--person--corporation--or--association--or

5 (b) in the case of a person other than an individual,
6 to solicit, directly, indirectly or by an advertising
7 campaign, the lobbying efforts of another person any board,
8 department, commission or other agency of the state, any
9 county or municipal corporation which engages a lobbyist or
10 other person in connection with any legislation pending or
11 to be proposed affecting the statutory powers, duties or
12 appropriation of such agency, county or municipal
13 corporation.

14 (9)(5) "Docket" means the register and reports of
15 licensed lobbyists and principals maintained by the
16 secretary of state commissioner pursuant to 5-7-201.

17 (6) "~~pecuniary interest~~" ~~includes without limitation~~
18 ~~any legislation which creates, alters, or repeats any~~
19 ~~statutory charge by way of tax, license fee, registration~~
20 ~~fee or otherwise; which creates, alters, or repeats any~~
21 ~~statutory privilege, power, restriction, or obligation of~~
22 ~~any principal or which creates, alters, or repeats the~~
23 ~~powers or duties of any court or governmental agency before~~
24 ~~which the principal does business.~~

25 (10) "Payment" means distributions, transfers, loans

1 advance, deposit, gift, or other rendering made or to be
2 made of money, property, or anything of value.

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

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

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

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

20 (13) "Commissioner" means the commissioner of campaign
21 finances and practices, created by 13-37-102, renamed in
22 [Section 19] the commissioner of political practices.

23 (14) "Elected official" means a public official holding
24 a state office filled by a statewide vote of all the
25 electors of Montana or a state district office, including:

1 but not limited to legislators, public service commissioners
 2 and district court judges. The term "official-elect" shall
 3 also apply only to such offices."

4 Section 2. Section 11 of Initiative 85, is amended to
 5 read:

6 "NEW SECTION. Section 11. Principals to file
 7 accountings.

8 (1) A principal subject to this chapter shall file
 9 with the commissioner an accounting of payments made to
 10 influence the official action of a public official.

11 (2) If such payments are made solely to influence
 12 legislative action, such accounting shall be made:

13 (a) before February 16th of any year the legislature
 14 is in session and shall include all payments made in that
 15 calendar year prior to February 1st;

16 (b) before the 16th day of the calendar month
 17 following any calendar month in which the principal spent
 18 \$5,000 or more and shall include all payments made during
 19 the prior calendar month; and

20 (c) within 60 days following adjournment of such
 21 session and shall include all payments made during such
 22 session, except as has previously been reported.

23 (3) If such payments are made to influence any other
 24 official action by a public official or made to influence
 25 such other action and legislative action, such accounting

1 shall be made:

2 (a) before February 16th of the calendar year
 3 following such payments and shall include all payments made
 4 during the prior calendar year; and

5 (b) before the 16th day of the calendar month
 6 following any calendar month in which the principal spent
 7 \$5,000 or more and shall include all payments made during
 8 the prior calendar month.

9 (4) If no such payments are made during the reporting
 10 periods provided in subsections (2)(a), (2)(c), and (3)(a)
 11 above, the principal shall file a report stating such.

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

13 (a) list all payments for lobbying in each of the
 14 following categories:

15 (i) original and derivative research (for which the
 16 cost may be estimated if necessary) done to support a
 17 lobbying argument or presentation;

18 (ii) publication and distribution of each publication,
 19 ~~except that the cost of a newsletter or leaflet distributed~~
 20 ~~to the membership of a principal need not be reported unless~~
 21 ~~over one-half of that newsletter or leaflet is devoted to~~
 22 newsletter, magazine, brochure, flyer, handout, pamphlet,
 23 and other printed communication containing lobbying matters;

24 (iii) ~~other printing~~ sponsoring a symposium, seminar,
 25 or other meeting at which those in attendance are urged to

1 contact legislators or at which lobbying matters are
2 otherwise considered:

