

HOUSE BILL NO. 106

INTRODUCED BY S. GUNDERSON

BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CONSTITUENT SERVICES ACCOUNT; PROVIDING ENFORCEMENT BY THE ETHICS COMMITTEES; REVISING THE NAME OF THE PROGRAM; REVISING THE METHODS BY WHICH LEGISLATORS RECEIVE THE ALLOWANCE OR REIMBURSEMENT ALLOWANCE; DEFINING TERMS; SPECIFYING ACTIVITIES FOR WHICH THE ALLOWANCE OR ALLOWANCE AND REIMBURSEMENT ARE IS PROHIBITED ARE ALLOWED; ALLOWING A SEPARATE ACCOUNT FOR FUNDS; AMENDING SECTIONS 2-2-111, 5-2-204, AND 5-2-205, AND 13-37-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-2-111, MCA, is amended to read:

"2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached the legislator's public duty. A legislator may not:

(1) accept a fee, contingent fee, or any other compensation, except the official compensation provided by statute, for promoting or opposing the passage of legislation;

(2) seek other employment for the legislator or solicit a contract for the legislator's services by the use of the office; or

(3) accept a fee or other compensation, except as provided for in 5-2-302, from a Montana state agency or a political subdivision of the state of Montana for speaking to the agency or political subdivision; or

(4) use the funds provided for in 5-2-204 for any activity that is prohibited NOT FOR LEGISLATIVE BUSINESS EXPENSES or does not follow the requirements for submitting claims."

Section 2. Section 5-2-204, MCA, is amended to read:

"5-2-204. Constituent Legislator services BUSINESS EXPENSES ALLOWANCE AND stipend allowance and reimbursement FOR AUTHORIZED ACTIVITIES. (1) Each legislator is entitled to a stipend an amount of UP TO \$3,000 in a biennium for providing constituent services, which include but are not limited to unreimbursed



1 ~~expenses for mileage, per diem, or lodging as well as communication and information technology, such as~~  
 2 ~~expenses for telecommunications or internet, computer hardware and software, postage, and education-related~~  
 3 ~~expenses to represent constituents authorized activities related to serving in the legislature. The amount may be~~  
 4 ~~used as follows FOR THE FOLLOWING OTHERWISE UNREIMBURSED ITEMS:~~

5 ~~—— (a) \$2,500 will be made available for a legislator to use for the following nontaxable, otherwise~~  
 6 ~~unreimbursed items:~~

7 ~~—— (i)(A) mileage and lodging at rates provided for in 2-18-501 and 2-18-503 for authorized activities;~~

8 ~~—— (ii)(B) meals at rates provided for in 2-18-501 and 2-18-502 when a legislator is in a travel status for~~  
 9 ~~authorized activities that require an overnight stay; and;~~

10 ~~—— (iii)(C) education-related expenses related to attending meetings for interstate and intrastate organizations~~  
 11 ~~that provide opportunities for legislators to participate in in-state or out-of-state policy and civic educational~~  
 12 ~~activities. Education-related expenses under this subsection (1)(a)(iii) (1)(C) include transportation, meals, and~~  
 13 ~~lodging at rates provided for in this subsection (1)(a) (1) and for registration costs.~~

14 ~~—— (b) up to \$500 reimbursement to be used for taxable, otherwise unreimbursed~~

15 ~~—— (D) communication and information technology expenses, including internet charges, computer hardware~~  
 16 ~~and software, and postage for authorized activities or for items allowed under subsection (1)(a) that are~~  
 17 ~~determined to be subject to income tax withholding. (1)(A) EXCEPT AS PROVIDED IN SUBSECTIONS (1)(B) AND (1)(C),~~

18 ~~EACH LEGISLATOR IS ENTITLED TO A GROSS AMOUNT OF \$4,620 IN A BIENNIUM FOR LEGISLATIVE BUSINESS EXPENSES.~~

19 ~~THE LEGISLATIVE SERVICES DIVISION SHALL WITHHOLD APPLICABLE STATE AND FEDERAL TAXES FROM THE AMOUNT AS~~  
 20 ~~PROVIDED BY LAW.~~

