

SB 132 INTRODUCED BY BOYLAN, PETERSON, GAGE, ET AL.
REVISE CAMPAIGN AND LOBBYIST LAWS; ABOLISH
COMMISSIONER OF POLITICAL PRACTICES

1/17 INTRODUCED

1/17 REFERRED TO STATE ADMINISTRATION

1/18 FISCAL NOTE REQUESTED

1/21 HEARING

1/27 FISCAL NOTE RECEIVED

1/29 ADVERSE COMMITTEE REPORT ADOPTED

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INTRODUCED BY *Senate* BILL NO. *132*
Campbell Hayden *Boylan Peterson Rep*

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; AND 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."

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

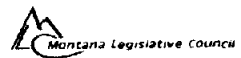
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~~the suspension or revocation of the licenses, to require elected officials to make public their business, financial, and occupational interests, and to require disclosure of the amounts of money spent for lobbying.~~

(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:
 - (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



1 his official capacity; and

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

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

8 (b) "Lobbyist" does not include:

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

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

15 (c) Nothing in this section deprives any citizen not
16 lobbying for hire of the constitutional right to communicate
17 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) promise of financial support; or

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

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

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

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

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

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

25 (a) direct or indirect payment to a lobbyist by a

1 principal, as salary, fee, compensation, or reimbursement
2 for expenses, excluding personal living expenses;

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

7 (12) "Business" means:

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

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

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

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

1 Section 3. Section 5-7-103, MCA, is amended to read:
2 "5-7-103. Licenses -- fees -- eligibility. (1) Any
3 adult of good moral character who is a citizen of the United
4 States and who is otherwise qualified under this chapter may
5 be licensed as a lobbyist. The commissioner legislative
6 council shall provide a license application form. The
7 application form may be obtained in the office of the
8 commissioner legislative council and filed therein. Upon
9 ~~approval~~ receipt of the completed application and ~~receipt of~~
10 the license fee of \$10 by the commissioner legislative
11 council, a license shall be issued which entitles the
12 licensee to practice lobbying on behalf of one or more
13 enumerated principals. Each license shall expire on
14 December 31 of each even-numbered year or may be terminated
15 at the request of the lobbyist.

16 ~~{2}--No--application--may--be--disapproved--without~~
17 ~~affording--the--applicant--a--hearing--The--hearing--shall--be--held~~
18 ~~and--the--decision--entered--within--10--days--of--the--date--of--the~~
19 ~~filing--of--the--application--~~

20 ~~{3}~~{2} The fines and license fees collected under this
21 chapter shall be deposited in the state treasury."

22 Section 4. Section 5-7-201, MCA, is amended to read:
23 "5-7-201. Docket -- contents. The commissioner
24 legislative council shall make available to the public a
25 docket containing the information required by this chapter,

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

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

10 "5-7-202. Docket -- public record. Such The docket
 11 ~~shall be required by 5-7-201 is~~ a public record and open to
 12 the inspection of any individual upon demand at any time
 13 during the regular business hours of the office of the
 14 commissioner legislative council."

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

16 "5-7-207. Report to legislature. Beginning with the
 17 first Tuesday following the beginning of any regular or
 18 special session of the legislature and on the first Tuesday
 19 of every month thereafter during which the legislature is in
 20 session, the commissioner legislative council shall from his
 21 its records report to each member of each house of the
 22 legislature the names of lobbyists registered under this
 23 chapter, not previously reported, the names of the
 24 principals whom they represent as lobbyists, and the
 25 subjects of legislation in which each principal is

1 interested."

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

3 "5-7-305. Penalties and enforcement. (1) Any person
 4 violating the provisions of this chapter shall be deemed
 5 guilty of a misdemeanor and upon conviction thereof shall be
 6 punished by imprisonment in the county jail not more than 6
 7 months or by a fine not exceeding \$200, or both.

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

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

24 (4) If a prosecution is undertaken by ~~the commissioner~~
 25 ~~or any a~~ county attorney, all costs associated with the

1 prosecution shall be paid by the state of Montana.

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

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

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

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

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

1 reasonable attorney's fees incurred by the defendant.

