parole."

to read as follows:

public disclosure.

l			Huston Frenchen VINCENT
2	INTRODUCED	BY	Uda Fremchen VINCENT
3			0 "

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

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:

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

(1)-National-or-state-security+							
(1) The disciplining of any public officer or							
employee, or any hearing on, or of, a complaint against a							
public officer or employee, unless the public officer or							
employee requests an open meeting.							
(3) (2) The employment, appointment, promotion,							
dismissal, demotion or resignation of any public officer or							
employee, unless the public officer or employee requests an							
open meeting.							
(4)-The-purchasing-of-public-propertyy-the-investing-of							
publicfundsorothermattersinvolvingcompetition-or							
bargaining-whichy-if-made-public-mayadverselyaffectthe							
publicsecurityorfinancial-interest-of-the-state-or-any							
political-subdivision-or-agency-of-the-state+							
(5) (3) The revocation of a license of any person							
(5) (3) The revocation of a license of any person licensed under the laws of the state or any political							
· · · · · · · · · · · · · · · · · · ·							

demands of individual privacy clearly exceed the merits of

(6) Law enforcement, crime prevention, probation or

Section 2. Section 94-7-401, R.C.M. 1947, is amended

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

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

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- 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
- (b) knowingly performs an act in his official capacity
 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.
 - (2) A public servant convicted of the offense of official misconduct shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for a term not to exceed six (6) months, or both.
- 20 (3) The district court shall have exclusive 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 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-

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parole."

requests an open meeting.

to read as follows:

Approved by Committee on Judiciary

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1	Haust 11. 412
2	INTRODUCED BY Melon Fremchen VINCENT
3	O
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:
LO	Section 1. Section 82-3402, R.C.M. 1947, is amended to
11	read as follows:
L2	"82-3402. Meetings of public agencies to be open to
13	publicexceptions. All meetings of public or governmental
L 4	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	exceptas-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

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demands o			al pr	ivacy o	lear	ly	exce	ed ti	ıe_	merits	of
public di	sclos	ure.									
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licensed under the laws of the state or any political

subdivision of the state, unless the person licensed

(6) Law enforcement, crime prevention, probation or

Section 2. Section 94-7-401, R.C.M. 1947, is amended

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

- HB 412

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

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- 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
- (b) knowingly performs an act in his official capacity
 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.
 - (2) A public servant convicted of the offense of official misconduct shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail 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.
 - (5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect such impeachment or removal."
- Section 3. Section 75-6127, R.C.M. 1947, is repealed.
 -End-

	2/
1	INTRODUCED BY Melon Frenchem VINCENT
2	INTRODUCED BY Welm Fremen VINCENT
3	0
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	publicexceptions. 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 $ au_{\underline{ullet}}$
21	exceptas-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	(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-propertyy-the-investing-of
13	publicfundsorothermattersinvolvingcompetition-or
14	bargaining-which;-if-made-public-mayadverselyaffectthe
15	publicsecurityorfinancial-interest-of-the-state-or-any
16	political-subdivision-or-agency-of-the-state.
17	(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

(6) Law enforcement, crime prevention, probation or

Section 2. Section 94-7-401, R.C.M. 1947, is amended

*94-7-401. Official misconduct. (1) A public servant
-2- HB 4/2

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parole."

requests an open meeting.

to read as follows:

- commits the offense of official misconduct when, in his 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 lawr; or
- 14 (e) conducts a meeting of a public agency in violation 15 of section 82-3402.

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- (2) A public servant convicted of the offense of official misconduct shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for a term not to exceed six (6) months, or both.
- (3) The district court shall have exclusive jurisdiction in prosecutions under this section, and any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been 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.

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"

Amend page 2, section 1, line 2. Following: "disclosure" Strike: "." 2.

Insert: ";"

Amend page 2, section 1, line 21. 3.

Following: line 20

Strike: "(6)" Insert: "(4)"

Amend page 3, section 2, lines 14 and 15.

Following: "agency"

Strike: "in violation of"

Insert: "with intent to violate"

Amend page 4, section 2, line 2. 5.

Following: "(3)" Strike: "shall" Insert: "may"

Amend page 4, section 3, line 11.

Following: line 10

Strike: Section 3 in its entirety

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:

11 : 11

Insert

n , n

1	HOUSE BILL NO. 412	1	demands of individual privacy clearly exceed the merits of
2	INTRODUCED BY MELOY, HUENNEKENS, VINCENT	2	public disclosure;
3		3	(1)-National-or-state-security:
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE SCOPE OF	4	(2) (1) The disciplining of any public officer or
5	THE OPEN MEETINGS LAW; AMENDING SECTIONS 82-3402 AND	5	employee, or any hearing on, or of, a complaint against a
6	94-7-401, R.C.M. 1947;-REPEALINGSECTION75-6127;RTCTMT	6	public officer or employee, unless the public officer or
7	±947."	7	employee requests an open meeting.
8		8	(3) (2) The employment, appointment, promotion,
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	dismissal, demotion or resignation of any public officer or
10	Section 1. Section 82-3402, R.C.M. 1947, is amended to	10	employee, unless the public officer or employee requests an
11	read as follows:	11	open meeting.
12	*82-3402. Meetings of public agencies to be open to	. 12	(4)-The-purchasing-of-public-property;-the-investing-of
13	publicexceptions. All meetings of public or governmental	13	publicfundsorothermattersinvelvingcompetition-or
14	bodies, boards, bureaus, commissions or agencies of the	14	bargaining-whichy-if-made-public-mayadverselyaffectthe
15	state or any political subdivision of the state, or	15	publicsecurityerfinancial-interest-of-the-state-or-any
16	organization or agencies supported in whole or in part by	16	political-subdivision-or-agency-of-the-state-
17	public funds, or expending public funds, at which any action	17	(5) (3) The revocation of a license of any person
18	is taken by such public governmental body, board, bureau,	18	licensed under the laws of the state or any political
19	commission or agency of the state or any political	19	subdivision of the state, unless the person licensed
20	subdivision of the state shall be open to the public $ au_{ au}$	20	requests an open meeting.
21	exceptas-otherwise-specifically-provided-by-law-and-except	21	(6) (4) Law enforcement, crime prevention, probation
22	any-meeting-involving-or-affecting; Provided, however, the	22	or parole."
23	presiding officer of any meeting may close the meeting	23	Section 2. Section 94-7-401, R.C.M. 1947, is amended
24	during the time any of the following items are discussed,	24	to read as follows:
25	if, and only if, the presiding officer determines that the	25	*94-7-401. Official misconduct. (1) A public servant

REFERENCE BILL 4/14/75 Second Printing- Conference Report Included HB 0412/03

HB 0412/03

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

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- 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
 - (b) knowingly performs an act in his official capacity 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) KNOWINGLY conducts a meeting of a public agency in

 15 violation-of WITH--INTENT-TO-VIOLATION OF section

 16 82-3402.
 - (2) A public servant convicted of the offense of official misconduct shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for a term not to exceed six (6) months, or both.
- 21 (3) The district court shall have exclusive 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

- 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-

-4-