21 ~~(B) EXCEPT AS PROVIDED IN SUBSECTION (1)(C), A LEGISLATOR APPOINTED TO FILL A VACANCY DURING A TERM~~  
 22 ~~IS ENTITLED TO THE AMOUNT IN SUBSECTION (1) PRORATED OVER THE 24-MONTH TERM.~~

23 ~~(C) THE LEGISLATIVE SERVICES DIVISION SHALL PROVIDE EACH LEGISLATOR WITH A REASONABLE OPPORTUNITY~~  
 24 ~~TO DECLINE THE ALLOWANCE FOR LEGISLATIVE BUSINESS EXPENSES BEFORE IT IS PAID TO THE LEGISLATOR. A LEGISLATOR~~  
 25 ~~MAY DECLINE THE ALLOWANCE BEFORE IT IS PAID.~~

26 ~~(D) A LEGISLATOR RECEIVING FUNDS UNDER THIS SUBSECTION (1) IS RESPONSIBLE FOR:~~

27 ~~(I) KEEPING SUFFICIENTLY DETAILED RECORDS CONCERNING HOW THE FUNDS ARE SPENT; AND~~

28 ~~(II) MAINTAINING THE RECORDS PURSUANT TO THE APPLICABLE DOCUMENT RETENTION SCHEDULE.~~

29 ~~(2) (A) Subject to subsections (4) and (5) (2)(C) AND (2)(D), legislators are allowed reimbursement of up~~  
 30 ~~to the amount provided for in subsection (3) (2)(B) in a biennium for otherwise unreimbursed expenses related~~

1 to the legislator's expenses for mileage, meals, or lodging at rates provided for in 2-18-501 through 2-18-503  
 2 incurred for ~~providing constituent services authorized activities~~ LEGISLATIVE BUSINESS ~~or for items allowed under~~  
 3 ~~subsection (1)(a) that are determined to be subject to income tax withholding.~~

4 ~~(3)(B)~~ The amount authorized under THIS subsection (2) is:

5 ~~(a)(I)~~ \$1,000 if the legislator's district is at least 100 square miles but less than 1,000 square miles;

6 ~~(b)(II)~~ \$2,000 if the legislator's district is at least 1,000 square miles but less than 5,000 square miles;

7 ~~(c)(III)~~ \$3,000 if the legislator's district is at least 5,000 square miles but less than 7,500 square miles;

8 or

9 ~~(d)(IV)~~ \$4,000 if the legislator's district is 7,500 square miles or more.

10 ~~(4) (a) For expenses authorized under subsection (1)(a), a claim must be submitted to the legislative~~  
 11 ~~services division within 60 days of incurring the expense or the amount of time provided by federal law, whichever~~  
 12 ~~is less. If a complete claim and any relevant receipts are not received for an expenditure under subsection (1)(a)~~  
 13 ~~within the allowed time frame, income taxes will be withheld at the appropriate rate for the amount of the expense,~~  
 14 ~~and the amount of the withholding will be deducted from any amounts available in subsections (1)(b) or (2).~~

15 ~~———— (b)(4)(C) For expenses authorized under subsection~~ subsections (1)(b) and (2) ~~THIS SECTION~~ SUBSECTION  
 16 (2), a legislator shall apply for reimbursement to the legislative services division by submitting written  
 17 documentation that satisfies applicable requirements of Title 2, chapter 18, part 5. A submission for  
 18 reimbursement under this section is an assertion by a legislator that each reimbursement request listed on the  
 19 submission complies with the provisions of this section. Any item for which reimbursement is sought may be  
 20 subject to income tax withholding.

21 ~~(5)(D)~~ Legislators may not be reimbursed for expenses paid from a constituent services account provided  
 22 for in 13-37-402.

23 ~~———— (6) An expenditure from the amount in subsection (1)(a) requires submission of a receipt and~~  
 24 ~~recordkeeping. If a legislator resigns during a legislator's term, any amount unexpended must remain with the~~  
 25 ~~legislative services division. A legislator appointed to fill a vacancy during a term may receive an amount prorated~~  
 26 ~~over the 24-month term.~~

27 ~~(7)(a) Except as provided in subsection (7)(b), "authorized activities" include (3) "LEGISLATIVE BUSINESS"~~  
 28 INCLUDES activities and services related to the role of a legislator and for serving constituents, including  
 29 participation as a legislator in community, educational, and legislative activities and communications with  
 30 constituents and other legislators.