- 3 (iv) news media;
- 4 (v) advertising, including production costs;
- 5 (vi) postage;
- 6 (vii) travel and personal living expenses;
- 7 (viii) salaries and fees, including allowances,
8 rewards, and contingency fees;
- 9 (ix) entertainment, including all foods and
10 refreshments;
- 11 (x) telephone and telegraph; and
- 12 (xi) other office expenses;
- 13 (b) itemize, identifying the payee and the
14 beneficiary,
- 15 (i) each separate payment conferring \$10 or more
16 benefit to any public official and
- 17 (ii) each separate payment conferring \$100 or more
18 benefit to more than one public official, regardless of
19 individual benefit, except that in regard to a dinner or
20 other function to which all senators or all representatives
21 have been invited, the beneficiary may be listed as all
22 members of that group without listing separately each person
23 who attended;
- 24 (c) list each contribution and membership fee which
25 amounts to \$250 ~~\$25~~ or more when aggregated over the period

1 of one calendar year paid to the principal, regardless of
2 whether it was paid solely for the purpose of lobbying, with
3 the full address of each payer and the issue area, if any,
4 for which such payment was earmarked;

5 (d) list each political contribution, including
6 anything of value, paid to any candidate for elective public
7 office, to any committee established to support or oppose a
8 candidate for elective public office, or to any committee to
9 support or oppose any initiative, referendum, or other
10 ballot issue, whether such payment is made directly or
11 indirectly by the principal or any lobbyist who received
12 compensation or reimbursement for such payment from the
13 principal.

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

18 (f) be kept by the commissioner for a period of ten
19 years.

20 (6) Each governmental entity required to account under
21 this section shall, in addition to providing the information
22 required under subsection (5):

23 (a) list the specific source of funds as indicated in
24 its budget or itemize the expenditures if not specified in
25 the budget; and

1 (b) indicate the statutory authority for each
2 expenditure.

3 (7) Each citizens' group required to file an
4 accounting under this section that has an annual budget of
5 \$1,000 or more shall disclose all of its funding sources."

6 Section 3. Section 14 of Initiative 85, is amended to
7 read:

8 "NEW SECTION. Section 14. Governmental reporting.
9 Budget preparation or response to requests of a house or
10 committee of the legislature by any governmental entity
11 shall not be is considered lobbying payments for the
12 purposes of this chapter. Any expenditure for such lobbying
13 must be accounted for as enumerated in [section 1] of
14 Initiative 85]."

-End-

STATE OF MONTANA

REQUEST NO. 94-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 16, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 109 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

SB 109 would amend the lobbyist disclosure initiative # 85 to apply to all lobbying activities of state and local government entities or subdivisions, including an extended definition of public officials; to further enumerate the accounting requirements of principals and to decrease the contribution amount for accounting by principals.

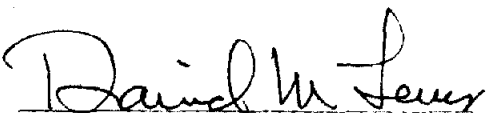
Assumptions

- 1-The act would be effective July 1, 1981.
- 2-Fiscal impact would effect all aspects of the expenditures except travel and contracted services.
- 3- The staff, equipment, floor space would undoubtedly have to be increased.
- 4-This amendment would double the workload of the office.

Fiscal Impact

	FY 82	FY 83	Total Biennium
Expenditures under proposed law			
Personnel Services	117,652	119,882	237,534
Operating expenses	32,866	31,517	64,383
Equipment	9,266	215	9,481
Total expenditures under proposed	<u>159,784</u>	<u>151,614</u>	<u>311,398</u>
Less - Expenditures under current law			
Personal services	95,575	95,621	191,196
Operating Expenses	21,373	19,051	40,424
Equipment	1,175	215	1,390
	<u>118,123</u>	<u>114,887</u>	<u>233,010</u>
Increased expenditures under proposed	41,661	36,727	78,388
General Fund	41,661	36,727	78,388

Passage of Senate Bill 109 will increase expenditures by \$78,388 for the biennium



