

HOUSE BILL NO. 462

INTRODUCED BY SANDS, WILLIAMS, STOKER, WILSON, ERICKSON, LANGE, PARKER, HAWKS,  
DICKENSON, LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF CONSTITUENT SERVICES ACCOUNTS; PROVIDING FOR THE FUNDING AND USE OF MONEY IN A CONSTITUENT SERVICES ACCOUNT; PROVIDING REPORTING REQUIREMENTS FOR CONSTITUENT SERVICES ACCOUNTS; ~~AND PROVIDING FOR THE DISPOSITION OF CURRENT CONSTITUENT SERVICES ACCOUNTS;~~ AMENDING SECTION ~~SECTIONS 2-2-104 AND~~ SECTION 13-37-240, MCA; AND PROVIDING ~~AN APPLICABILITY IMMEDIATE EFFECTIVE DATE.~~"

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

NEW SECTION. Section 1. DEFINITIONS. AS USED IN [SECTIONS 1 THROUGH ~~3~~ AND 2], THE FOLLOWING DEFINITIONS APPLY:

(1) "CONSTITUENT SERVICES" MEANS TRAVEL, MAILING, AND OTHER EXPENSES INCURRED TO REPRESENT AND SERVE CONSTITUENTS AND AUTHORIZED IN RULES ADOPTED BY THE COMMISSIONER TO IMPLEMENT THE PROVISIONS OF [SECTIONS 1 THROUGH ~~3~~ AND 2].

(2) "PERSONAL BENEFIT" HAS THE MEANING PROVIDED IN 13-37-240.

NEW SECTION. Section 2. Constituent accounts -- reports. (1) A CONSTITUENT SERVICES ACCOUNT IS AN ACCOUNT MAY BE ESTABLISHED BY A PERSON HOLDING A PUBLIC OFFICE IN WHICH FUNDS ARE DEPOSITED AND USED FOR EXPENSES IN REPRESENTING CONSTITUENTS OR FOR TRAVEL OR EXPENSES RELATED TO THE INDIVIDUAL'S ELECTED POSITION ELECTED TO A STATEWIDE OR LEGISLATIVE OFFICE OR AS A PUBLIC SERVICE COMMISSIONER TO PAY FOR CONSTITUENT SERVICES. A PUBLIC OFFICIAL PERSON ELECTED TO A STATEWIDE OR LEGISLATIVE OFFICE MAY ESTABLISH AN ACCOUNT CONSTITUENT SERVICES ACCOUNT MAY BE ESTABLISHED BY FILING AN APPROPRIATE FORM WITH THE COMMISSIONER.

(+)(2) (A) (+) A successful candidate for the legislature or for, a state STATEWIDE ELECTED office, OR THE PUBLIC SERVICE COMMISSION may deposit ONLY surplus campaign funds in a constituent services account.

(ii) EXCEPT AS PROVIDED IN SUBSECTION (2)(A)(iii), A STATEWIDE OFFICIAL OR LEGISLATOR MAY ACCEPT



1 ~~CONTRIBUTIONS, SUBJECT TO THE LIMITATIONS PROVIDED IN [SECTION 3], FOR DEPOSIT IN A CONSTITUENT SERVICES~~  
 2 ~~ACCOUNT ONLY BETWEEN THE DATE ON WHICH THE OFFICEHOLDER CLOSES THE OFFICEHOLDER'S CAMPAIGN ACCOUNT~~  
 3 ~~UNDER 13-37-240 AND THE END OF THE OFFICEHOLDER'S TERM OF OFFICE OR, IF THE OFFICEHOLDER RUNS FOR~~  
 4 ~~REELECTION OR ELECTION TO ANOTHER OFFICE, THE EARLIER OF THE DATE WHEN THE OFFICEHOLDER OPENS A CAMPAIGN~~  
 5 ~~ACCOUNT OR THE DATE WHEN THE OFFICEHOLDER FILES A DECLARATION FOR NOMINATION PURSUANT TO 13-10-201 OR~~  
 6 ~~13-14-112 OR A DECLARATION OF INTENT PURSUANT TO 13-10-211.~~

7 ~~\_\_\_\_\_ (III) A LEGISLATOR MAY NOT ACCEPT CONTRIBUTIONS FOR DEPOSIT IN A CONSTITUENT SERVICES ACCOUNT~~  
 8 ~~DURING A LEGISLATIVE SESSION.~~

9 (B) The money in the account may be used ONLY for ~~expenses incurred in representing constituents~~  
 10 ~~CONSTITUENT SERVICES. THE MONEY IN THE ACCOUNT MAY NOT BE USED FOR PERSONAL BENEFIT. EXPENDITURES FROM~~  
 11 ~~A CONSTITUENT SERVICES ACCOUNT MAY NOT BE MADE WHEN THE HOLDER OF THE CONSTITUENT SERVICES ACCOUNT~~  
 12 ~~ALSO HAS AN OPEN CAMPAIGN ACCOUNT.~~

