

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE LEGISLATURE'S AUTHORITY REGARDING
6 LEGISLATORS AND LEGISLATIVE ACTS UNDER THE CODE OF ETHICS; DEFINING CERTAIN TERMS;
7 REVISING AND CLARIFYING THE DUTIES OF THE LEGISLATURE'S ETHICS COMMITTEES; ALLOWING
8 THE ETHICS COMMITTEES TO MEET DURING THE INTERIM; AMENDING SECTIONS 2-2-102, 2-2-135,
9 AND 5-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 **Section 1.** Section 2-2-102, MCA, is amended to read:

14 **"2-2-102. Definitions.** As used in this part, the following definitions apply:

- 15 (1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any
16 other individual or organization carrying on a business, whether or not operated for profit.
- 17 (2) "Compensation" means any money or economic benefit conferred on or received by any person in
18 return for services rendered or to be rendered by the person or another.
- 19 (3) (a) "Gift of substantial value" means a gift with a value of \$50 or more for an individual.
- 20 (b) The term does not include:
- 21 (i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to
22 a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax
23 purposes;
- 24 (ii) food and beverages consumed on the occasion when participation in a charitable, civic, or
25 community event bears a relationship to the public officer's or public employee's office or employment or when
26 the officer or employee is in attendance in an official capacity;
- 27 (iii) educational material directly related to official governmental duties;
- 28 (iv) an award publicly presented in recognition of public service; or

- 1 (v) educational activity that:
- 2 (A) does not place or appear to place the recipient under obligation;
- 3 (B) clearly serves the public good; and
- 4 (C) is not lavish or extravagant.

5 (4) (a) "Lavish or extravagant" means an expense that is significantly higher than what is considered
6 reasonable.

7 (b) The term does not include:

8 (i) lodging expenses that do not exceed [PERCENTAGE? -- DOUBLE, TRIPLE?] the maximum
9 standard federal per diem rate for the location of an educational activity;

10 (ii) food and beverages consumed as part of an educational activity;

11 (iii) expenses charged for transportation by rail, motor, water, or air to arrive at an educational activity;

12 and

13 (iv) any common fees and taxes relating to the expenses in this subsection (4)(b).

14 (5) (a) "Legislative act" means:

15 (i) official actions of the legislature;

16 (ii) actions of the legislature that may result in the creation of law or declaration of public policy;

17 (iii) actions of the legislature authorized by Article V of The Constitution of the State of Montana;

18 (iv) a legislator acting in the legislator's capacity engaging in a legislative action naturally involved in the
19 performance of any legislative function or duty;

20 (v) legislator participation on or for a legislative committee;

21 (vi) a legislator acting in the legislator's capacity participating on a committee, council, working group,
22 or other entity authorized by law or by executive order;

23 (vii) legislator participation in an educational or training activity conducted by an organization to which
24 the Montana legislature belongs, as provided in 5-11-305, or by an outside entity; or

25 (viii) legislator communications with constituents.

26 (b) The term does not include legislator participation or involvement in election or political campaign
27 activities regulated under Title 13, chapters 35 and 37.

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1 ~~(4)~~(6) "Local government" means a county, a consolidated government, an incorporated city or town,
2 a school district, or a special district.

3 ~~(5)~~(7) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval,
4 or other action, including inaction, that involves the use of discretionary authority.

5 ~~(6)~~(8) "Private interest" means an interest held by an individual that is:

- 6 (a) an ownership interest in a business;
- 7 (b) a creditor interest in an insolvent business;
- 8 (c) an employment or prospective employment for which negotiations have begun;
- 9 (d) an ownership interest in real property;
- 10 (e) a loan or other debtor interest; or
- 11 (f) a directorship or officership in a business.

12 ~~(7)~~(9) "Public employee" means:

- 13 (a) any temporary or permanent employee of the state;
- 14 (b) any temporary or permanent employee of a local government;
- 15 (c) a member of a quasi-judicial board or commission or of a board, commission, or committee with
16 rulemaking authority; and
- 17 (d) a person under contract to the state.

18 ~~(8)~~(10) "Public information" has the meaning provided in 2-6-1002.

- 19 ~~(9)~~(11) (a) "Public officer" includes any state officer and any elected officer of a local government.
- 20 (b) For the purposes of 67-11-104, the term also includes a commissioner of an airport authority.

21 ~~(10)~~(12) "Special district" means a unit of local government, authorized by law to perform a single
22 function or a limited number of functions. The term includes but is not limited to conservation districts, water
23 districts, weed management districts, irrigation districts, fire districts, community college districts, hospital
24 districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by
25 interlocal agreement.

26 ~~(11)~~(13) (a) "State agency" includes:

- 27 (i) the state;
- 28 (ii) the legislature and its committees;

1 (iii) all executive departments, boards, commissions, committees, bureaus, and offices;

2 (iv) the university system; and

3 (v) all independent commissions and other establishments of the state government.

4 (b) The term does not include the judicial branch.

5 ~~(12)(14)~~ "State officer" includes all elected officers and directors of the executive branch of state
6 government as defined in 2-15-102."

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8 **Section 2.** Section 2-2-135, MCA, is amended to read:

9 **"2-2-135. Ethics committees.** ~~(1) Pursuant to Article V, section 10, of the Montana constitution, the~~
10 ~~legislature is responsible for enforcement of the provisions of this part concerning legislators if a legislative act~~
11 ~~is involved.~~

12 ~~(1)(2) (a)~~ Each house of the legislature shall establish an ethics committee. Subject to 5-5-234, the
13 committee must consist of two members of the majority party and two members of the minority party. ~~The~~
14 ~~committees may meet jointly.~~

15 ~~(b) Each committee may meet at any time during a regular or special session or during the interim~~
16 ~~between regular sessions and consider:~~

17 ~~(i) a potential violation of this part or a legislative rule enforcing the provisions of this part concerning a~~
18 ~~legislator if a legislative act is involved; or~~

19 ~~(ii) conflicts between public duty and private interest as provided in 2-2-112.~~

20 ~~(c) If there is a recommendation from a committee, the recommendation is made to the appropriate~~
21 ~~house of the legislature.~~

22 ~~(d) (i) Each committee shall educate members concerning the provisions of this part concerning~~
23 ~~legislators and may consider conflicts between public duty and private interest as provided in 2-2-112.~~

24 ~~(e) The joint committee committees may meet jointly and~~ may consider matters affecting the entire
25 legislature.

26 ~~(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for~~
27 ~~enforcement of the provisions of this part concerning legislators."~~

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