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-19-81

Approved by Committee
on State Administration

1 SENATE BILL NO. 109
2 INTRODUCED BY STORY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST
5 DISCLOSURE INITIATIVE, NO. 85, TO CLARIFY THAT ITS
6 PROVISIONS APPLY TO ALL LOBBYING ACTIVITIES OF STATE AND
7 LOCAL GOVERNMENTAL ENTITIES OR SUBDIVISIONS THEREOF,
8 INCLUDING LOBBYING BY PUBLIC OFFICIALS; TO FURTHER ENUMERATE
9 THE ACCOUNTING REQUIREMENTS OF PRINCIPALS; AND TO DECREASE
10 THE CONTRIBUTION AMOUNT FOR ACCOUNTING BY PRINCIPALS;
11 AMENDING SECTIONS 2 AND 11 AND 14 OF THE INITIATIVE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Refer to Introduced Bill

15 (Strike Sections 1 and 2 in their entirety and insert:)

16 Section 1. Section 2 of Initiative 85, is amended to
17 read:

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

19 "5-7-102. Definitions. The following definitions apply
20 in this chapter:

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

22 (2) "Person" means an individual, corporation,
23 association, firm, partnership, state or local government or
24 subdivision thereof, INCLUDING HIS OFFICER AND EMPLOYEES, or
25 other organization or group of persons.

1 (3) "Public official" means any individual, elected or
2 appointed, acting in his official capacity for the state or
3 local government or any political subdivision thereof, but
4 does not include those acting in a judicial or
5 quasi-judicial capacity.

6 (4) "Lobbying" includes

7 (a) the practice of promoting or opposing the
8 introduction, AMENDMENT, or enactment of legislation before
9 the legislature or the members thereof by any person other
10 than a member of the legislature ~~or a public official acting~~
11 ~~in his official capacity;~~ and

12 (b) the practice of promoting or opposing ~~official~~
13 ~~action by any public official in the event~~ THE TAKING OF AN
14 OFFICIAL ACTION OR ATTEMPTING TO INFLUENCE THE CONTENT OF A
15 PROPOSED OFFICIAL ACTION THROUGH DIRECT COMMUNICATION WITH A
16 PUBLIC OFFICIAL PARTICIPATING IN TAKING THE ACTION, IF:

17 (I) OTHER THAN BY A PERSON WHO DOES SO BECAUSE HE IS
18 EMPLOYED IN, ELECTED TO, OR APPOINTED TO A GOVERNMENT
19 POSITION IN WHICH THE RESPONSIBILITY TO PARTICIPATE IN THE
20 DECISION OR ADVISE THE DECISIONMAKER INHERES BY LAW; AND

21 (II) the person engaged in such practice expends \$1,000
22 per calendar year or more exclusive of personal travel and
23 living expenses.

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

1 (b) "Lobbyist" does not include

2 (i) any individual Montana citizen acting solely on
3 his/her own behalf, or

4 (ii) any individual working for the same principal as a
5 licensed lobbyist, such individual having no personal
6 contact INVOLVING LOBBYING with any public official on
7 behalf of his/her principal.

8 (c) "Lobbyist" specifically includes any public
9 official, public employee, independent contractor, attorney,
10 or other agent who engages in lobbying on behalf of any
11 state or local governmental entity or subdivision thereof
12 AGENCY. FOR THIS PURPOSE, LOBBYING INCLUDES ONLY THAT
13 CONTACT WITH A PERSON THAT IS PRIMARILY AIMED AT INFLUENCING
14 LEGISLATION.

15 ~~(e)~~(d) Nothing in this section deprives any citizen
16 not lobbying for hire of the constitutional right to
17 communicate with public officials.

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

25 (7) "Unprofessional conduct" means:

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

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

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

7 (i) the promise of support or opposition at any future
8 election,

9 (ii) promise of financial support,

10 (iii) making public any unsubstantiated charges of
11 improper conduct on the part of any other lobbyist, any
12 principal, or any legislator,

13 (iv) any improper economic reprisal or other unlawful
14 retaliation against any public official, or

15 (v) any means other than argument on the merits
16 thereof;

17 (d) attempting to influence a decision or vote by a
18 hearing examiner or quasi-judicial officer in any contested
19 case proceeding under ~~Part 6, Chapter 4, Title 2, CHAPTER 4,~~
20 PART 6, MCA except as provided therein;

21 (e) attempting to knowingly deceive any public
22 official with regard to the pertinent facts of an official
23 matter or attempt to knowingly misrepresent pertinent facts
24 of an official matter to any public official; or

25 (f) engaging in practices which reflect discredit on

1 the practice of lobbying.

