

COMMISSIONER OF  
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**COPP-2014-AO-016**

**Re:** Sponsor for Agency Bill

Dear Ms. Snyder:

I write in response to your email dated October 9, 2014 asking for an advisory opinion on the issue set out below. This letter constitutes that advisory opinion.

Background and Issue Posed

Agencies of the government are required to submit bill proposals to their oversight committee prior to the legislative session. If the committee approves the agency's bill proposal, then it will proceed to the legislature without the need of an agency to find a sponsor for the bill. If the agency's oversight committee does not approve the bill proposal, then an agency is required to seek a legislative sponsor to be able to introduce their bill the legislature.

The issue posed is the action of an agency seeking a sponsor for a bill considered lobbying which is required to be reported to the COPP?

ADVISORY OPINION

The answer to your question is YES.

A state governmental agency that engages in lobbying the legislature or legislators are principals under Montana's lobbying laws, Mont. R. Admin. 44.12.105. Lobbying is defined in statute as "the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators" and "the practice of promoting or opposing official action of ... the

legislature”, Mont. Code Ann. § 5-7-102(11)(a). However, specifically exempted from the requirements of reporting to the COPP are lobbying activities are “any duty that is mandated by law, rule, or executive order, such as the governor’s executive message to the legislature”, Mont. R. Admin. 44.12.105(1)(b).

The nuance between the statute and the rule lies in the Department’s decision as to whether or not to proceed with proposing a bill to the legislature if they have to seek a legislative sponsor to introduce the bill. As a general rule, the Department is not required by law to seek changes to the laws that they administer, it is a choice. Therefore they will be engaging in lobbying of a legislator if they seek a sponsor to introduce and carry their proposed legislation through the next legislative session.

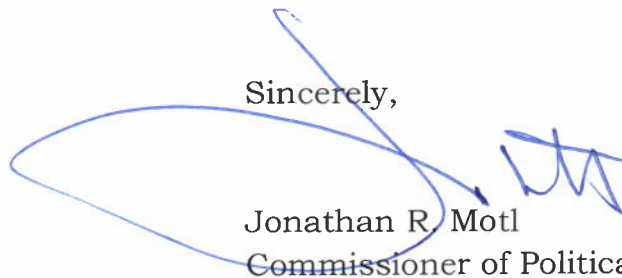
Presumably, once a legislator is contacted to see whether or not they will introduce or carry the legislation to the floor, additional contact will occur between the legislator and the Department which is reportable to the COPP, Mont. Code. Ann. § 5-7-208(5)(d) “major effort”, *see also Ried v. Bullock*, COPP-2012-LOB-001. As you will note from the discussion in *Ried*, it also matters who is making the contact with the legislator(s) and requesting their assistance in introducing a bill to the legislature.

As a practical matter, an agency should embrace and not resist reporting a bill on its lobbying reports. The reports are simple in form, only requiring that an agency list its position on a bill. This is information an agency should provide to the public and any state agency should err on the side of over reporting.

#### LIMITATIONS ON ADVISORY OPINION

This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

Sincerely,



Jonathan R. Motl  
Commissioner of Political Practices