

1 *House* BILL NO. *412*
 2 INTRODUCED BY *Meloy French* **VINCENT**

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE SCOPE OF
 5 THE OPEN MEETINGS LAW; AMENDING SECTIONS 82-3402 AND
 6 94-7-401, R.C.M. 1947; REPEALING SECTION 75-6127, R.C.M.
 7 1947."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 82-3402, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-3402. Meetings of public agencies to be open to
 13 public--exceptions. All meetings of public or governmental
 14 bodies, boards, bureaus, commissions or agencies of the
 15 state or any political subdivision of the state, or
 16 organization or agencies supported in whole or in part by
 17 public funds, or expending public funds, at which any action
 18 is taken by such public governmental body, board, bureau,
 19 commission or agency of the state or any political
 20 subdivision of the state shall be open to the public,
 21 ~~except--as-otherwise-specifically-provided-by-law-and-except~~
 22 any-meeting-involving-or-affecting Provided, however, the
 23 presiding officer of any meeting may close the meeting
 24 during the time any of the following items are discussed,
 25 if, and only if, the presiding officer determines that the

1 demands of individual privacy clearly exceed the merits of
 2 public disclosure.

3 ~~(1)-National-or-state-security-~~

4 ~~(2)~~ (1) The disciplining of any public officer or
 5 employee, or any hearing on, or of, a complaint against a
 6 public officer or employee, unless the public officer or
 7 employee requests an open meeting.

8 ~~(3)~~ (2) The employment, appointment, promotion,
 9 dismissal, demotion or resignation of any public officer or
 10 employee, unless the public officer or employee requests an
 11 open meeting.

12 ~~(4)-The-purchasing-of-public-property-the-investing-of~~
 13 ~~public--funds--or--other--matters--involving--competition-or~~
 14 ~~bargaining-which-if-made-public-may--adversely--affect--the~~
 15 ~~public--security--or--financial-interest-of-the-state-or-any~~
 16 ~~political-subdivision-or-agency-of-the-state-~~

17 ~~(5)~~ (3) The revocation of a license of any person
 18 licensed under the laws of the state or any political
 19 subdivision of the state, unless the person licensed
 20 requests an open meeting.

21 (6) Law enforcement, crime prevention, probation or
 22 parole."

23 Section 2. Section 94-7-401, R.C.M. 1947, is amended
 24 to read as follows:

25 "94-7-401. Official misconduct. (1) A public servant

1 commits the offense of official misconduct when, in his
2 official capacity, he commits any of the following acts:

3 (a) purposely or negligently fails to perform any
4 mandatory duty as required by law or by a court of competent
5 jurisdiction; or

6 (b) knowingly performs an act in his official capacity
7 which he knows is forbidden by law; or

8 (c) with the purpose to obtain advantage for himself
9 or another, he performs an act in excess of his lawful
10 authority; or

11 (d) solicits or knowingly accepts for the performance
12 of any act a fee or reward which he knows is not authorized
13 by law; or

14 (e) conducts a meeting of a public agency in violation
15 of section 82-3402.

16 (2) A public servant convicted of the offense of
17 official misconduct shall be fined not to exceed five
18 hundred dollars (\$500) or be imprisoned in the county jail
19 for a term not to exceed six (6) months, or both.

20 (3) The district court shall have exclusive
21 jurisdiction in prosecutions under this section, and any
22 action for official misconduct must be commenced by an
23 information filed after leave to file has been granted by
24 the district court or after a grand jury indictment has been
25 found.

1 (4) A public servant who has been charged as provided
2 in subsection (3) shall be suspended from his office without
3 pay pending final judgment. Upon final judgment of
4 conviction he shall permanently forfeit his office. Upon
5 acquittal he shall be reinstated in his office and shall
6 receive all back pay.

7 (5) This section does not affect any power conferred
8 by law to impeach or remove any public servant or any
9 proceeding authorized by law to carry into effect such
10 impeachment or removal."

11 Section 3. Section 75-6127, R.C.M. 1947, is repealed.

-End-

Approved by Committee on Judiciary

House BILL NO. 412
Meloy Krennchen VINCENT

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5 THE OPEN MEETINGS LAW; AMENDING SECTIONS 82-3402 AND
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17 public funds, or expending public funds, at which any action
18 is taken by such public governmental body, board, bureau,
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2 public disclosure.

