

1 *House* BILL NO. *633*
 2 INTRODUCED BY *Quade*
 3 *Fitzhugh* *Lehr* *BBankert* *Ream* *Krebs* *Allet*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 ^{UNIFORM} DISCLOSURE OF CONFLICT OF INTEREST LAW AND RULES OF CONDUCT
 6 FOR LEGISLATORS; REQUIRING DISCLOSURE OF A CONFLICT OF
 7 INTEREST; PROHIBITING A LEGISLATOR FROM LOBBYING WITHIN 2
 8 YEARS OF LEAVING OFFICE; AND AMENDING SECTIONS 2-2-104,
 9 2-2-111, 2-2-112, AND 5-7-103, MCA."

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

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

12 **"2-2-104.** Rules of conduct for all public officers,
13 legislators, and employees. (1) Proof of commission of any
14 act enumerated in this section is proof that the actor has
15 breached his fiduciary duty. A public officer, legislator,
16 or employee may not:

17 (a) disclose or use confidential information acquired
18 in the course of his official duties in order to further
19 substantially his personal economic interests; or
20

21 (b) accept a gift of substantial value or a substantial
22 economic benefit tantamount to a gift:

23 (i) which would tend improperly to influence a
24 reasonable person in his position to depart from the
25 faithful and impartial discharge of his public duties; or

1 (ii) which he knows or which a reasonable person in his
2 position should know under the circumstances is primarily
3 for the purpose of rewarding him for official action he has
4 taken.

5 (2) An economic benefit tantamount to a gift includes
6 without limitation a loan at a rate of interest
7 substantially lower than the commercial rate then currently
8 prevalent for similar loans and compensation received for
9 private services rendered at a rate substantially exceeding
10 the fair market value of such services. Campaign
11 contributions reported as required by statute are not gifts
12 or economic benefits tantamount to gifts."

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

14 **"2-2-111.** Rules of conduct for legislators. (1) Proof
15 of commission of any act enumerated in this section
16 subsection is proof that the legislator committing the act
17 has breached his fiduciary duty. A legislator may not:

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

22 (2)(b) seek other employment for himself or solicit a
23 contract for his services by the use of his office;

24 (c) disclose or use confidential information acquired
25 in the course of his official duties in order to further his

1 personal economic interest;

2 (d) accept a gift of more than \$50 or a substantial
3 economic benefit tantamount to a gift:

4 (i) that would tend improperly to influence a
5 reasonable person in his position to depart from the
6 faithful and impartial discharge of his public duties; or

7 (ii) that he knows or that a reasonable person in his
8 position should know under the circumstances is primarily
9 for the purpose of rewarding him for official action he has
10 taken.

11 (2) An economic benefit tantamount to a gift includes
12 without limitation a loan at a rate of interest
13 substantially lower than the commercial rate then currently
14 prevalent for similar loans and compensation received for
15 private services rendered at a rate substantially exceeding
16 the fair market value of the services. Campaign
17 contributions reported as required by statute are not gifts
18 or economic benefits tantamount to gifts."

19 **Section 3.** Section 2-2-112, MCA, is amended to read:

20 "2-2-112. Ethical principles for legislators. (1) The
21 principles in this section are intended only as guides to
22 legislator conduct and do not constitute violations as such
23 of the public trust of legislative office.

24 (2) When a legislator must take official action on a
25 legislative matter as to which he has a conflict created by

1 a personal or financial interest which would be directly and
2 substantially affected by the legislative matter, he ~~should~~
3 ~~consider--disclosing shall disclose~~ or ~~eliminating eliminate~~
4 the interest creating the conflict or ~~abstaining~~ abstain
5 from the official action. In making his decision, he should
6 further consider:

7 (a) whether the conflict impedes his independence of
8 judgment;

9 (b) the effect of his participation on public
10 confidence in the integrity of the legislature; and

11 (c) whether his participation is likely to have any
12 significant effect on the disposition of the matter.

13 (3) A conflict situation does not arise from
14 legislation affecting the entire membership of a class.

15 (4) ~~If a~~ A legislator ~~elects--to shall~~ disclose the
16 interest creating the conflict, ~~he shall do so~~ as provided
17 in the joint rules of the legislature."

18 **Section 4.** Section 5-7-103, MCA, is amended to read:

19 "5-7-103. Licenses -- fees -- eligibility. (1) (a) Any
20 Except as provided in subsection (1)(b), an adult of good
21 moral character who is a citizen of the United States and
22 who is otherwise qualified under this chapter may be
23 licensed as a lobbyist.

24 (b) A legislator may not within 2 years of leaving
25 office be licensed as a lobbyist.

1 (2) The commissioner shall provide a license
2 application form. The application form may be obtained in
3 the office of the commissioner and filed therein in the
4 office. Upon approval of the application and receipt of the
5 license fee of \$10 by the commissioner, a license ~~shall~~ must
6 be issued ~~which~~ that entitles the licensee to practice
7 lobbying on behalf of one or more enumerated principals.
8 Each license ~~shall-expire~~ expires on December 31 of each
9 even-numbered year or may be terminated at the request of
10 the lobbyist.

11 ~~(2)~~(3) No An application may not be disapproved without
12 affording the applicant a hearing. The hearing ~~shall~~ must be
13 held and the decision entered within 10 days of the date of
14 the filing of the application.

15 ~~(3)~~(4) The fines and license fees collected under this
16 chapter ~~shall~~ must be deposited in the state treasury."

-End-