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

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

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

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

16 Section 8. Section 7-4-2611, MCA, is amended to read:
17 "7-4-2611. Role and duties of county clerk. (1) The
18 county clerk of any county is also clerk of the county
19 commissioners and ex officio recorder. Any duty imposed by
20 law upon such officer, either as county clerk, clerk of the
21 county commissioners, or recorder, shall be performed by the
22 county clerk, and any official act performed or certified by
23 the county clerk shall be as valid and effectual as if
24 performed and certified to by him as clerk of the county
25 commissioners or as recorder.

1 (2) The county clerk must:

2 (a) take charge of and safely keep or dispose of

3 according to law all books, papers, maps, and records which

4 may be filed or deposited in his office;

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

6 (c) make full entries of all its resolutions and

7 decisions on all questions concerning the raising of money

8 for and the allowance of accounts against the county;

9 (d) record the vote of each member on any question

10 upon which there is a division or at the request of any

11 member present;

12 (e) sign all orders made and warrants issued by order

13 of the board for the payment of money and certify the same

14 to the county treasurer;

15 (f) record the reports of the county treasurer of the

16 receipts and disbursements of the county;

17 (g) preserve and file all accounts acted upon by the

18 board;

19 (h) preserve and file all petitions and applications

20 for franchises and record the action of the board thereon;

21 (i) record all orders levying taxes;

22 (j) designate upon every account allowed by the board

23 the amount allowed and deliver to any person who may demand

24 it a certified copy of any record in his office or any

25 account on file therein;

1 (k) as often as a new township is organized or the

2 boundaries of any township are altered, immediately make out

3 and transmit to the secretary of state a certified statement

4 of the names and boundaries and the boundaries of any

5 township altered;

6 (1) keep such other records and books and perform such

7 other duties as are prescribed by law or by rule or order of

8 the board.

9 ~~{3}--A county clerk and recorder shall file, code, and~~

10 ~~cross index all reports and statements filed as prescribed~~

11 ~~by the commissioner of political practices.~~

12 ~~{4}~~(3) A county clerk and recorder shall make

13 statements and other information filed under the provisions

14 of Title 13, chapters 35, 36, and 37, in his office

15 available for public inspection and copying during regular

16 office hours and make copying facilities available free of

17 charge or at a charge not to exceed actual cost."

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

19 "13-10-204. Write-in nominations. An individual

20 nominated by having his name written in on the primary

21 ballot and desiring to accept the nomination may not have

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

23 (1) files with the secretary of state or election

24 administrator no later than 10 days after the official

25 canvass, a written declaration indicating his acceptance of

1 the nomination;

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

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

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

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

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

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

25 Section 11. Section 13-12-201, MCA, is amended to

1 read:

2 "13-12-201. Secretary of state to certify ballot. (1)
3 Seventy-five days or more before an election, except as
4 provided in 13-10-208, the secretary of state shall certify
5 to the election administrators the name and party or other
6 designation of each candidate entitled to appear on the
7 ballot and ballot issues as shown in the official records of
8 his office, ~~which must include the notification specified in~~
9 ~~13-37-126.~~

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

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

18 "13-15-406. Certificates to be issued by the election
19 administrator. The election administrator shall, ~~except as~~
20 ~~provided in 13-37-127~~, deliver a certificate of nomination
21 or election to each individual declared elected by the
22 board."

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

25 "13-15-504. Governor to issue commissions. Upon

1 receipt of the statements required by 13-15-507 and
 2 13-37-127, the governor shall issue commissions to the
 3 individuals elected. If the governor has been elected to
 4 succeed himself, the secretary of state shall issue the
 5 commission."

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

8 "13-35-227. Prohibited contributions from
 9 corporations. (1) A corporation may not make a contribution
 10 or an expenditure in connection with a candidate or a
 11 political committee which supports or opposes a candidate or
 12 a political party.

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

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

22 (4) A person who violates this section is ~~subject to~~
 23 ~~the civil penalty provisions of 13-37-128.~~ liable in a civil
 24 action brought by the county attorney for an amount up to
 25 \$500 or three times the amount of the unlawful contribution

1 or expenditure, whichever is greater.

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

9 (6) No action may be brought under subsection (4) more
 10 than 4 years after the occurrence of the facts which give
 11 rise to the action. No more than one judgment against a
 12 particular defendant may be had on a single state of facts.
 13 The civil action created in subsection (4) is the exclusive
 14 remedy for violation of this section. Section 13-35-103 does
 15 not apply to a violation of this section, but the violation
 16 may be a ground for removal from office as provided in
 17 13-35-106 or for contest of election as provided in Title
 18 13, chapter 36.