2 (8) "Principal" means any person who makes payments in
3 excess of \$1,000 per calendar year for any of the following:

4 (a) to engage a lobbyist, or

5 (b) in the case of a person other than an individual,
6 to solicit, directly, indirectly, or by an advertising
7 campaign, the lobbying efforts of another person.

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

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

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

16 (a) direct or indirect payment to a lobbyist by a
17 principal, as salary, fee, or compensation for expenses or
18 for any other purpose;

19 (b) payment in support of or assistance to a lobbyist
20 or lobbying activities, including, but not limited to, the
21 direct payment of expenses incurred at the request or
22 suggestion of the lobbyist.

23 (12) "Business" means any holding or interest whose
24 fair market value is greater than \$1,000, in any
25 corporation, partnership, sole proprietorship, firm,

1 enterprise, franchise, association, self-employed
2 individual, holding company, joint stock company,
3 receivership, trust or other entity or property held in
4 anticipation of profit, but does not include non-profit
5 organizations.

6 (13) "Commissioner" means the commissioner of campaign
7 finances and practices, created by 13-37-102, renamed in
8 [Section 19] the commissioner of political practices.

9 (14) "Elected official" means a public official holding
10 a state office filled by a statewide vote of all the
11 electors of Montana or a state district office, including,
12 but not limited to legislators, public service commissioners
13 and district court judges. The term "official-elect" shall
14 also apply only to such offices."

15 Section 2. Section 11 of Initiative 85, is amended to
16 read:

17 "NEW SECTION. Section 11. Principals to file
18 accountings.

19 (1) A principal subject to this chapter shall file
20 with the commissioner an accounting of payments made to
21 influence the official action of a public official.

22 (2) If such payments are made solely to influence
23 legislative action, such accounting shall be made:

24 (a) before February 16th of any year the legislature
25 is in session and shall include all payments made in that

1 calendar year prior to February 1st;

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

6 (c) within 60 days following adjournment of such
7 session and shall include all payments made during such
8 session, except as has previously been reported.

9 (3) If such payments are made to influence any other
10 official action by a public official or made to influence
11 such other action and legislative action, such accounting
12 shall be made:

13 (a) before February 16th of the calendar year
14 following such payments and shall include all payments made
15 during the prior calendar year; and

16 (b) before the 16th day of the calendar month
17 following any calendar month in which the principal spent
18 \$5,000 or more and shall include all payments made during
19 the prior calendar month.

20 (4) If no such payments are made during the reporting
21 periods provided in subsections (2)(a), (2)(c), and (3)(a)
22 above, the principal shall file a report stating such.

23 (5) Each accounting filed under this section shall:

24 (a) list all payments for lobbying in each of the
25 following categories:

1 (i) original and derivative research (for which the
2 cost may be estimated if necessary) done to support a
3 lobbying argument or presentation;

4 (ii) publication and distribution of each publication,
5 ~~except that the cost of a newsletter or leaflet distributed~~
6 ~~to the membership of a principal need not be reported unless~~
7 ~~over one-half of that newsletter or leaflet is devoted to~~
8 ~~newsletters, magazine, brochure, flyer, handout, pamphlet,~~
9 ~~and other printed communication containing lobbying matters,~~
10 EXCEPT THAT THE COST OF SUCH PRINTED COMMUNICATIONS
11 DISTRIBUTED TO THE MEMBERSHIP OF A PRINCIPAL OTHER THAN A
12 STATE AGENCY NEED NOT BE REPORTED UNLESS OVER ONE-HALF OF
13 THAT PRINTED COMMUNICATION IS DEVOTED TO LOBBYING MATTERS;

14 (iii) other ~~printing~~ sponsoring a symposium, seminar,
15 or other meeting at which those in attendance are urged BY
16 THE SPONSORS to contact legislators or at which lobbying
17 matters are otherwise considered ON A MATTER DISCUSSED AT
18 THE MEETING;

19 (iv) news media;

20 (v) advertising, including production costs;

21 (vi) postage;

22 (vii) travel and personal living expenses;

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

25 (ix) entertainment, including all foods and

1 refreshments;

2 (x) telephone and telegraph; and

3 (xi) other office expenses; AND

4 (XII) GRANTS, OF A PORTION IS USED FOR LOBBYING.

