

SB 18 INTRODUCED BY BOYLAN, WALLIN, M. HANSON, THOFT,  
ELLISON, ET AL.  
ABOLISH CANDIDATE AND LOBBYIST REPORTING, AND  
OFFICE OF COMMISSIONER OF POLITICAL PRACTICE

6/19	INTRODUCED	
6/19	REFERRED TO STATE ADMINISTRATION	
6/20	HEARING	
6/20	ON MOTION, TAKEN FROM COMMITTEE	29 2
	AND PLACED ON 2ND READING	
6/25	2ND READING PASS AS AMENDED	25 2
6/25	3RD READING PASS	25 2

	TRANSMITTED TO HOUSE	
6/26	REFERRED TO STATE ADMINISTRATION	
6/26	HEARING	
6/26	COMMITTEE REPORT-NO RECOMMENDATION	
6/27	2ND READING NOT CONCURRED	90

RETURNED TO THE SENATE  
NOT CONCURRED IN

1 BILL NO. 18  
2 INTRODUCED BY Sen. Warren M. Hansen  
3 Edison Philpotts C. Smith Keating LaFollette  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE OFFICE  
5 AND CERTAIN FUNCTIONS OF THE COMMISSIONER OF POLITICAL  
6 PRACTICES AND TRANSFER THE REMAINING FUNCTIONS TO THE  
7 LEGISLATIVE COUNCIL; TO REMOVE LOBBYIST REPORTING AND  
8 ACCOUNTING REQUIREMENTS; TO TRANSFER LOBBYIST LICENSING  
9 REQUIREMENTS TO THE LEGISLATIVE COUNCIL; AMENDING SECTIONS  
10 5-7-101 THROUGH 5-7-103, 5-7-201, 5-7-202, 5-7-207, 5-7-305,  
11 7-4-2611, 13-10-204, 13-10-208, 13-12-201, 13-15-406,  
12 13-15-504, 13-35-227, 13-37-117 THROUGH 13-37-119,  
13 13-37-201, 13-37-210, 13-37-218, 13-37-225, 13-37-226, AND  
14 13-37-229 THROUGH 13-37-231, MCA; REPEALING SECTIONS  
15 2-15-411, 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213,  
16 13-35-302, 13-37-101 THROUGH 13-37-106, 13-37-111 THROUGH  
17 13-37-116, 13-37-120 THROUGH 13-37-130, AND 13-37-227, MCA;  
18 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 Section 1. Section 5-7-101, MCA, is amended to read:  
22 "5-7-101. Purposes Purpose of chapter --  
23 applicability. (1) The purposes purpose of this chapter are  
24 ~~to promote a high standard of ethics in the practice of~~  
25 ~~lobbying, to prevent unfair and unethical lobbying~~

1 practices, is to provide for the licensing of lobbyists and  
2 the--suspension--or--revocation--of--the--licenses--to--require  
3 elected--officials--to--make--public--their--business--financial--  
4 and--occupational--interests--and--to--require--disclosure--of--the  
5 amounts--of--money--spent--for--lobbying.

6 (2) Nothing in this chapter subjects any citizen  
7 lobbying on his own behalf to any reporting licensing  
8 requirements nor or deprives any such citizen of the  
9 constitutional right to communicate with public officials."

10 Section 2. Section 5-7-102, MCA, is amended to read:  
11 "5-7-102. Definitions. The following definitions apply  
12 in this chapter:

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

14 (2) "Person" means an individual, corporation,  
15 association, firm, partnership, state or local government or  
16 subdivision thereof, or other organization or group of  
17 persons.

18 (3) "Public official" means any individual, elected or  
19 appointed, acting in his official capacity for the state  
20 government, but does not include those acting in a judicial  
21 or quasi-judicial capacity or performing ministerial acts.

22 (4) "Lobbying" includes:

23 (a) the practice of promoting or opposing the  
24 introduction or enactment of legislation before the  
25 legislature or the members thereof by any person other than

1 a member of the legislature or a public official acting in  
2 his official capacity; and

3 (b) the practice of promoting or opposing official  
4 action by any public official in the event the person  
5 engaged in such practice expends \$1,000 per calendar year or  
6 more exclusive of personal travel and living expenses.

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

9 (b) "Lobbyist" does not include:

10 (i) any individual citizen acting solely on his own  
11 behalf; or

12 (ii) any individual working for the same principal as a  
13 licensed lobbyist, such individual having no personal  
14 contact involving lobbying with any public official on  
15 behalf of his principal.

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

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

1 (7) "Unprofessional conduct" means:

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

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

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

8 (i) promise of financial support; or

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

12 (d) attempting to knowingly deceive any public  
13 official with regard to the pertinent facts of an official  
14 matter or attempt to knowingly misrepresent pertinent facts  
15 of an official matter to any public official.

16 (8) "Principal" means any person who makes payments in  
17 excess of \$1,000 per calendar year to engage a lobbyist.

18 (9) "Docket" means the register and--reports of  
19 lobbyists and principals maintained by the commissioner  
20 legislative council pursuant to 5-7-201.

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

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

1 (a) direct or indirect payment to a lobbyist by a  
2 principal, as salary, fee, compensation, or reimbursement  
3 for expenses, excluding personal living expenses;

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

8 (12) "Business" means:

9 (a) any holding or interest whose fair market value is  
10 greater than \$1,000, in any corporation, partnership, sole  
11 proprietorship, firm, enterprise, franchise, association,  
12 self-employed individual, holding company, joint stock  
13 company, receivership, trust, or other entity or property  
14 held in anticipation of profit, but does not include  
15 nonprofit organizations; and

16 (b) present or past employment from which benefits,  
17 including retirement allowances, are received.

18 (13) ~~"Commissioner" means the commissioner of political~~  
19 ~~practices. "Legislative council" means the Montana~~  
20 ~~legislative council established in 5-11-101.~~

21 (14) "Elected official" means a public official holding  
22 a state office filled by a statewide vote of all the  
23 electors of Montana or a state district office, including,  
24 but not limited to legislators, public service  
25 commissioners, and district court judges. The term

1 "official-elect" shall also apply only to such offices."

2 Section 3. Section 5-7-103, MCA, is amended to read:

3 "5-7-103. Licenses -- fees -- eligibility. (1) Any  
4 adult of good moral character who is a citizen of the United  
5 States and who is otherwise qualified under this chapter may  
6 be licensed as a lobbyist. The commissioner legislative  
7 council shall provide a license application form. The  
8 application form may be obtained in the office of the  
9 commissioner legislative council and filed therein. Upon  
10 approval receipt of the completed application and receipt of  
11 the license fee of \$10 by the commissioner legislative  
12 council, a license shall be issued which entitles the  
13 licensee to practice lobbying on behalf of one or more  
14 enumerated principals. Each license shall expire on  
15 December 31 of each even-numbered year or may be terminated  
16 at the request of the lobbyist.

17 ~~(2) -- No --- application --- may --- be --- disapproved --- without~~  
18 ~~affording the applicant a hearing. The hearing shall be held~~  
19 ~~and the decision entered within 10 days of the date -- of -- the~~  
20 ~~filing of the application.~~

21 ~~(3) (2)~~ The fines and license fees collected under this  
22 chapter shall be deposited in the state treasury."

23 Section 4. Section 5-7-201, MCA, is amended to read:

24 "5-7-201. Docket -- contents. The commissioner  
25 legislative council shall make available to the public the

information required by this chapter, including but not limited to the name and business address of each lobbyist, the name and business address of his principal, and the subject or subjects to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. ~~The docket entry for each principal shall also indicate the principal's required reports of payments to influence official action by a public official.~~"

Section 5. Section 5-7-202, MCA, is amended to read:

"5-7-202. Docket -- public record. Such The docket shall--be required by 5-7-201 is a public record and open to the inspection of any individual upon demand at any time during the regular business hours of the office of the commissioner legislative council."

Section 6. Section 5-7-207, MCA, is amended to read:

"5-7-207. Report to legislature. Beginning with the first Tuesday following the beginning of any regular or special session of the legislature and on the first Tuesday of every month thereafter during which the legislature is in session, the commissioner legislative council shall from his its records report to each member of each house of the legislature the names of lobbyists registered under this chapter, not previously reported, the names of the principals whom they represent as lobbyists, and the

subjects of legislation in which each principal is interested."