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4 ~~(2)~~ (1) The disciplining of any public officer or
5 employee, or any hearing on, or of, a complaint against a
6 public officer or employee, unless the public officer or
7 employee requests an open meeting.

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9 dismissal, demotion or resignation of any public officer or
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11 open meeting.

12 ~~(4)-The-purchasing-of-public-property, the investing of~~
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4 mandatory duty as required by law or by a court of competent
5 jurisdiction; or

6 (b) knowingly performs an act in his official capacity
7 which he knows is forbidden by law; or

8 (c) with the purpose to obtain advantage for himself
9 or another, he performs an act in excess of his lawful
10 authority; or

11 (d) solicits or knowingly accepts for the performance
12 of any act a fee or reward which he knows is not authorized
13 by law; or

14 (e) conducts a meeting of a public agency in violation
15 of section 82-3402.

16 (2) A public servant convicted of the offense of
17 official misconduct shall be fined not to exceed five
18 hundred dollars (\$500) or be imprisoned in the county jail
19 for a term not to exceed six (6) months, or both.

20 (3) The district court shall have exclusive
21 jurisdiction in prosecutions under this section, and any
22 action for official misconduct must be commenced by an
23 information filed after leave to file has been granted by
24 the district court or after a grand jury indictment has been
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2 in subsection (3) shall be suspended from his office without
3 pay pending final judgment. Upon final judgment of
4 conviction he shall permanently forfeit his office. Upon
5 acquittal he shall be reinstated in his office and shall
6 receive all back pay.

7 (5) This section does not affect any power conferred
8 by law to impeach or remove any public servant or any
9 proceeding authorized by law to carry into effect such
10 impeachment or removal."

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-End-

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20 subdivision of the state shall be open to the public,
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18 licensed under the laws of the state or any political
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12 of any act a fee or reward which he knows is not authorized
13 by law; or

14 (e) conducts a meeting of a public agency in violation
15 of section 82-3402.

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11 Section 3. Section 75-6127, R.C.M. 1947, is repealed.

-End-

March 20, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 412

That House Bill No. 412, third reading, be amended as follows:

1. Amend title, lines 6 and 7.
Following: "1947"
Strike: "; REPEALING SECTION 75-6127, R.C.M. 1947"
2. Amend page 2, section 1, line 2.
Following: "disclosure"
Strike: "."
Insert: ";
3. Amend page 2, section 1, line 21.
Following: line 20
Strike: "(6)"
Insert: "(4)"
4. Amend page 3, section 2, lines 14 and 15.
Following: "agency"
Strike: "in violation of"
Insert: "with intent to violate"
5. Amend page 4, section 2, line 2.
Following: "(3)"
Strike: "shall"
Insert: "may"
6. Amend page 4, section 3, line 11.
Following: line 10
Strike: Section 3 in its entirety

March 25, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 412

That House Bill No. 412, Senate Committee on Judiciary Amendments, dated March 20, 1975, be amended as follows:

1. Amend amendment No. 2, insertion paragraph, line 1.
Following: "disclosure"
Strike: ";"
Insert ":"

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10 authority; or

11 (d) solicits or knowingly accepts for the performance
12 of any act a fee or reward which he knows is not authorized
13 by law; or

14 (e) KNOWINGLY conducts a meeting of a public agency in
15 violation of WITH--INTENT-TO-VIOLATE IN VIOLATION OF section
16 82-3402.

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18 official misconduct shall be fined not to exceed five
19 hundred dollars (\$500) or be imprisoned in the county jail
20 for a term not to exceed six (6) months, or both.

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22 jurisdiction in prosecutions under this section, and any
23 action for official misconduct must be commenced by an
24 information filed after leave to file has been granted by
25 the district court or after a grand jury indictment has been

1 found.

2 (4) A public servant who has been charged as provided
3 in subsection (3) ~~shall~~ MAY be suspended from his office
4 without pay pending final judgment. Upon final judgment of
5 conviction he shall permanently forfeit his office. Upon
6 acquittal he shall be reinstated in his office and shall
7 receive all back pay.

8 (5) This section does not affect any power conferred
9 by law to impeach or remove any public servant or any
10 proceeding authorized by law to carry into effect such
11 impeachment or removal."

12 ~~Section 3,--Section 75-6127, R.C.M.,-1947,-is--repealed.~~

-End-