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

24 (a) administer oaths and affirmations;

25 (b) subpoena witnesses and compel their attendance;

1 (c) take evidence; and

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

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

9 "13-37-117. Commissioner Legislative council to
 10 provide forms and manuals. (1) The commissioner legislative
 11 council shall prescribe provide forms for statements and
 12 other information required to be filed pursuant to chapters
 13 35, 36, or 37 of this title and furnish--forms--and
 14 appropriate--information--to--persons---required---to---file
 15 statements--and--information shall use the forms in use on
 16 [the effective date of this act] unless other forms are
 17 prescribed by act of the legislature.

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

25 (3) The commissioner secretary of state shall

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

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

6 "13-37-118. Information voluntarily supplied. The
 7 commissioner legislative council shall accept and file any
 8 information voluntarily supplied that exceeds the
 9 requirements of chapters 35, 36, or 37 of this title."

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

12 "13-37-119. Availability of information. (1) The
 13 commissioner legislative council shall make statements and
 14 other information filed with his its office available for
 15 public inspection and copying during regular office hours
 16 and make copying facilities available free of charge or at a
 17 charge not to exceed actual cost.

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

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

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

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

3 "13-37-201. Campaign treasurer. Except as provided in
4 13-37-206, each candidate and each political committee shall
5 appoint one campaign treasurer and certify the full name and
6 complete address of the campaign treasurer pursuant to this
7 section. A candidate shall file the certification within 5
8 days after becoming a candidate. A political committee shall
9 file the certification, which shall include an
10 organizational statement and set forth the name and address
11 of all other officers, if any, within 5 days after it makes
12 an expenditure or authorizes another person to make an
13 expenditure on its behalf, whichever occurs first. The
14 certification of a candidate or political committee shall be
15 filed with the commissioner legislative council and the
16 appropriate county clerk and recorder as specified for the
17 filing of reports in 13-37-225."

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

20 "13-37-210. Naming and labeling of political
21 committees. ~~(i)~~ Any political committee filing a
22 certification and organizational statement pursuant to
23 13-37-201 shall:

24 ~~(a)~~(1) name and identify itself in its organizational
25 statement using a name or phrase:

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

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

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

13 ~~(2)--The-naming-and-labeling-requirements-in-subsection~~
14 ~~(i)--are--reporting-requirements-for-purposes-of-enforcement~~
15 ~~under-13-37-120--"~~

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

18 "13-37-218. Limitations on receipts from political
19 committees. A candidate for the state senate may receive no
20 more than \$1,000 in total combined monetary contributions
21 from all political committees contributing to his campaign,
22 and a candidate for the state house of representatives may
23 receive no more than \$600 in total combined monetary
24 contributions from all political committees contributing to
25 his campaign. The foregoing limitations shall be multiplied

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

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

12 "13-37-225. Reports of contributions and expenditures
 13 required. (1) Except as provided in 13-37-206, each
 14 candidate and political committee shall file periodic
 15 reports of contributions and expenditures made by or on the
 16 behalf of a candidate or political committee. All reports
 17 required by this chapter shall be filed with the
 18 ~~commissioner~~ legislative council and with the county clerk
 19 and recorder of the county in which a candidate is a
 20 resident or the political committee has its headquarters.
 21 However, where residency within a district, county, city, or
 22 town is not a prerequisite for being a candidate, copies of
 23 all reports shall be filed with the county clerk and
 24 recorder of the county in which the election is to be held
 25 or, if the election is to be held in more than one county,

1 with the clerk and recorder in the county that the
 2 ~~commissioner~~ secretary of state specifies.

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

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

11 "13-37-226. Time for filing reports. (1) Candidates
 12 for a state office filled by a statewide vote of all the
 13 electors of Montana and political committees which are
 14 specifically organized to support or oppose a particular
 15 statewide candidate or issue shall file reports:

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

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

24 (c) on the 10th day of March and September of each
 25 year following an election until the candidate or political

1 committee files a closing report as specified in
2 13-37-228(3).

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

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

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

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

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

25 (4) For the purposes of this subsection, a committee

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

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

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

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

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

20 ~~†6)†5~~ All reports required by this section shall be
21 complete as of the fifth day before the date of filing as
22 specified in 13-37-225(2) and subsections (1) through ~~†5~~
23 ~~†4~~ of this section."