Section 7. Section 5-7-305, MCA, is amended to read:

"5-7-305. Penalties and enforcement. (1) Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not more than 6 months or by a fine not exceeding \$200, or both.

(2) Any person who violates any of the provisions of this chapter shall be subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his license suspended or revoked according to the discretion of the court. Any public official holding elective office adjudged in violation of the provisions of this act chapter is additionally subject to recall under Montana Recall Act, 2-16-601, et seq., and such violation shall constitute an additional basis for recall to those mentioned in 2-16-603(3).

(3) The attorney general~~commissioner~~, or the county attorney of the county in which the violation takes place may bring criminal or civil actions in the name of the state for any appropriate criminal or civil remedy.

(4) If a prosecution is undertaken by ~~the commissioner~~

1 or--any a county attorney, all costs associated with the  
2 prosecution shall be paid by the state of Montana.

3 (5) (a) Any individual who has notified the  
4 commissioner legislative council, the attorney general, and  
5 the appropriate county attorney in writing that there is  
6 reason to believe that some portion of this chapter is being  
7 violated may himself bring in the name of the state an  
8 action (hereinafter referred to as a citizen's action)  
9 authorized under this chapter if:

10 (i) the attorney general and the appropriate county  
11 attorney have failed to commence an action hereunder within  
12 40 days after such notice; and

13 (ii) said attorneys then fail to commence an action  
14 within 10 days after a written notice delivered to them  
15 advising them that a citizen's action will be brought if  
16 they do not bring an action.

17 (b) Each notification shall toll the statute of  
18 limitations applicable until the expiration of the waiting  
19 period.

20 (c) If the individual who brings the citizen's action  
21 prevails, he shall be entitled to be reimbursed by the state  
22 of Montana for costs and attorney's fees incurred; provided  
23 that in the case of a citizen's action which is dismissed  
24 and which the court also finds was brought without  
25 reasonable cause, the court may order the individual

1 commencing the action to pay all costs of trial and  
2 reasonable attorney's fees incurred by the defendant.

3 (6) No civil action may be brought under this section  
4 more than 7 years after the occurrence of the facts which  
5 give rise to the action.

6 (7) All civil penalties imposed pursuant to this  
7 section shall be deposited in the state general fund.

8 (8) A hearing under this chapter shall be held by the  
9 court unless the defendant-licensee demands a jury trial.  
10 The trial shall be held as soon as possible but at least 20  
11 days after the filing of the charges and shall take  
12 precedence over all other matters pending before the court.

13 (9) If the court finds for the plaintiff, judgment  
14 shall be rendered revoking or suspending the license and the  
15 clerk of court shall file a certified copy of the judgment  
16 with the commissioner legislative council."

17 Section 8. Section 7-4-2611, MCA, is amended to read:

18 "7-4-2611. Role and duties of county clerk. (1) The  
19 county clerk of any county is also clerk of the county  
20 commissioners and ex officio recorder. Any duty imposed by  
21 law upon such officer, either as county clerk, clerk of the  
22 county commissioners, or recorder, shall be performed by the  
23 county clerk, and any official act performed or certified by  
24 the county clerk shall be as valid and effectual as if  
25 performed and certified to by him as clerk of the county

1 commissioners or as recorder.

2 (2) The county clerk must:

3 (a) take charge of and safely keep or dispose of  
4 according to law all books, papers, maps, and records which  
5 may be filed or deposited in his office;

6 (b) record all the proceedings of the board;

7 (c) make full entries of all its resolutions and  
8 decisions on all questions concerning the raising of money  
9 for and the allowance of accounts against the county;

10 (d) record the vote of each member on any question  
11 upon which there is a division or at the request of any  
12 member present;

13 (e) sign all orders made and warrants issued by order  
14 of the board for the payment of money and certify the same  
15 to the county treasurer;

16 (f) record the reports of the county treasurer of the  
17 receipts and disbursements of the county;

18 (g) preserve and file all accounts acted upon by the  
19 board;

20 (h) preserve and file all petitions and applications  
21 for franchises and record the action of the board thereon;

22 (i) record all orders levying taxes;

23 (j) designate upon every account allowed by the board  
24 the amount allowed and deliver to any person who may demand  
25 it a certified copy of any record in his office or any

1 account on file therein;

2 (k) as often as a new township is organized or the  
3 boundaries of any township are altered, immediately make out  
4 and transmit to the secretary of state a certified statement  
5 of the names and boundaries and the boundaries of any  
6 township altered;

7 (l) keep such other records and books and perform such  
8 other duties as are prescribed by law or by rule or order of  
9 the board.

10 ~~{3}--A county clerk and recorder shall file, code, and~~  
11 ~~cross-index all reports and statements filed as prescribed~~  
12 ~~by the commissioner of political practices.~~

13 {4}{3} A county clerk and recorder shall make  
14 statements and other information filed under the provisions  
15 of Title 13, chapters 35, 36, and 37, in his office  
16 available for public inspection and copying during regular  
17 office hours and make copying facilities available free of  
18 charge or at a charge not to exceed actual cost."

19 Section 9. Section 13-10-204, MCA, is amended to read:

20 "13-10-204. Write-in nominations. An individual  
21 nominated by having his name written in on the primary  
22 ballot and desiring to accept the nomination may not have  
23 his name printed on the general election ballot unless he:

24 (1) files with the secretary of state or election  
25 administrator no later than 10 days after the official

1 canvass, a written declaration indicating his acceptance of  
2 the nomination;

3 (2) pays the required filing fee or, if indigent,  
4 complies with 13-10-203; and

5 (3) received at least 5% of the total votes cast for  
6 the successful candidate for the same office at the last  
7 general election; and

8 ~~(4) complies with the provisions of 13-37-126.~~

9 Section 10. Section 13-10-208, MCA, is amended to  
10 read:

11 "13-10-208. Certificate of primary ballot -- printing  
12 ballot. (1) Not more than 75 days and not less than 67 days  
13 before the date of the primary election, the secretary of  
14 state shall certify to the election administrators the names  
15 and designations of candidates; ~~except as provided in~~  
16 ~~13-37-126~~, and any ballot issues as shown in the official  
17 records of his office in the manner provided in 13-10-209  
18 and chapter 12, part 2, of this title.

19 (2) Not more than 67 days and not less than 62 days  
20 before the date of the primary election, the election  
21 administrator shall certify the names and designations of  
22 candidates; ~~except as provided in 13-37-126~~, and any ballot  
23 issues as shown in the official record of his office and  
24 have the official ballots printed in the manner provided in  
25 13-10-209 and chapter 12, part 2, of this title."

1 Section 11. Section 13-12-201, MCA, is amended to  
2 read:

3 "13-12-201. Secretary of state to certify ballot. (1)  
4 Seventy-five days or more before an election, except as  
5 provided in 13-10-208, the secretary of state shall certify  
6 to the election administrators the name and party or other  
7 designation of each candidate entitled to appear on the  
8 ballot and ballot issues as shown in the official records of  
9 his office; ~~which must include the notification specified in~~  
10 ~~13-37-126.~~

11 (2) The election administrator shall certify the name  
12 and party or other designation of each candidate entitled to  
13 appear on the ballot and ballot issues as shown in the  
14 official records of his office; ~~which must include the~~  
15 ~~notification specified in 13-37-126~~, and shall have the  
16 official ballots printed."

17 Section 12. Section 13-15-406, MCA, is amended to  
18 read:

19 "13-15-406. Certificates to be issued by the election  
20 administrator. The election administrator shall; ~~except as~~  
21 ~~provided in 13-37-127~~, deliver a certificate of nomination  
22 or election to each individual declared elected by the  
23 board."

24 Section 13. Section 13-15-504, MCA, is amended to  
25 read:



"13-15-504. Governor to issue commissions. Upon receipt of the statements required by 13-15-507 and ~~13-37-127~~, the governor shall issue commissions to the individuals elected. If the governor has been elected to succeed himself, the secretary of state shall issue the commission."

Section 14. Section 13-35-227, MCA, is amended to read:

"13-35-227. Prohibited contributions from corporations. (1) A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee which supports or opposes a candidate or a political party.

(2) A person, candidate, or political committee may not accept or receive a corporate contribution described in subsection (1).