1 ~~\_\_\_\_\_ (b) The following activities are prohibited:~~

2 ~~\_\_\_\_\_ (i) expenses related to election communications or electioneering communications, as those terms are~~  
3 ~~defined in 13-1-101;~~

4 ~~\_\_\_\_\_ (ii) contributions, expenditures, or other expenses related to participation in a political committee, as the~~  
5 ~~terms "contribution", "expenditure", and "political committee" are defined in 13-1-101;~~

6 ~~\_\_\_\_\_ (iii) costs for all or any portion of an event, meeting, fundraiser, or gathering at which contributions, as~~  
7 ~~defined in 13-1-101, will be solicited or received by any person, and any direct or indirect travel, lodging, meals,~~  
8 ~~entertainment, or other expenses related to the sponsorship of, attendance at, or participation in an event,~~  
9 ~~meeting, fundraiser, or gathering at which contributions will be solicited or received by any person, and any direct~~  
10 ~~or indirect expenditure to support or oppose a candidate or ballot issue;~~

11 ~~\_\_\_\_\_ (iv) costs for the participation in a political caucus or events organized by a particular political caucus;~~

12 ~~\_\_\_\_\_ (v) costs for membership or related to membership in an organization that has a purpose to advocate~~  
13 ~~for or against particular issues. This does not prohibit expenses related to membership organizations of which~~  
14 ~~the legislature or a legislator is a member in an interstate or intrastate organization for legislators. Furthermore,~~  
15 ~~this does not prohibit a legislator from using funds to attend educational events organized by a membership~~  
16 ~~organization other than a political caucus and from speaking to membership organizations in the legislator's~~  
17 ~~capacity solely as a legislator; and~~

18 ~~\_\_\_\_\_ (vi) entertainment.~~

19 ~~(b)(4) Any violation of this section is subject to the provisions in 2-2-135 and is subject to enforcement~~  
20 ~~by the ethics committee in the appropriate chamber."~~

21

22 **Section 3.** Section 5-2-205, MCA, is amended to read:

23 **"5-2-205. Authority for standing committees to meet during interim.** (1) Except as provided in  
24 5-2-202 and ~~subsection~~ subsections (2) and (3) of this section, a standing committee of the legislature, as  
25 provided for in legislative rules, may not meet during the interim between regular legislative sessions.

26 (2) Upon approval of the president of the senate or the speaker of the house of representatives, a  
27 standing committee may meet before a special session, as provided in 5-3-101, or during a special session.

28 (3) The ethics committee provided for in 2-2-135 may meet at any time during the session or the interim  
29 to enforce the rules of conduct or legislative rule."

30

1 ~~Section 4.~~ Section 13-37-402, MCA, is amended to read:

2 ~~"13-37-402. Constituent accounts -- reports. (1) A constituent services account may be established~~  
 3 ~~to pay for constituent services by a successful candidate required to report under 13-37-229. A constituent~~  
 4 ~~services account may be established by filing an appropriate form with the commissioner.~~

5 ~~(2) (a) A successful candidate may deposit only surplus campaign funds in a constituent services~~  
 6 ~~account.~~

7 ~~(b) The money in the account may be used only for constituent services. The money in the account may~~  
 8 ~~not be used for personal benefit. Expenditures from a constituent services account may not be made when the~~  
 9 ~~holder of the constituent services account also has an open campaign account.~~

10 ~~(3) A Except for an account established solely to administer a legislator services allowance provided for~~  
 11 ~~in 5-2-204, a person described in subsection (1) may not establish any account related to the public official's office~~  
 12 ~~other than a constituent services account. This subsection does not prohibit a person from establishing a~~  
 13 ~~campaign account.~~

14 ~~(4) The holder of a constituent services account shall file a quarterly report with the commissioner, by~~  
 15 ~~a date established by the commissioner by rule. The report must disclose the source of all money deposited in~~  
 16 ~~the account and enumerate expenditures from the account. The report must include the same information as~~  
 17 ~~required for a candidate required to report under 13-37-229. The report must be certified as provided in~~  
 18 ~~13-37-231.~~

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

21  
 22 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2019 ON PASSAGE AND

23 APPROVAL.

24 - END -