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

1 "13-37-229. Disclosure of contributions received. Each
2 report required by this chapter shall disclose the following
3 information:

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

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

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

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

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

1 each loan;

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

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

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

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

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

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

18 "13-37-230. Disclosure of expenditures made. Each
19 report required by this chapter shall disclose the following
20 information, except that a candidate shall only be required
21 to report the information specified in this section if the
22 transactions involved were undertaken for the purpose of
23 influencing an election:

24 (1) the full name and mailing address (occupation and
25 the principal place of business, if any) of each person to

1 whom expenditures have been made by the committee or
2 candidate during the reporting period, including the amount,
3 date, and purpose of each expenditure and the total amount
4 of expenditures made to each person;

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

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

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

17 (5) the name of any person to whom a loan was made
18 during the reporting period, including the full name and
19 mailing address (occupation and principal place of business,
20 if any) of that person, and the full name and mailing
21 address (occupation and principal place of business, if any)
22 of the endorsers, if any, and the date and amount of each
23 loan;

24 (6) the amount and nature of debts and obligations
25 owed by a political committee or candidate in-the-form

1 ~~prescribed-by-the-commissioner;~~

2 ~~{7}--other-information-that--may--be--required--by--the~~
3 ~~commissioner-to-fully-disclose-the-disposition-of-funds-used~~
4 ~~to-support-or-oppose-candidates-or-issues;"~~

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

7 "13-37-231. Reports to be certified as true and
8 correct. (1) A report required by this chapter to be filed
9 by a candidate or political committee shall be verified as
10 true and correct by the oath or affirmation of the
11 individual filing the report. The individual filing the
12 report shall be the candidate or an officer of a political
13 committee who is on file as an officer of the committee with
14 the commissioner legislative council.

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

20 NEW SECTION. Section 26. Repealer. Sections 2-15-411,
21 5-7-111, 5-7-208, 5-7-209, 5-7-212, 5-7-213, 13-35-302,
22 13-37-101 through 13-37-106, 13-37-111 through 13-37-116,
23 13-37-120 through 13-37-130, and 13-37-227, MCA, are
24 repealed.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB132, 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 a 3.0 FTE to administer the remaining program.
2. Storage space for 162 cubic feet would be rented from records management at a cost of \$3.48 per cubic foot.
3. An additional 450 square feet of office space would be required.
4. 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.
5. The Secretary of State could handle additional workload; rule-making and publishing requirements within existing budget and staff.

 DATE 1/24/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 27 Jan 87
PAUL BOYLAN, PRIMARY SPONSOR

Fiscal Note for SB132, as introduced.

SB 132

Fiscal Note Request, SB132, as introduced.

Form BD-15

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FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Commissioner of Political Practices</u>						
FTE	4.75	0	4.75	4.75	0	4.75
<u>Expenditures:</u>						
Personal Services	\$129,018	\$ 0	\$ 129,018	\$128,952	\$ 0	\$ 128,952
Operating Expenses	22,621	0	22,621	18,145	0	18,145
Equipment & Intangible Assets	0	0	0	0	0	0
TOTAL	\$151,639	\$ 0	\$ 151,639	\$147,097	\$ 0	\$ 147,097
<u>Funding:</u>						
General Fund	\$150,839	\$ 0	\$ 150,839	\$146,497	\$ 0	\$ 146,497
State Special - Copying Fees	\$ 800	0	800	600	0	600
TOTAL	\$151,639	\$ 0	\$ 151,639	\$147,097	\$ 0	\$ 147,097
<u>Legislative Council</u>						
FTE	42.00	45.00	3.00	55.00	58.50	3.00
<u>Expenditures:</u>						
Personal Services	\$1,323,639	\$1,393,861	\$ 70,222	\$1,611,821	\$1,682,073	\$ 70,252
Operating Expenses	494,760	504,228	9,468	608,365	616,387	8,022
Equipment & Intangible Assets	49,235	49,235	0	14,345	14,345	0
TOTAL	\$1,867,634	\$1,947,324	\$ 79,690	\$2,234,531	\$2,312,805	\$ 78,274
<u>Funding:</u>						
General Fund	\$1,867,634	\$1,947,324	\$ 79,690	\$2,234,531	\$2,312,805	\$ 78,274