(3) This section does not prohibit the establishment or administration of a separate, segregated fund to be used for making political contributions or expenditures if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or a member of the corporation.

(4) A person who violates this section is ~~subject to the civil penalty provisions of 13-37-128~~ liable in a civil action brought by the county attorney for an amount up to

\$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

(5) In determining the amount of liability under subsection (4), the court may take into account the seriousness of a violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants, the county must receive 50% of the amount recovered. The remaining 50% must be deposited in the general fund of the state.

(6) No action may be brought under subsection (4) more than 4 years after the occurrence of the facts which give rise to the action. No more than one judgment against a particular defendant may be had on a single state of facts. The civil action created in subsection (4) is the exclusive remedy for violation of this section. These provisions are not subject to the misdemeanor penalties of 13-35-103 but may be a ground for removal from office as provided in 13-35-106(3) or for contest of election as provided in Title 13, chapter 36.

(7) Records, accounts, and books kept under this chapter or chapter 36 of this title by the contributor or person receiving the contribution may be inspected by the county attorney during reasonable office hours. The county attorney may also:

(a) administer oaths and affirmations;

1 (b) subpoena witnesses and compel their attendance;

2 (c) take evidence; and

3 (d) require the production of any books,  
4 correspondence, memoranda, or bank account statements of a  
5 political committee or candidate or other records which are  
6 relevant or material for the purpose of conducting any  
7 investigation under this section."

8 Section 15. Section 13-37-117, MCA, is amended to  
9 read:

10 "13-37-117. Commissioner Legislative council to  
11 provide forms and manuals. (1) The commissioner legislative  
12 council shall prescribe provide forms for statements and  
13 other information required to be filed pursuant to chapters  
14 35, 36, or 37 of this title and ~~furnish--forms--and~~  
15 ~~appropriate--information--to--persons---required---to---file~~  
16 ~~statements--and--information~~ shall use the forms in use on  
17 [the effective date of this act] unless other forms are  
18 prescribed by act of the legislature.

19 (2) The commissioner legislative council shall prepare  
20 and publish a manual prescribing a uniform system for  
21 accounts for use by persons required to file statements  
22 pursuant to chapters 35, 36, or 37 of this title. The  
23 manual in use on [the effective date of this act] must be  
24 used unless another manual is prescribed by act of the  
25 legislature.

1 (3) The commissioner secretary of state shall  
2 prescribe the manner in which the county clerk and recorders  
3 shall receive, file, collate, and maintain reports filed  
4 with them under chapters 35, 36, or 37 of this title."

5 Section 16. Section 13-37-118, MCA, is amended to  
6 read:

7 "13-37-118. Information voluntarily supplied. The  
8 commissioner legislative council shall accept and file any  
9 information voluntarily supplied that exceeds the  
10 requirements of chapters 35, 36, or 37 of this title."

11 Section 17. Section 13-37-119, MCA, is amended to  
12 read:

13 "13-37-119. Availability of information. (1) The  
14 commissioner legislative council shall make statements and  
15 other information filed with ~~his~~ its office available for  
16 public inspection and copying during regular office hours  
17 and make copying facilities available free of charge or at a  
18 charge not to exceed actual cost.

19 (2) The commissioner legislative council shall  
20 preserve statements and other information filed with ~~his~~ its  
21 office for a period of 10 years from date of receipt.

22 (3) The commissioner legislative council shall prepare  
23 and publish summaries of the statements received and such  
24 other reports as ~~he~~ it considers appropriate.

25 (4) The commissioner legislative council shall provide

for wide public dissemination of summaries and reports."

Section 18. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file the certification, which shall include an organizational statement and set forth the name and address of all other officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee shall be filed with the commissioner legislative council and the appropriate county clerk and recorder as specified for the filing of reports in 13-37-225."

Section 19. Section 13-37-210, MCA, is amended to read:

"13-37-210. Naming and labeling of political committees. ~~(1)~~ Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

~~(a)~~(1) name and identify itself in its organizational

statement using a name or phrase:

~~(1)~~(a) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

~~(1)~~(b) if a majority of its contributors share a common employer, that identifies the employer; and

~~(b)~~(2) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot measure by printing or broadcasting its name, as provided under subsection ~~(1)~~(a), and position in support of or opposition to the candidate or ballot measure as a part of the media advertisement or other paid public statement.

~~(2)---The-naming-and-labeling-requirements-in-subsection (1)-are-reporting-requirements-for-purposes-of--enforcement under-13-37-128--"~~

Section 20. Section 13-37-218, MCA, is amended to read:

"13-37-218. Limitations on receipts from political committees. A candidate for the state senate may receive no more than \$1,000 in total combined monetary contributions from all political committees contributing to his campaign, and a candidate for the state house of representatives may receive no more than \$600 in total combined monetary contributions from all political committees contributing to

1 his campaign. The foregoing limitations shall be multiplied  
 2 by the inflation factor as defined in 15-30-101(8) for the  
 3 year in which general elections are held after 1984; the  
 4 resulting figure shall be rounded off to the nearest \$50  
 5 increment. The ~~commissioner-of-political-practices~~ secretary  
 6 of state shall publish the revised limitations as a rule.  
 7 In-kind contributions may not be included in computing these  
 8 limitation totals. The limitation provided in this section  
 9 does not apply to contributions made by a political party  
 10 eligible for a primary election under 13-10-601."

11 Section 21. Section 13-37-225, MCA, is amended to  
 12 read:

13 "13-37-225. Reports of contributions and expenditures  
 14 required. (1) Except as provided in 13-37-206, each  
 15 candidate and political committee shall file periodic  
 16 reports of contributions and expenditures made by or on the  
 17 behalf of a candidate or political committee. All reports  
 18 required by this chapter shall be filed with the  
 19 commissioner legislative council and with the county clerk  
 20 and recorder of the county in which a candidate is a  
 21 resident or the political committee has its headquarters.  
 22 However, where residency within a district, county, city, or  
 23 town is not a prerequisite for being a candidate, copies of  
 24 all reports shall be filed with the county clerk and  
 25 recorder of the county in which the election is to be held

1 or, if the election is to be held in more than one county,  
 2 with the clerk and recorder in the county that the  
 3 commissioner secretary of state specifies.

4 (2) In lieu of all contribution and expenditure  
 5 reports required by this chapter, the commissioner  
 6 legislative council shall accept copies of the reports filed  
 7 by candidates for congress and president of the United  
 8 States and their political committees pursuant to the  
 9 requirements of federal law."

10 Section 22. Section 13-37-226, MCA, is amended to  
 11 read:

12 "13-37-226. Time for filing reports. (1) Candidates  
 13 for a state office filled by a statewide vote of all the  
 14 electors of Montana and political committees which are  
 15 specifically organized to support or oppose a particular  
 16 statewide candidate or issue shall file reports:

17 (a) on the 10th day of March and September in each  
 18 year that an election is to be held and on the 15th and 5th  
 19 days next preceding the date on which an election is held  
 20 and within 24 hours after receiving a contribution of \$500  
 21 or more if received between the 10th day before and the day  
 22 of the election;

23 (b) not more than 20 days after the date of the  
 24 election; and

25 (c) on the 10th day of March and September of each

1 year following an election until the candidate or political  
2 committee files a closing report as specified in  
3 13-37-228(3).

4 (2) Candidates for a state district office, including  
5 but not limited to candidates for the legislature, public  
6 service commission, or district court judge, and political  
7 committees which are specifically organized to support or  
8 oppose a particular state district candidate or issue shall  
9 file reports:

10 (a) on the 10th day next preceding the date on which  
11 an election is held and within 24 hours after receiving a  
12 contribution of \$100 or more if received between the 15th  
13 day before and the day of the election;

14 (b) not more than 20 days after the date of the  
15 election; and

16 (c) whenever a candidate or political committee files  
17 his or its closing report as specified in 13-37-228(3).

18 (3) Candidates for any other public office and  
19 political committees which are specifically organized to  
20 support or oppose a particular local issue shall be required  
21 to file the reports specified in subsection (2) only if the  
22 total amount of contributions received or the total amount  
23 of funds expended for all elections in a campaign, excluding  
24 the filing fee paid by the candidate, exceeds \$500, except  
25 as provided in 13-37-206.