5 (b) itemize, identifying the payee and the

6 beneficiary,

7 (i) each separate payment conferring \$10 or more

8 benefit to any public official and

9 (ii) each separate payment conferring \$100 or more

10 benefit to more than one public official, regardless of

11 individual benefit, except that in regard to a dinner or

12 other function to which all senators or all representatives

13 have been invited, the beneficiary may be listed as all

14 members of that group without listing separately each person

15 who attended;

16 (c) list each contribution and membership fee which

17 amounts to ~~\$250~~ \$25 \$250 or more when aggregated over the

18 period of one calendar year paid to the principal,

19 regardless of whether it was paid solely for the purpose of

20 lobbying, with the full address of each payer and the issue

21 area, if any, for which such payment was earmarked;

22 (d) list each political contribution, including

23 anything of value, paid to any candidate for elective public

24 office, to any committee established to support or oppose a

25 candidate for elective public office, or to any committee to

1 support or oppose any initiative, referendum, or other

2 ballot issue, whether such payment is made directly or

3 indirectly by the principal or any lobbyist who received

4 compensation or reimbursement for such payment from the

5 principal.

6 (e) list each official action which the principal or

7 his agents exerted a major effort to support, oppose, or

8 modify, together with a statement of the principal's

9 position for or against such action; and

10 (f) be kept by the commissioner for a period of ten

11 years.

12 (6) Each governmental entity required to account under

13 this section shall, in addition to providing the information

14 required under subsection (5):

15 (a) list the specific source of funds as indicated in

16 its budget; or

17 (B) itemize the expenditures if not specified in the

18 budget and

19 (b) indicate the statutory authority for each

20 expenditure.

21 (7) Each citizens' group required to file an

22 accounting under this section that has an annual budget of

23 \$1,000 or more shall disclose BY GENERAL CATEGORIES all of

24 its funding sources."

25 Section-3v--Section--14-of-Initiative-85v-is-amended-to

SB 0109/02

1 read*

2 ~~*NEW-SECTION--Section-14v--Governmental-----reporting*~~
3 ~~Budget--preparation--or--response--to-requests-of-a-house-or~~
4 ~~committee-of-the--legislature--by--any--governmental--entity~~
5 ~~shall--not--be~~ is ~~considered--lobbying--payments--for--the~~
6 ~~purposes-of-this-chapter.~~ Any expenditure for such lobbying
7 must be accounted for as enumerated in section 11 of
8 initiative 85j.*

-End-

1 SENATE BILL NO. 109
2 INTRODUCED BY STORY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST
5 DISCLOSURE INITIATIVE, NO. 85, TO CLARIFY THAT ITS
6 PROVISIONS APPLY TO ALL LOBBYING ACTIVITIES OF STATE AND
7 LOCAL GOVERNMENTAL ENTITIES OR SUBDIVISIONS THEREOF,
8 INCLUDING LOBBYING BY PUBLIC OFFICIALS; TO FURTHER ENUMERATE
9 THE ACCOUNTING REQUIREMENTS OF PRINCIPALS; AND TO DECREASE
10 THE CONTRIBUTION AMOUNT FOR ACCOUNTING BY PRINCIPALS;
11 AMENDING SECTIONS 2~~7~~ AND 11~~7~~-AND-14 OF THE INITIATIVE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Refer to Introduced Bill

15 (Strike Sections 1 and 2 in their entirety and insert:)

16 Section 1. Section 2 of Initiative 85, is amended to
17 read:

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

19 "5-7-102. Definitions. The following definitions apply
20 in this chapter:

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

22 (2) "Person" means an individual, corporation,
23 association, firm, partnership, state or local government or
24 subdivision thereof, ~~INCLUDING HIS OFFICER AND EMPLOYEES,~~ or
25 other organization or group of persons.