13 ~~(3) A SUCCESSFUL CANDIDATE FOR THE LEGISLATURE OR FOR A STATE OFFICE WHO RECEIVES A PERSONAL~~  
 14 ~~BENEFIT, AS DEFINED IN 13-37-240, DURING THE INDIVIDUAL'S TERM OF OFFICE FROM A PUBLIC EVENT OR FUNCTION~~  
 15 ~~RELATED TO OR BECAUSE OF THE OFFICE SHALL EITHER DEPOSIT ANY SURPLUS FUNDS RELATED TO THE PUBLIC EVENT~~  
 16 ~~OR FUNCTION IN A CONSTITUENT SERVICES ACCOUNT OR MAKE A DONATION TO A NONPROFIT ORGANIZATION WITHIN 45~~  
 17 ~~DAYS AFTER THE CONCLUSION OF THE EVENT OR FUNCTION.~~

18 ~~(3) A SUCCESSFUL CANDIDATE FOR THE LEGISLATURE OR FOR A STATE OFFICE WHO, DURING THE INDIVIDUAL'S~~  
 19 ~~TERM OF OFFICE, RECEIVES FUNDS AS A RESULT OF A PUBLIC EVENT OR FUNCTION THAT WAS RELATED TO OR BECAUSE~~  
 20 ~~OF THE OFFICE SHALL, WITHIN 90 DAYS AFTER THE CONCLUSION OF THE EVENT OR FUNCTION, EITHER DEPOSIT THE FUNDS~~  
 21 ~~IN A CONSTITUENT SERVICES ACCOUNT AND COMPLY WITH THE PROVISIONS OF THIS SECTION OR DONATE THE FUNDS TO~~  
 22 ~~A NONPROFIT ORGANIZATION FOR A CHARITABLE PURPOSE.~~

23 ~~\_\_\_\_\_ (2)(3)(4) The account holder may accept donations from individuals for deposit in the constituent services~~  
 24 ~~account. A corporation may not donate money for deposit in the account. All money in the account is subject to~~  
 25 ~~the restrictions contained in 13-37-216, 13-37-229 THROUGH 13-37-231, AND 13-37-240.~~

26 (3) A STATEWIDE ELECTED OFFICIAL OR, LEGISLATOR, OR PUBLIC SERVICE COMMISSIONER MAY NOT ESTABLISH  
 27 ANY ACCOUNT RELATED TO THE PUBLIC OFFICIAL'S OFFICE OTHER THAN A CONSTITUENT SERVICES ACCOUNT. THIS  
 28 SUBSECTION DOES NOT PROHIBIT A STATEWIDE ELECTED OFFICIAL OR, LEGISLATOR, OR PUBLIC SERVICE COMMISSIONER  
 29 FROM ESTABLISHING A CAMPAIGN ACCOUNT.

30 ~~(3)(4)(5)(4)~~ The holder of a constituent services account shall file ~~an annual~~ A QUARTERLY report with the

1 commissioner, by a date established by the commissioner by rule. The report must disclose the source of all  
 2 money deposited in the account and enumerate expenditures from the account. THE REPORT MUST INCLUDE THE  
 3 SAME INFORMATION AS REQUIRED FOR A CANDIDATE REPORTING CONTRIBUTIONS UNDER 13-37-229 AND EXPENDITURES  
 4 UNDER 13-37-230. THE REPORT MUST BE CERTIFIED AS PROVIDED IN 13-37-231.

5 ~~(4)(5)(6)(5)~~ The holder of a constituent services account shall close the account within 120 days after  
 6 the account holder leaves public office.

7  
 8 ~~NEW SECTION. SECTION 3. CONTRIBUTION LIMITS APPLICABLE TO CONSTITUENT SERVICES ACCOUNTS. (1)~~  
 9 ~~THE HOLDER OF A CONSTITUENT SERVICES ACCOUNT MAY ACCEPT CONTRIBUTIONS FOR DEPOSIT INTO THE ACCOUNT ONLY~~  
 10 ~~FROM AN INDIVIDUAL. A COMMITTEE OR CORPORATION MAY NOT CONTRIBUTE TO A CONSTITUENT SERVICES ACCOUNT.~~

11 ~~(2) DURING A TERM OF OFFICE, AGGREGATE CONTRIBUTIONS FROM ONE INDIVIDUAL TO A CONSTITUENT SERVICES~~  
 12 ~~ACCOUNT ARE LIMITED AS FOLLOWS:~~

13 ~~(A) FOR THE OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR, NOT TO EXCEED \$500;~~