1 (4) For the purposes of this subsection, a committee  
2 which is not specifically organized to support or oppose a  
3 particular candidate or ballot issue and which receives  
4 contributions and makes expenditures in conjunction with an  
5 election is an independent committee. For the purpose of  
6 reporting, a political party committee is an independent  
7 committee. An independent committee shall file reports:

8 (a) on the 10th day next preceding the date of an  
9 election in which it participates by making an expenditure;

10 (b) not more than 20 days after the date of the  
11 election in which it participates by making an expenditure;  
12 and

13 (c) a closing report at the close of each calendar  
14 year, on a date to be prescribed by the commissioner  
15 secretary of state.

16 ~~{5}--The--commissioner--may--promulgate--rules--regarding~~  
17 ~~the--extent--to--which--organizations--that--are--not--primary~~  
18 ~~political--committees--but--are--incidental--political--committees~~  
19 ~~shall---report---their---politically---related---activities---in~~  
20 ~~accordance--with--this--chapter.~~

21 ~~{6}~~(5) All reports required by this section shall be  
22 complete as of the fifth day before the date of filing as  
23 specified in 13-37-225(2) and subsections (1) through {5}  
24 (4) of this section."

25 Section 23. Section 13-37-229, MCA, is amended to

1 read:

2 "13-37-229. Disclosure of contributions received. Each  
3 report required by this chapter shall disclose the following  
4 information:

5 (1) the amount of cash on hand at the beginning of the  
6 reporting period;

7 (2) the full name and mailing address (occupation and  
8 the principal place of business, if any) of each person who  
9 has made aggregate contributions, other than loans, of \$25  
10 or more to the candidate or political committee (including  
11 the purchase of tickets and other items for events such as  
12 dinners, luncheons, rallies, and similar fund-raising  
13 events), together with the aggregate amount of those  
14 contributions within the reporting period and the total  
15 amount of contributions made by that person;

16 (3) the total sum of individual contributions made to  
17 or for the political committee or candidate and not reported  
18 under subsection (2) of this section;

19 (4) the name and address of each political committee  
20 or candidate from which the reporting committee or candidate  
21 received any transfer of funds, together with the amount and  
22 dates of all transfers;

23 (5) each loan from any person during the reporting  
24 period, together with the full names and mailing addresses  
25 (occupation and principal place of business, if any) of the

1 lender and endorsers, if any, and the date and amount of  
2 each loan;

3 (6) the amount and nature of debts and obligations  
4 owed to a political committee or candidates, ~~in the form~~  
5 ~~prescribed by the commissioner;~~

6 (7) an itemized account of proceeds which total less  
7 than \$25 from a person from mass collections made at  
8 fund-raising events;

9 (8) each contribution, rebate, refund, or other  
10 receipt not otherwise listed under subsections (2) through  
11 (7) of this section during the reporting period;

12 (9) the total sum of all receipts received by or for  
13 the committee or candidate during the reporting period;

14 ~~(10) other information that may be required by the~~  
15 ~~commissioner to fully disclose the sources of funds used to~~  
16 ~~support or oppose candidates or issues."~~

17 Section 24. Section 13-37-230, MCA, is amended to  
18 read:

19 "13-37-230. Disclosure of expenditures made. Each  
20 report required by this chapter shall disclose the following  
21 information, except that a candidate shall only be required  
22 to report the information specified in this section if the  
23 transactions involved were undertaken for the purpose of  
24 influencing an election:

25 (1) the full name and mailing address (occupation and

the principal place of business, if any) of each person to whom expenditures have been made by the committee or candidate during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(2) the full name and mailing addresses (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses have been made, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(3) the total sum of expenditures made by a political committee or candidate during the reporting period;

(4) the name and address of each political committee or candidate to which the reporting committee or candidate made any transfer of funds, together with the amount and dates of all transfers;

(5) the name of any person to whom a loan was made during the reporting period, including the full name and mailing address (occupation and principal place of business, if any) of that person, and the full name and mailing address (occupation and principal place of business, if any) of the endorser, if any, and the date and amount of each loan;

(6) the amount and nature of debts and obligations

owed by a political committee or candidate in--the--form prescribed-by-the-commissioner7.

~~{7}--other--information--that--may--be--required-by-the commissioner-to-fully-disclose-the-disposition-of-funds-used to-support-or-oppose-candidates-or-issues--"~~

Section 25. Section 13-37-231, MCA, is amended to read:

"13-37-231. Reports to be certified as true and correct. (1) A report required by this chapter to be filed by a candidate or political committee shall be verified as true and correct by the oath or affirmation of the individual filing the report. The individual filing the report shall be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner legislative council.

(2) A copy of a report or statement filed by a candidate or political committee shall be preserved by the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer."

NEW SECTION. Section 26. Repealer. Sections 2-15-411, 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213, 13-35-302, 13-37-101 through 13-37-106, 13-37-111 through 13-37-116, 13-37-120 through 13-37-130, and 13-37-227, MCA, are repealed.

LC 0054/01

- 1        NEW SECTION. Section 27. Effective date. This act is
- 2        effective on passage and approval.

-End-



## STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for SB018, as introduced.


Description of Proposed Legislation:

A bill for an act entitled "an act to abolish the office and certain functions of the Commissioner of Political Practices and transfer the remaining functions to the Legislative Council; to remove the lobbyist reporting and accounting requirements; to transfer lobbyist licensing requirements to the Legislative Council; amending sections 5-7-101 through 5-7-103, 5-7-201, 5-7-202, 5-7-207, 5-7-305, 7-4-2611, 13-10-204, 13-10-208, 13-12-201, 13-15-406, 13-15-504, 13-35-227, 13-37-117 through 13-37-119, 13-37-201, 13-37-210, 13-37-218, 13-37-225, 13-37-226, and 13-37-229 through 13-37-231, MCA; repealing sections 2-15-411, 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213, 13-35-302, 13-37-101 through 13-37-106, 13-37-111 through 13-37-116, 13-37-120 through 13-37-130, and 13-37-227, MCA; and providing an immediate effective date."

Assumptions:

1. Statutes pertaining to campaign and lobbyist laws would continue in effect, necessitating 3.0 FTE to administer the remaining program. Salaries and benefits were estimated from the current payroll report.
2. Storage space of 162 cubic feet would be rented from records management at a cost of \$3.47 per cubic foot.
3. An additional 450 square feet of office space would be required.
4. HB018, if passed, will not become effective until FY87.
5. The 5% cut in expenditures contained in HB30 is not included.
6. It is assumed that the staff of the Legislative Council could provide any necessary legal services to the program within existing budget and staffing levels, and that existing Council budget for equipment repair, travel and clerical and word processing support are adequate to serve the program.
7. The Secretary of State could handle additional workload and rule making and publishing requirements within existing budget and staff.

 6/24/86  
BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 55 June 86  
PRIMARY SPONSOR DATE

Fiscal Note for SB18, as introduced.

Fiscal Note Request SB018, as introduced.  
Form BD15 page 2  
(continued)

Fiscal Impact:  
Expenditures:

	Current Law	<u>FY87</u> Proposed Law	Difference
General Fund			
Personal Services	\$124,136	\$ 69,968	(\$ 54,168)
Operating Expenses			
Contracted Services	339	0	(339)
Supplies	2,145	2,145	0
Communications	5,684	4,200	(1,484)
Travel	819	0	(819)
Rent	5,349	1,314	(4,035)
Storage	0	563	563
Repair	1,297	0	(1,297)
Reduced General Fund			
Expenditures	\$139,769	\$ 78,190	(\$ 61,579)
 State Special Revenue Fund			
Operating Expenses			
Printing	\$ 1,000	\$ 1,000	0
 Total Expenditure Reduction	\$140,769	\$ 79,190	(\$ 60,579)

Affect on County or Other Local Revenue or Expenditures:

There is no significant effect on county or other local revenues.

Long-Range Effects of Proposed Legislation:

Expenditures in the Legislative Council will be increased for this program.

Technical or Mechanical Defects in Proposed Legislation or Conflicts with Existing Legislation:

None noted.

On motion taken from State Adm.  
Committee and placed on 2nd reading.