1 (3) "Public official" means any individual, elected or
2 appointed, acting in his official capacity for the state or
3 local government or any political subdivision thereof, but
4 does not include those acting in a judicial or
5 quasi-judicial capacity.

6 (4) "Lobbying" includes

7 (a) the practice of promoting or opposing the
8 introduction, AMENDMENT, or enactment of legislation before
9 the legislature or the members thereof by any person other
10 than a member of the legislature ~~or a public official acting~~
11 ~~in his official capacity;~~ and

12 (b) the practice of promoting or opposing ~~official~~
13 ~~action by any public official in the event~~ THE TAKING OF AN
14 OFFICIAL ACTION OR ATTEMPTING TO INFLUENCE THE CONTENT OF A
15 PROPOSED OFFICIAL ACTION THROUGH DIRECT COMMUNICATION WITH A
16 PUBLIC OFFICIAL PARTICIPATING IN TAKING THE ACTION, IF:

17 (I) OTHER THAN BY A PERSON WHO DOES SO BECAUSE HE IS
18 EMPLOYED IN, ELECTED TO, OR APPOINTED TO A GOVERNMENT
19 POSITION IN WHICH THE RESPONSIBILITY TO PARTICIPATE IN THE
20 DECISION OR ADVISE THE DECISIONMAKER INHERES BY LAW; AND

21 (II) the person engaged in such practice expends \$1,000
22 per calendar year or more exclusive of personal travel and
23 living expenses.

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

1 (b) "Lobbyist" does not include
 2 (i) any individual Montana citizen acting solely on
 3 his/her own behalf, or
 4 (ii) any individual working for the same principal as a
 5 licensed lobbyist, such individual having no personal
 6 contact INVOLVING LOBBYING with any public official on
 7 behalf of his/her principal.
 8 (c) "Lobbyist" specifically includes any public
 9 official, public employee, independent contractor, attorney,
 10 or other agent who engages in lobbying on behalf of any
 11 state or--local--governmental entity or subdivision thereof
 12 AGENCY. FOR THIS PURPOSE, LOBBYING INCLUDES ONLY THAT
 13 CONTACT WITH A PERSON THAT IS PRIMARILY AIMED AT INFLUENCING
 14 LEGISLATION.
 15 ~~(d)~~ Nothing in this section deprives any citizen
 16 not lobbying for hire of the constitutional right to
 17 communicate with public officials.
 18 (6) "Lobbying for hire" includes activities of any
 19 officers, agents, attorneys, or employees of any principal
 20 who are paid, reimbursed or retained by such principal and
 21 whose duties include lobbying. When an individual is
 22 reimbursed only for his personal living and travel expenses,
 23 which together do not exceed \$1,000 per calendar year, that
 24 individual shall not be considered to be lobbying for hire.
 25 (7) "Unprofessional conduct" means:

1 (a) a violation of any of the provisions of this
 2 chapter;
 3 (b) instigating action by any public official for the
 4 purpose of obtaining employment in opposition thereto;
 5 (c) attempting to influence the action of any public
 6 official on any measure pending or to be proposed by
 7 (i) the promise of support or opposition at any future
 8 election,
 9 (ii) promise of financial support,
 10 (iii) making public any unsubstantiated charges of
 11 improper conduct on the part of any other lobbyist, any
 12 principal, or any legislator,
 13 (iv) any improper economic reprisal or other unlawful
 14 retaliation against any public official, or
 15 (v) any means other than argument on the merits
 16 thereof;
 17 (d) attempting to influence a decision or vote by a
 18 hearing examiner or quasi-judicial officer in any contested
 19 case proceeding under ~~Part 6-Chapter 4~~ Title 2, CHAPTER 4,
 20 PART 6, HCA except as provided therein;
 21 (e) attempting to knowingly deceive any public
 22 official with regard to the pertinent facts of an official
 23 matter or attempt to knowingly misrepresent pertinent facts
 24 of an official matter to any public official; or
 25 (f) engaging in practices which reflect discredit on

1 the practice of lobbying.

