

SENATE BILL NO. 157

INTRODUCED BY J. ELLSWORTH

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXEMPT PERSONAL STAFF OF LEGISLATIVE LEADERSHIP LAWS; INCREASING THE ALLOWABLE NUMBER OF EXEMPT PERSONAL STAFF POSITIONS; REVISING SPECIAL COUNSEL DUTIES; MAKING THE SPECIAL COUNSEL POSITION PERMANENT; AMENDING SECTIONS 2-18-104 AND 5-5-110, MCA; REPEALING SECTION 6, CHAPTER 523, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-18-104, MCA, is amended to read:

**"2-18-104. Exemption for personal staff -- limit.** (1) Subject to the limitations in subsections (2) and (3), members of a personal staff are exempt from parts 1 through 3 and 10.

(2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise approved by the department according to criteria developed by the department. Under no circumstances may the total exemptions of each elected official exceed 15.

(3) The number of members of the personal staff of the public service commission who are exempted by subsection (1) may not exceed 6.

(4) ~~(a) The~~ Except as provided in subsection (4)(b), the number of members of the personal staff of the leadership of the legislature who are exempted by subsection (1) may not exceed:

~~(a)(i)~~ one ~~two~~ personal staff for the speaker of the house of representatives;

~~(b)(ii)~~ one personal staff for the minority leader of the house of representatives;

~~(c)(iii)~~ one ~~two~~ personal staff for the president of the senate;

~~(d)(iv)~~ one personal staff for the minority leader of the senate; and

~~(e)(v)~~ one personal staff that serves at the pleasure of the speaker of the house of representatives and the president of the senate for the purposes provided in 5-5-110.

(b) If the membership of a minority caucus in either chamber is 40% or greater of the total

1 membership of the chamber, then the respective minority leader provided for in subsection (4)(a)(ii) or (4)(a)(iv)  
2 may appoint up to two exempt personal staff. (Subsection (4)(e) terminates June 1, 2023--sec. 6, Ch. 523, L.  
3 2021.)"  
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5 **Section 2.** Section 5-5-110, MCA, is amended to read:

6 **"5-5-110. (Temporary) Special counsel -- powers -- appointment -- reporting.** (1) The speaker of  
7 the house of representatives and president of the senate may hire, at any time, one personal staff under 2-18-  
8 104 for the purposes of serving as a special counsel. The speaker of the house of representatives and  
9 president of the senate must consent in writing to the appointment of the special counsel.

10 (2) The special counsel serves at the pleasure of the speaker of the house of representatives and  
11 the president of the senate. The special counsel must be licensed to practice law in Montana. The special  
12 counsel may:

13 (a) be appointed to ~~investigate and~~ examine state governmental activities and may examine and  
14 inspect all records, books, communications, and files of any department, agency, commission, board, or  
15 institution of the state of Montana at the request of a legislator or legislative committee. A governmental agency  
16 shall assist the special counsel in any activity conducted by the special counsel as provided in this section.

17 (b) exercise the investigatory powers under Title 5, chapter 5, part 1, on behalf of a standing  
18 committee, select committee, or interim committee and any subcommittees of those committees;

19 (c) if assigned to a legislative committee, hold hearings, administer oaths, issue subpoenas,  
20 compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony,  
21 and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil  
22 actions in district court;

23 (d) report to the speaker of the house of representatives and the president of the senate or any  
24 committee designated by the speaker of the house of representatives and the president of the senate, including  
25 but not limited to standing committees, select committees, or interim committees and any subcommittees of  
26 those committees. A special counsel that reports to a legislative committee must serve at the direction of the  
27 speaker of the house of representatives and president of the senate and not the assigned committee.

28 (e) make recommendations for revisions of laws or rules for consideration by the legislature.

1           (3)     The speaker of the house of representatives and president of the senate may designate the  
2 attorney general or an employee of the attorney general to serve as the special counsel.

3           (4)     Costs for the special counsel must be paid:

4           (a)     by the department of justice if the special counsel is the attorney general or an employee of the  
5 attorney general as provided in subsection (3);

6           (b)     as directed by the speaker of the house of representatives or president of the senate, including  
7 but not limited to using funding from interim committee operating funds. (~~Terminates June 1, 2023--sec. 6, Ch.~~  
8 ~~523, L. 2021.~~)"

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10           NEW SECTION. **Section 3. Repealer.** Section 6, Chapter 523, Laws of 2021, is repealed.

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12           NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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