1 BILL NO. 18  
2 INTRODUCED BY *Sen. Warren M. Hanson*  
3 *Ellison* *NATHE* *C. S. Smith* *Leating* *Leating*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE OFFICE  
5 AND CERTAIN FUNCTIONS OF THE COMMISSIONER OF POLITICAL  
6 PRACTICES AND TRANSFER THE REMAINING FUNCTIONS TO THE  
7 LEGISLATIVE COUNCIL; TO REMOVE LOBBYIST REPORTING AND  
8 ACCOUNTING REQUIREMENTS; TO TRANSFER LOBBYIST LICENSING  
9 REQUIREMENTS TO THE LEGISLATIVE COUNCIL; AMENDING SECTIONS  
10 5-7-101 THROUGH 5-7-103, 5-7-201, 5-7-202, 5-7-207, 5-7-305,  
11 7-4-2611, 13-10-204, 13-10-208, 13-12-201, 13-15-406,  
12 13-15-504, 13-35-227, 13-37-117 THROUGH 13-37-119,  
13 13-37-201, 13-37-210, 13-37-218, 13-37-225, 13-37-226, AND  
14 13-37-229 THROUGH 13-37-231, MCA; REPEALING SECTIONS  
15 2-15-411, 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213,  
16 13-35-302, 13-37-101 THROUGH 13-37-106, 13-37-111 THROUGH  
17 13-37-116, 13-37-120 THROUGH 13-37-130, AND 13-37-227, MCA;  
18 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
21 Section 1. Section 5-7-101, MCA, is amended to read:  
22 "5-7-101. Purposes Purpose of chapter --  
23 applicability. (1) The purposes purpose of this chapter are  
24 to promote a high standard of ethics in the practice of  
25 lobbying, to prevent unfair and unethical lobbying

1 practices, is to provide for the licensing of lobbyists and  
2 the suspension or revocation of the licenses, to require  
3 elected officials to make public their business, financial,  
4 and occupational interests, and to require disclosure of the  
5 amounts of money spent for lobbying.

6 (2) Nothing in this chapter subjects any citizen  
7 lobbying on his own behalf to any reporting licensing  
8 requirements nor or deprives any such citizen of the  
9 constitutional right to communicate with public officials."

10 Section 2. Section 5-7-102, MCA, is amended to read:  
11 "5-7-102. Definitions. The following definitions apply  
12 in this chapter:

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

14 (2) "Person" means an individual, corporation,  
15 association, firm, partnership, state or local government or  
16 subdivision thereof, or other organization or group of  
17 persons.

18 (3) "Public official" means any individual, elected or  
19 appointed, acting in his official capacity for the state  
20 government, but does not include those acting in a judicial  
21 or quasi-judicial capacity or performing ministerial acts.

22 (4) "Lobbying" includes:

23 (a) the practice of promoting or opposing the  
24 introduction or enactment of legislation before the  
25 legislature or the members thereof by any person other than

## SECOND READING

-2-  
There are no changes in 5018, & will not be re-run.  
Please refer to white copy for complete text.

SENATE BILL NO. 18

INTRODUCED BY BOYLAN, WALLIN, HANSON, THOFT, ELLISON,  
DANIELS, SCHULTZ, SHAW, NATHE, C. SMITH, PHILLIPS,  
KEATING, PATTERSON, TVEIT, SWITZER, STORY,  
HIMSL, B. WILLIAMS, E. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE OFFICE  
AND CERTAIN FUNCTIONS OF THE COMMISSIONER OF POLITICAL  
PRACTICES AND TRANSFER THE REMAINING FUNCTIONS TO THE  
LEGISLATIVE COUNCIL; TO REMOVE LOBBYIST REPORTING AND  
ACCOUNTING REQUIREMENTS; TO TRANSFER LOBBYIST LICENSING  
REQUIREMENTS TO THE LEGISLATIVE COUNCIL; AMENDING SECTIONS  
5-7-101 THROUGH 5-7-103, 5-7-201, 5-7-202, 5-7-207, 5-7-305,  
7-4-2611, 13-10-204, 13-10-208, 13-12-201, 13-15-406,  
13-15-504, 13-35-227, 13-37-117 THROUGH 13-37-119,  
13-37-201, 13-37-210, 13-37-218, 13-37-225, 13-37-226, AND  
13-37-229 THROUGH 13-37-231, MCA; REPEALING SECTIONS  
2-15-411, 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213,  
13-35-302, 13-37-101 THROUGH 13-37-106, 13-37-111 THROUGH  
13-37-116, 13-37-120 THROUGH 13-37-130, AND 13-37-227, MCA;  
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 5-7-101, MCA, is amended to read:

"5-7-101. Purposes Purpose of chapter --

applicability. (1) The purposes purpose of this chapter are  
~~to promote a high standard of ethics in the practice of~~  
~~lobbying, to prevent unfair and unethical lobbying~~  
~~practices,~~ is to provide for the licensing of lobbyists and  
~~the suspension or revocation of the licenses, to require~~  
~~elected officials to make public their business, financial,~~  
~~and occupational interests, and to require disclosure of the~~  
~~amounts of money spent for lobbying.~~

(2) Nothing in this chapter subjects any citizen  
lobbying on his own behalf to any reporting licensing  
requirements nor or deprives any such citizen of the  
constitutional right to communicate with public officials."

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

"5-7-102. Definitions. The following 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  
appointed, acting in his official capacity for the state  
government, but does not include those acting in a judicial  
or quasi-judicial capacity or performing ministerial acts.

(4) "Lobbying" includes:

THIRD READING

1 (a) the practice of promoting or opposing the  
2 introduction or enactment of legislation before the  
3 legislature or the members thereof by any person other than  
4 a member of the legislature or a public official acting in  
5 his official capacity; and

6 (b) the practice of promoting or opposing official  
7 action by any public official in the event the person  
8 engaged in such practice expends \$1,000 per calendar year or  
9 more exclusive of personal travel and living expenses.

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

12 (b) "Lobbyist" does not include:

13 (i) any individual citizen acting solely on his own  
14 behalf; or

15 (ii) any individual working for the same principal as a  
16 licensed lobbyist, such individual having no personal  
17 contact involving lobbying with any public official on  
18 behalf of his principal.

19 (c) Nothing in this section deprives any citizen not  
20 lobbying for hire of the constitutional right to communicate  
21 with public officials.

22 (6) "Lobbying for hire" includes activities of any  
23 officers, agents, attorneys, or employees of any principal  
24 who are paid, reimbursed, or retained by such principal and  
25 whose duties include lobbying. When an individual is

1 reimbursed only for his personal living and travel expenses,  
2 which together do not exceed \$1,000 per calendar year, that  
3 individual shall not be considered to be lobbying for hire.

4 (7) "Unprofessional conduct" means:

5 (a) a violation of any of the provisions of this  
6 chapter;

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

9 (c) attempting to influence the action of any public  
10 official on any measure pending or to be proposed by:

11 (i) promise of financial support; or

12 (ii) making public any unsubstantiated charges of  
13 improper conduct on the part of any other lobbyist, any  
14 principal, or any legislator;

15 (d) attempting to knowingly deceive any public  
16 official with regard to the pertinent facts of an official  
17 matter or attempt to knowingly misrepresent pertinent facts  
18 of an official matter to any public official.

19 (8) "Principal" means any person who makes payments in  
20 excess of \$1,000 per calendar year to engage a lobbyist.

21 (9) "Docket" means the register and--reports of  
22 lobbyists and principals maintained by the commissioner  
23 legislative council pursuant to 5-7-201.

24 (10) "Payment" means distribution, transfer, loan,  
25 advance, deposit, gift, or other rendering made or to be

made of money, property, or anything of value.

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

(a) direct or indirect payment to a lobbyist by a principal, as salary, fee, compensation, or reimbursement for expenses, excluding personal living expenses;

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

(12) "Business" means:

(a) any holding or interest whose fair market value is greater than \$1,000, in any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed individual, holding company, joint stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

(b) present or past employment from which benefits, including retirement allowances, are received.

(13) ~~"Commissioner" means the commissioner of political practices.~~ "Legislative council" means the Montana legislative council established in 5-11-101.

(14) "Elected official" means a public official holding a state office filled by a statewide vote of all the

electors of Montana or a state district office, including, but not limited to legislators, public service commissioners, and district court judges. The term "official-elect" shall also apply only to such offices."