2 (8) "Principal" means any person who makes payments in
3 excess of \$1,000 per calendar year for any of the following:

4 (a) to engage a lobbyist, or

5 (b) in the case of a person other than an individual,
6 to solicit, directly, indirectly, or by an advertising
7 campaign, the lobbying efforts of another person.

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

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

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

16 (a) direct or indirect payment to a lobbyist by a
17 principal, as salary, fee, or compensation for expenses or
18 for any other purpose;

19 (b) payment in support of or assistance to a lobbyist
20 or lobbying activities, including, but not limited to, the
21 direct payment of expenses incurred at the request or
22 suggestion of the lobbyist.

23 (12) "Business" means any holding or interest whose
24 fair market value is greater than \$1,000, in any
25 corporation, partnership, sole proprietorship, firm,

1 enterprise, franchise, association, self-employed
2 individual, holding company, joint stock company,
3 receivership, trust or other entity or property held in
4 anticipation of profit, but does not include non-profit
5 organizations.

6 (13) "Commissioner" means the commissioner of campaign
7 finances and practices, created by 13-37-102, renamed in
8 [Section 19] the commissioner of political practices.

9 (14) "Elected official" means a public official holding
10 a state office filled by a statewide vote of all the
11 electors of Montana or a state district office, including,
12 but not limited to legislators, public service commissioners
13 and district court judges. The term "official-elect" shall
14 also apply only to such offices."

15 Section 2. Section 11 of Initiative 85, is amended to
16 read:

17 "NEW SECTION. Section 11. Principals to file
18 accountings.

19 (1) A principal subject to this chapter shall file
20 with the commissioner an accounting of payments made to
21 influence the official action of a public official.

22 (2) If such payments are made solely to influence
23 legislative action, such accounting shall be made:

24 (a) before February 16th of any year the legislature
25 is in session and shall include all payments made in that

1 calendar year prior to February 1st;

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

6 (c) within 60 days following adjournment of such
7 session and shall include all payments made during such
8 session, except as has previously been reported.

9 (3) If such payments are made to influence any other
10 official action by a public official or made to influence
11 such other action and legislative action, such accounting
12 shall be made:

13 (a) before February 16th of the calendar year
14 following such payments and shall include all payments made
15 during the prior calendar year; and

16 (b) before the 16th day of the calendar month
17 following any calendar month in which the principal spent
18 \$5,000 or more and shall include all payments made during
19 the prior calendar month.

20 (4) If no such payments are made during the reporting
21 periods, provided in subsections (2)(a), (2)(c), and (3)(a)
22 above, the principal shall file a report stating such.

23 (5) Each accounting filed under this section shall:

24 (a) list all payments for lobbying in each of the
25 following categories:

1 (i) original and derivative research (for which the
2 cost may be estimated if necessary) done to support a
3 lobbying argument or presentation;

4 (ii) publication and distribution of each publication,
5 ~~except that the cost of a newsletter or leaflet distributed~~
6 ~~to the membership of a principal need not be reported unless~~
7 ~~over one-half of that newsletter or leaflet is devoted to~~
8 ~~newsletter, magazine, brochure, flyer, handout, pamphlet,~~
9 ~~and other printed communication containing lobbying matters,~~
10 ~~EXCEPT THAT THE COST OF SUCH PRINTED COMMUNICATIONS~~
11 ~~DISTRIBUTED TO THE MEMBERSHIP OF A PRINCIPAL OTHER THAN A~~
12 ~~STATE AGENCY NEED NOT BE REPORTED UNLESS OVER ONE-HALF OF~~
13 ~~THAT PRINTED COMMUNICATION IS DEVOTED TO LOBBYING MATTERS;~~