14 ~~(B) FOR A STATEWIDE OFFICE, OTHER THAN THE GOVERNOR OR LIEUTENANT GOVERNOR, NOT TO EXCEED \$250;~~

15 ~~(C) FOR A LEGISLATOR, NOT TO EXCEED \$130.~~

16 ~~(3) A CANDIDATE MAY NOT ACCEPT ANY CONTRIBUTIONS IN EXCESS OF THE LIMITS IN THIS SECTION.~~

17  
 18 ~~SECTION 4. SECTION 2-2-104, MCA, IS AMENDED TO READ:~~

19 ~~"2-2-104. Rules of conduct for public officers, legislators, and public employees. (1) Proof of~~  
 20 ~~commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A~~  
 21 ~~public officer, legislator, or public employee may not:~~

22 ~~(a) disclose or use confidential information acquired in the course of official duties in order to further~~  
 23 ~~substantially the individual's personal economic interests; or~~

24 ~~(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:~~

25 ~~(i) that would tend improperly to influence a reasonable person in the person's position to depart from~~  
 26 ~~the faithful and impartial discharge of the person's public duties; or~~

27 ~~(ii) that the person knows or that a reasonable person in that position should know under the~~  
 28 ~~circumstances is primarily for the purpose of rewarding the person for official action taken.~~

29 ~~(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest~~  
 30 ~~substantially lower than the commercial rate then currently prevalent for similar loans and compensation received~~

1 ~~for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign~~  
 2 ~~contributions or contributions to a constituent services account pursuant to [sections 1 through 3] reported as~~  
 3 ~~required by statute are not gifts or economic benefits tantamount to gifts.~~

4 ~~——— (3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not~~  
 5 ~~receive salaries from two separate public employment positions that overlap for the hours being compensated;~~  
 6 ~~unless:~~

7 ~~——— (i) the public officer, legislator, or public employee reimburses the public entity from which the employee~~  
 8 ~~is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent;~~  
 9 ~~or~~

10 ~~——— (ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the~~  
 11 ~~amount of salary received from the other public employer in order to avoid duplicate compensation for the~~  
 12 ~~overlapping hours.~~

13 ~~——— (b) Subsection (3)(a) does not prohibit:~~

14 ~~——— (i) a public officer, legislator, or public employee from receiving income from the use of accrued leave~~  
 15 ~~or compensatory time during the period of overlapping employment; or~~

16 ~~——— (ii) a public school teacher from receiving payment from a college or university for the supervision of~~  
 17 ~~student teachers who are enrolled in a teacher education program at the college or university if the supervision~~  
 18 ~~is performed concurrently with the school teacher's duties for a public school district.~~

19 ~~——— (c) In order to determine compliance with this subsection (3), a public officer, legislator, or public~~  
 20 ~~employee subject to this subsection (3) shall disclose the amounts received from the two separate public~~  
 21 ~~employment positions to the commissioner of political practices."~~

22

23 **Section 3.** Section 13-37-240, MCA, is amended to read:

24 **"13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the  
 25 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.

26 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the  
 27 candidate's own future campaign, or use the funds for personal benefit. A successful candidate FOR A STATEWIDE  
 28 ELECTED OR LEGISLATIVE OFFICE OR FOR PUBLIC SERVICE COMMISSIONER may establish a constituent services  
 29 account as provided in [section 4 2]. The candidate shall provide a supplement to the closing campaign report  
 30 to the commissioner showing the disposition of any surplus campaign funds.

1 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect  
2 benefit of any kind to the candidate or any member of the candidate's immediate family."

3  
4 ~~NEW SECTION. SECTION 6. DISPOSITION OF CURRENT ACCOUNTS. A CONSTITUENT SERVICES ACCOUNT THAT~~  
5  ~~EXISTS ON [THE EFFECTIVE DATE OF THIS ACT] MUST BE CLOSED WITHIN 120 DAYS AFTER [THE EFFECTIVE DATE OF THIS~~  
6  ~~ACT]. MONEY IN THE ACCOUNT MUST EITHER BE SPENT ON CONSTITUENT SERVICES OR DONATED TO A CHARITABLE~~  
7  ~~PURPOSE.~~

8  
9 NEW SECTION. Section 4. Codification instruction. [Section 1] is [SECTIONS 1 THROUGH 3 AND 2] ARE  
10 intended to be codified as an integral part of Title 13, chapter 37, part 2; and the provisions of Title 13, chapter  
11 37, part 2; apply to [section 1] [SECTIONS 1 THROUGH 3 AND 2].

12  
13 ~~NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT] APPLIES TO ANY CONSTITUENT SERVICES ACCOUNT~~  
14  ~~OPENED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].~~

15  
16 NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

17 - END -