Section 3. Section 5-7-103, MCA, is amended to read:

"5-7-103. Licenses -- fees -- eligibility. (1) Any adult of good moral character who is a citizen of the United States and who is otherwise qualified under this chapter may be licensed as a lobbyist. The commissioner legislative council shall provide a license application form. The application form may be obtained in the office of the commissioner legislative council and filed therein. Upon approval receipt of the completed application and receipt of the license fee of \$10 by the commissioner legislative council, a license shall be issued which entitles the licensee to practice lobbying on behalf of one or more enumerated principals. Each license shall expire on December 31 of each even-numbered year or may be terminated at the request of the lobbyist.

~~{2}--No---application---may---be---disapproved---without affording-the-applicant-a-hearing--The-hearing-shall-be-held and-the-decision-entered-within-10-days-of-the-date--of--the filing-of-the-application--~~

~~{3}~~{2} The fines and license fees collected under this chapter shall be deposited in the state treasury."

SB 0018/02

Section 4. Section 5-7-201, MCA, is amended to read:

"5-7-201. Docket -- contents. The commissioner legislative council shall make available to the public the information required by this chapter, including but not limited to the name and business address of each lobbyist, the name and business address of his principal, and the subject or subjects to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. ~~The docket entry for each principal shall also indicate the principal's required reports of payments to influence official action by a public official.~~"

Section 5. Section 5-7-202, MCA, is amended to read:

"5-7-202. Docket -- public record. ~~Such~~ The docket ~~shall be required by 5-7-201~~ is a public record and open to the inspection of any individual upon demand at any time during the regular business hours of the office of the commissioner legislative council."

Section 6. Section 5-7-207, MCA, is amended to read:

"5-7-207. Report to legislature. Beginning with the first Tuesday following the beginning of any regular or special session of the legislature and on the first Tuesday of every month thereafter during which the legislature is in session, the commissioner legislative council shall from his its records report to each member of each house of the

legislature the names of lobbyists registered under this chapter, not previously reported, the names of the principals whom they represent as lobbyists, and the subjects of legislation in which each principal is interested."

Section 7. Section 5-7-305, MCA, is amended to read:

"5-7-305. Penalties and enforcement. (1) Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not more than 6 months or by a fine not exceeding \$200, or both.

(2) Any person who violates any of the provisions of this chapter shall be subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his license suspended or revoked according to the discretion of the court. Any public official holding elective office adjudged in violation of the provisions of this ~~act~~ chapter is additionally subject to recall under Montana Recall Act, 2-16-601, et seq., and such violation shall constitute an additional basis for recall to those mentioned in 2-16-603(3).

(3) The attorney general, ~~commissioner~~, or the county attorney of the county in which the violation takes place

1 may bring criminal or civil actions in the name of the state  
2 for any appropriate criminal or civil remedy.

3 (4) If a prosecution is undertaken by ~~the commissioner~~  
4 ~~or--any a~~ county attorney, all costs associated with the  
5 prosecution shall be paid by the state of Montana.

6 (5) (a) Any individual who has notified the  
7 commissioner legislative council, the attorney general, and  
8 the appropriate county attorney in writing that there is  
9 reason to believe that some portion of this chapter is being  
10 violated may himself bring in the name of the state an  
11 action (hereinafter referred to as a citizen's action)  
12 authorized under this chapter if:

13 (i) the attorney general and the appropriate county  
14 attorney have failed to commence an action hereunder within  
15 40 days after such notice; and

16 (ii) said attorneys then fail to commence an action  
17 within 10 days after a written notice delivered to them  
18 advising them that a citizen's action will be brought if  
19 they do not bring an action.

20 (b) Each notification shall toll the statute of  
21 limitations applicable until the expiration of the waiting  
22 period.

23 (c) If the individual who brings the citizen's action  
24 prevails, he shall be entitled to be reimbursed by the state  
25 of Montana for costs and attorney's fees incurred; provided

1 that in the case of a citizen's action which is dismissed  
2 and which the court also finds was brought without  
3 reasonable cause, the court may order the individual  
4 commencing the action to pay all costs of trial and  
5 reasonable attorney's fees incurred by the defendant.

6 (6) No civil action may be brought under this section  
7 more than 7 years after the occurrence of the facts which  
8 give rise to the action.

9 (7) All civil penalties imposed pursuant to this  
10 section shall be deposited in the state general fund.

11 (8) A hearing under this chapter shall be held by the  
12 court unless the defendant-licensee demands a jury trial.  
13 The trial shall be held as soon as possible but at least 20  
14 days after the filing of the charges and shall take  
15 precedence over all other matters pending before the court.

16 (9) If the court finds for the plaintiff, judgment  
17 shall be rendered revoking or suspending the license and the  
18 clerk of court shall file a certified copy of the judgment  
19 with the commissioner legislative council."

20 Section 8. Section 7-4-2611, MCA, is amended to read:

21 "7-4-2611. Role and duties of county clerk. (1) The  
22 county clerk of any county is also clerk of the county  
23 commissioners and ex officio recorder. Any duty imposed by  
24 law upon such officer, either as county clerk, clerk of the  
25 county commissioners, or recorder, shall be performed by the



1 county clerk, and any official act performed or certified by  
2 the county clerk shall be as valid and effectual as if  
3 performed and certified to by him as clerk of the county  
4 commissioners or as recorder.

5 (2) The county clerk must:

6 (a) take charge of and safely keep or dispose of  
7 according to law all books, papers, maps, and records which  
8 may be filed or deposited in his office;

9 (b) record all the proceedings of the board;

10 (c) make full entries of all its resolutions and  
11 decisions on all questions concerning the raising of money  
12 for and the allowance of accounts against the county;

13 (d) record the vote of each member on any question  
14 upon which there is a division or at the request of any  
15 member present;

16 (e) sign all orders made and warrants issued by order  
17 of the board for the payment of money and certify the same  
18 to the county treasurer;

19 (f) record the reports of the county treasurer of the  
20 receipts and disbursements of the county;

21 (g) preserve and file all accounts acted upon by the  
22 board;

23 (h) preserve and file all petitions and applications  
24 for franchises and record the action of the board thereon;

25 (i) record all orders levying taxes;

1 (j) designate upon every account allowed by the board  
2 the amount allowed and deliver to any person who may demand  
3 it a certified copy of any record in his office or any  
4 account on file therein;

5 (k) as often as a new township is organized or the  
6 boundaries of any township are altered, immediately make out  
7 and transmit to the secretary of state a certified statement  
8 of the names and boundaries and the boundaries of any  
9 township altered;

10 (l) keep such other records and books and perform such  
11 other duties as are prescribed by law or by rule or order of  
12 the board.

13 ~~{3}-A-county-clerk-and-recorder-shall-file, code, and~~  
14 ~~cross-index--all--reports-and-statements-filed-as-prescribed~~  
15 ~~by-the-commissioner-of-political-practices.~~

16 ~~{4}{3}~~ A county clerk and recorder shall make  
17 statements and other information filed under the provisions  
18 of Title 13, chapters 35, 36, and 37, in his office  
19 available for public inspection and copying during regular  
20 office hours and make copying facilities available free of  
21 charge or at a charge not to exceed actual cost."

22 Section 9. Section 13-10-204, MCA, is amended to read:

23 "13-10-204. Write-in nominations. An individual  
24 nominated by having his name written in on the primary  
25 ballot and desiring to accept the nomination may not have

1 his name printed on the general election ballot unless he:

2 (1) files with the secretary of state or election  
3 administrator no later than 10 days after the official  
4 canvass, a written declaration indicating his acceptance of  
5 the nomination;

6 (2) pays the required filing fee or, if indigent,  
7 complies with 13-10-203; and

8 (3) received at least 5% of the total votes cast for  
9 the successful candidate for the same office at the last  
10 general election; ~~and~~

11 ~~{4}--complies-with-the-provisions-of-13-37-126."~~

12 Section 10. Section 13-10-208, MCA, is amended to  
13 read:

14 "13-10-208. Certificate of primary ballot -- printing  
15 ballot. (1) Not more than 75 days and not less than 67 days  
16 before the date of the primary election, the secretary of  
17 state shall certify to the election administrators the names  
18 and designations of candidates; ~~--except--as--provided--in~~  
19 ~~13-37-126~~; and any ballot issues as shown in the official  
20 records of his office in the manner provided in 13-10-209  
21 and chapter 12, part 2, of this title.