14 (iii) other ~~printing~~ ~~sponsoring a symposium, seminar,~~
15 ~~or other meeting at which those in attendance are urged BY~~
16 ~~THE SPONSORS to contact legislators or at which lobbying~~
17 ~~matters are otherwise considered ON A MATTER DISCUSSED AT~~
18 ~~THE MEETING;~~

19 (iv) news media;

20 (v) advertising, including production costs;

21 (vi) postage;

22 (vii) travel and personal living expenses;

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

25 (ix) entertainment, including all foods and

1 refreshments;

2 (x) telephone and telegraph; and

3 (xi) other office expenses; AND

4 (XII) GRANTS, OF A PORTION IS USED FOR LOBBYING.

5 (b) itemize, identifying the payee and the

6 beneficiary,

7 (i) each separate payment conferring \$10 or more

8 benefit to any public official and

9 (ii) each separate payment conferring \$100 or more

10 benefit to more than one public official, regardless of

11 individual benefit, except that in regard to a dinner or

12 other function to which all senators or all representatives

13 have been invited, the beneficiary may be listed as all

14 members of that group without listing separately each person

15 who attended;

16 (c) list each contribution and membership fee which

17 amounts to ~~\$250~~ \$25 ~~\$250~~ or more when aggregated over the

18 period of one calendar year paid to the principal,

19 regardless of whether it was paid solely for the purpose of

20 lobbying, with the full address of each payer and the issue

21 area, if any, for which such payment was earmarked;

22 (d) list each political contribution, including

23 anything of value, paid to any candidate for elective public

24 office, to any committee established to support or oppose a

25 candidate for elective public office, or to any committee to

1 support or oppose any initiative, referendum, or other

2 ballot issue, whether such payment is made directly or

3 indirectly by the principal or any lobbyist who received

4 compensation or reimbursement for such payment from the

5 principal.

6 (e) list each official action which the principal or

7 his agents exerted a major effort to support, oppose, or

8 modify, together with a statement of the principal's

9 position for or against such action; and

10 (f) be kept by the commissioner for a period of ten

11 years.

12 (6) Each governmental entity required to account under

13 this section shall, in addition to providing the information

14 required under subsection (5):

15 (a) list the specific source of funds as indicated in

16 its budget; or

17 (B) itemize the expenditures if not specified in the

18 budget; and

19 fb) indicate the statutory authority for each

20 expenditure.

21 (7) Each citizens' group required to file an

22 accounting under this section that has an annual budget of

23 \$1,000 or more shall disclose BY GENERAL CATEGORIES all of

24 its funding sources."

25 ~~Section-3v--Section--14-of-Initiative-85v--is-amended-to~~

SB 0109/02

1 reads

2 ~~NEW SECTION. Section 14 Governmental reporting~~
3 ~~Budget preparation or response to requests of a house or~~
4 ~~committee of the legislature by any governmental entity~~
5 ~~shall not be~~ is ~~considered lobbying payments for the~~
6 ~~purposes of this chapter. Any expenditure for such lobbying~~
7 ~~must be accounted for as enumerated in section 11 of~~
8 Initiative 85j."

-End-

HOUSE AMENDMENTS TO SB 109 (third reading copy)

1. Title, line 8.

Following: ";"

Insert: "TO PROVIDE THAT OFFICIAL RULEMAKING IS
INCLUDED IN THE DEFINITION OF LOBBYING;"

2. Title, lines 9 and 10.

Following: ";" on line 9

Strike: "AND" through ";" on line 10

3. Page 1, line 24.

Following: "ITS"

Strike: "OFFICER"

Insert: "officers"

4. Page 2, line 11.

Following: "capacity"

Insert: "or an elected official"

5. Page 2, line 14.

Following: "OFFICIAL"

Insert: "rulemaking"

6. Page 2, line 15.

Following: " _____ "

Insert: "rulemaking"

7. Page 3, line 14.

Following: "LEGISLATION"

Insert: "or rulemaking activity"

8. Page 9, line 4.

Following: "(XII)"

Strike: "GRANTS, OF"

Insert: "any grant,"

Following: "PORTION"

Insert: "of which"