22 (2) Not more than 67 days and not less than 62 days  
23 before the date of the primary election, the election  
24 administrator shall certify the names and designations of  
25 candidates; ~~--except-as-provided-in-13-37-126~~; and any ballot

1 issues as shown in the official record of his office and  
2 have the official ballots printed in the manner provided in  
3 13-10-209 and chapter 12, part 2, of this title."

4 Section 11. Section 13-12-201, MCA, is amended to  
5 read:

6 "13-12-201. Secretary of state to certify ballot. (1)  
7 Seventy-five days or more before an election, except as  
8 provided in 13-10-208, the secretary of state shall certify  
9 to the election administrators the name and party or other  
10 designation of each candidate entitled to appear on the  
11 ballot and ballot issues as shown in the official records of  
12 his office; ~~which-must-include-the-notification-specified-in~~  
13 ~~13-37-126~~.

14 (2) The election administrator shall certify the name  
15 and party or other designation of each candidate entitled to  
16 appear on the ballot and ballot issues as shown in the  
17 official records of his office; ~~which--must--include--the~~  
18 ~~notification--specified--in--13-37-126~~; and shall have the  
19 official ballots printed."

20 Section 12. Section 13-15-406, MCA, is amended to  
21 read:

22 "13-15-406. Certificates to be issued by the election  
23 administrator. The election administrator shall; ~~--except--as~~  
24 ~~provided--in--13-37-127~~; deliver a certificate of nomination  
25 or election to each individual declared elected by the

board."

Section 13. Section 13-15-504, MCA, is amended to read:

"13-15-504. Governor to issue commissions. Upon receipt of the statements required by 13-15-507 and ~~13-37-127~~, the governor shall issue commissions to the individuals elected. If the governor has been elected to succeed himself, the secretary of state shall issue the commission."

Section 14. Section 13-35-227, MCA, is amended to read:

"13-35-227. Prohibited contributions from corporations. (1) A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee which supports or opposes a candidate or a political party.

(2) A person, candidate, or political committee may not accept or receive a corporate contribution described in subsection (1).

(3) This section does not prohibit the establishment or administration of a separate, segregated fund to be used for making political contributions or expenditures if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or a member of the corporation.

(4) A person who violates this section is ~~subject to the civil penalty provisions of 13-37-128~~ liable in a civil action brought by the county attorney for an amount up to \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

(5) In determining the amount of liability under subsection (4), the court may take into account the seriousness of a violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants, the county must receive 50% of the amount recovered. The remaining 50% must be deposited in the general fund of the state.

(6) No action may be brought under subsection (4) more than 4 years after the occurrence of the facts which give rise to the action. No more than one judgment against a particular defendant may be had on a single state of facts. The civil action created in subsection (4) is the exclusive remedy for violation of this section. These provisions are not subject to the misdemeanor penalties of 13-35-103 but may be a ground for removal from office as provided in 13-35-106(3) or for contest of election as provided in Title 13, chapter 36.

(7) Records, accounts, and books kept under this chapter or chapter 36 of this title by the contributor or person receiving the contribution may be inspected by the

1 county attorney during reasonable office hours. The county  
2 attorney may also:

3 (a) administer oaths and affirmations;

4 (b) subpoena witnesses and compel their attendance;

5 (c) take evidence; and

6 (d) require the production of any books,  
7 correspondence, memoranda, or bank account statements of a  
8 political committee or candidate or other records which are  
9 relevant or material for the purpose of conducting any  
10 investigation under this section."

11 Section 15. Section 13-37-117, MCA, is amended to  
12 read:

13 "13-37-117. Commissioner Legislative council to  
14 provide forms and manuals. (1) The commissioner legislative  
15 council shall prescribe provide forms for statements and  
16 other information required to be filed pursuant to chapters  
17 35, 36, or 37 of this title and ~~furnish--forms--and~~  
18 ~~appropriate--information--to--persons---required---to---file~~  
19 ~~statements--and--information~~ shall use the forms in use on  
20 [the effective date of this act] unless other forms are  
21 prescribed by act of the legislature.

22 (2) The commissioner legislative council shall prepare  
23 and publish a manual prescribing a uniform system for  
24 accounts for use by persons required to file statements  
25 pursuant to chapters 35, 36, or 37 of this title. The

1 manual in use on [the effective date of this act] must be  
2 used unless another manual is prescribed by act of the  
3 legislature.

4 (3) The commissioner secretary of state shall  
5 prescribe the manner in which the county clerk and recorders  
6 shall receive, file, collate, and maintain reports filed  
7 with them under chapters 35, 36, or 37 of this title."

8 Section 16. Section 13-37-118, MCA, is amended to  
9 read:

10 "13-37-118. Information voluntarily supplied. The  
11 commissioner legislative council shall accept and file any  
12 information voluntarily supplied that exceeds the  
13 requirements of chapters 35, 36, or 37 of this title."

14 Section 17. Section 13-37-119, MCA, is amended to  
15 read:

16 "13-37-119. Availability of information. (1) The  
17 commissioner legislative council shall make statements and  
18 other information filed with ~~his~~ its office available for  
19 public inspection and copying during regular office hours  
20 and make copying facilities available free of charge or at a  
21 charge not to exceed actual cost.

22 (2) The commissioner legislative council shall  
23 preserve statements and other information filed with ~~his~~ its  
24 office for a period of 10 years from date of receipt.

25 (3) The commissioner legislative council shall prepare

1 and publish summaries of the statements received and such  
2 other reports as he it considers appropriate.

3 (4) The commissioner legislative council shall provide  
4 for wide public dissemination of summaries and reports."

5 Section 18. Section 13-37-201, MCA, is amended to  
6 read:

7 "13-37-201. Campaign treasurer. Except as provided in  
8 13-37-206, each candidate and each political committee shall  
9 appoint one campaign treasurer and certify the full name and  
10 complete address of the campaign treasurer pursuant to this  
11 section. A candidate shall file the certification within 5  
12 days after becoming a candidate. A political committee shall  
13 file the certification, which shall include an  
14 organizational statement and set forth the name and address  
15 of all other officers, if any, within 5 days after it makes  
16 an expenditure or authorizes another person to make an  
17 expenditure on its behalf, whichever occurs first. The  
18 certification of a candidate or political committee shall be  
19 filed with the commissioner legislative council and the  
20 appropriate county clerk and recorder as specified for the  
21 filing of reports in 13-37-225."

22 Section 19. Section 13-37-210, MCA, is amended to  
23 read:

24 "13-37-210. Naming and labeling of political  
25 committees. ~~{i}~~ Any political committee filing a

1 certification and organizational statement pursuant to  
2 13-37-201 shall:

3 ~~{a}~~(1) name and identify itself in its organizational  
4 statement using a name or phrase:

5 ~~{i}~~(a) that clearly identifies the economic or other  
6 special interest, if identifiable, of a majority of its  
7 contributors; and

8 ~~{i}~~(b) if a majority of its contributors share a  
9 common employer, that identifies the employer; and

10 ~~{b}~~(2) label any media advertisement or other paid  
11 public statement it makes or causes to be made in support of  
12 or opposition to any candidate or ballot measure by printing  
13 or broadcasting its name, as provided under subsection  
14 (1)~~{a}~~, and position in support of or opposition to the  
15 candidate or ballot measure as a part of the media  
16 advertisement or other paid public statement.

17 ~~{2}--The-naming-and-labeling-requirements-in-subsection~~  
18 ~~{i}-are-reporting-requirements-for-purposes-of-enforcement~~  
19 ~~under-13-37-128--"~~

20 Section 20. Section 13-37-218, MCA, is amended to  
21 read:

22 "13-37-218. Limitations on receipts from political  
23 committees. A candidate for the state senate may receive no  
24 more than \$1,000 in total combined monetary contributions  
25 from all political committees contributing to his campaign,

1 and a candidate for the state house of representatives may  
 2 receive no more than \$600 in total combined monetary  
 3 contributions from all political committees contributing to  
 4 his campaign. The foregoing limitations shall be multiplied  
 5 by the inflation factor as defined in 15-30-101(8) for the  
 6 year in which general elections are held after 1984; the  
 7 resulting figure shall be rounded off to the nearest \$50  
 8 increment. The ~~commissioner-of-political-practices~~ secretary  
 9 of state shall publish the revised limitations as a rule.  
 10 In-kind contributions may not be included in computing these  
 11 limitation totals. The limitation provided in this section  
 12 does not apply to contributions made by a political party  
 13 eligible for a primary election under 13-10-601."

14 Section 21. Section 13-37-225, MCA, is amended to  
 15 read:

16 "13-37-225. Reports of contributions and expenditures  
 17 required. (1) Except as provided in 13-37-206, each  
 18 candidate and political committee shall file periodic  
 19 reports of contributions and expenditures made by or on the  
 20 behalf of a candidate or political committee. All reports  
 21 required by this chapter shall be filed with the  
 22 commissioner legislative council and with the county clerk  
 23 and recorder of the county in which a candidate is a  
 24 resident or the political committee has its headquarters.  
 25 However, where residency within a district, county, city, or

1 town is not a prerequisite for being a candidate, copies of  
 2 all reports shall be filed with the county clerk and  
 3 recorder of the county in which the election is to be held  
 4 or, if the election is to be held in more than one county,  
 5 with the clerk and recorder in the county that the  
 6 commissioner secretary of state specifies.

7 (2) In lieu of all contribution and expenditure  
 8 reports required by this chapter, the commissioner  
 9 legislative council shall accept copies of the reports filed  
 10 by candidates for congress and president of the United  
 11 States and their political committees pursuant to the  
 12 requirements of federal law."

13 Section 22. Section 13-37-226, MCA, is amended to  
 14 read:

15 "13-37-226. Time for filing reports. (1) Candidates  
 16 for a state office filled by a statewide vote of all the  
 17 electors of Montana and political committees which are  
 18 specifically organized to support or oppose a particular  
 19 statewide candidate or issue shall file reports:

20 (a) on the 10th day of March and September in each  
 21 year that an election is to be held and on the 15th and 5th  
 22 days next preceding the date on which an election is held  
 23 and within 24 hours after receiving a contribution of \$500  
 24 or more if received between the 10th day before and the day  
 25 of the election;

(b) not more than 20 days after the date of the election; and

(c) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Candidates for a state district office, including but not limited to candidates for the legislature, public service commission, or district court judge, and political committees which are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 10th day next preceding the date on which an election is held and within 24 hours after receiving a contribution of \$100 or more if received between the 15th day before and the day of the election;

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files his or its closing report as specified in 13-37-228(3).

(3) Candidates for any other public office and political committees which are specifically organized to support or oppose a particular local issue shall be required to file the reports specified in subsection (2) only if the total amount of contributions received or the total amount

of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(4) For the purposes of this subsection, a committee which is not specifically organized to support or oppose a particular candidate or ballot issue and which receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file reports:

(a) on the 10th day next preceding the date of an election in which it participates by making an expenditure;

(b) not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a closing report at the close of each calendar year, on a date to be prescribed by the commissioner secretary of state.

~~{5}--The--commissioner--may--promulgate--rules--regarding the--extent--to--which--organizations--that--are--not--primary political--committees--but--are--incidental--political--committees shall---report---their--politically--related--activities--in accordance--with--this--chapter--~~

~~{6}~~{5} All reports required by this section shall be complete as of the fifth day before the date of filing as

1 specified in 13-37-225(2) and subsections (1) through {5}  
2 (4) of this section."

3 Section 23. Section 13-37-229, MCA, is amended to  
4 read:

5 "13-37-229. Disclosure of contributions received. Each  
6 report required by this chapter shall disclose the following  
7 information:

8 (1) the amount of cash on hand at the beginning of the  
9 reporting period;

10 (2) the full name and mailing address (occupation and  
11 the principal place of business, if any) of each person who  
12 has made aggregate contributions, other than loans, of \$25  
13 or more to the candidate or political committee (including  
14 the purchase of tickets and other items for events such as  
15 dinners, luncheons, rallies, and similar fund-raising  
16 events), together with the aggregate amount of those  
17 contributions within the reporting period and the total  
18 amount of contributions made by that person;

19 (3) the total sum of individual contributions made to  
20 or for the political committee or candidate and not reported  
21 under subsection (2) of this section;

22 (4) the name and address of each political committee  
23 or candidate from which the reporting committee or candidate  
24 received any transfer of funds, together with the amount and  
25 dates of all transfers;

1 (5) each loan from any person during the reporting  
2 period, together with the full names and mailing addresses  
3 (occupation and principal place of business, if any) of the  
4 lender and endorsers, if any, and the date and amount of  
5 each loan;

6 (6) the amount and nature of debts and obligations  
7 owed to a political committee or candidates, ~~in the form~~  
8 ~~prescribed by the commissioner;~~

9 (7) an itemized account of proceeds which total less  
10 than \$25 from a person from mass collections made at  
11 fund-raising events;

12 (8) each contribution, rebate, refund, or other  
13 receipt not otherwise listed under subsections (2) through  
14 (7) of this section during the reporting period;

15 (9) the total sum of all receipts received by or for  
16 the committee or candidate during the reporting period;

17 ~~{10} other information that may be required by the~~  
18 ~~commissioner to fully disclose the sources of funds used to~~  
19 ~~support or oppose candidates or issues."~~

20 Section 24. Section 13-37-230, MCA, is amended to  
21 read:

22 "13-37-230. Disclosure of expenditures made. Each  
23 report required by this chapter shall disclose the following  
24 information, except that a candidate shall only be required  
25 to report the information specified in this section if the



1 transactions involved were undertaken for the purpose of  
2 influencing an election:

3 (1) the full name and mailing address (occupation and  
4 the principal place of business, if any) of each person to  
5 whom expenditures have been made by the committee or  
6 candidate during the reporting period, including the amount,  
7 date, and purpose of each expenditure and the total amount  
8 of expenditures made to each person;

9 (2) the full name and mailing addresses (occupation  
10 and the principal place of business, if any) of each person  
11 to whom an expenditure for personal services, salaries, and  
12 reimbursed expenses have been made, including the amount,  
13 date, and purpose of that expenditure and the total amount  
14 of expenditures made to each person;

15 (3) the total sum of expenditures made by a political  
16 committee or candidate during the reporting period;

17 (4) the name and address of each political committee  
18 or candidate to which the reporting committee or candidate  
19 made any transfer of funds, together with the amount and  
20 dates of all transfers;

21 (5) the name of any person to whom a loan was made  
22 during the reporting period, including the full name and  
23 mailing address (occupation and principal place of business,  
24 if any) of that person, and the full name and mailing  
25 address (occupation and principal place of business, if any)

1 of the endorers, if any, and the date and amount of each  
2 loan;

3 (6) the amount and nature of debts and obligations  
4 owed by a political committee or candidate ~~in--the--form~~  
5 ~~prescribed-by-the-commissioner.~~

6 ~~(7)--other--information--that--may--be--required-by-the~~  
7 ~~commissioner-to-fully-disclose-the-disposition-of-funds-used~~  
8 ~~to-support-or-oppose-candidates-or-issues."~~

9 Section 25. Section 13-37-231, MCA, is amended to  
10 read:

11 "13-37-231. Reports to be certified as true and  
12 correct. (1) A report required by this chapter to be filed  
13 by a candidate or political committee shall be verified as  
14 true and correct by the oath or affirmation of the  
15 individual filing the report. The individual filing the  
16 report shall be the candidate or an officer of a political  
17 committee who is on file as an officer of the committee with  
18 the commissioner legislative council.

19 (2) A copy of a report or statement filed by a  
20 candidate or political committee shall be preserved by the  
21 individual filing it for a period coinciding with the term  
22 of office for which the person was a candidate or for a  
23 period of 4 years, whichever is longer."

24 NEW SECTION. Section 26. Repealer. Sections 2-15-411,  
25 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213, 13-35-302,

1 13-37-101 through 13-37-106, 13-37-111 through 13-37-116,  
2 13-37-120 through 13-37-130, and 13-37-227, MCA, are  
3 repealed.

4 NEW SECTION. Section 27. Effective date. This act is  
5 effective ~~on-passage-and-approval~~ DECEMBER 31, 1986.

-End-