

1 *Parlovich* . House BILL NO. 410
 2 INTRODUCED BY *Feland ORR Rose J. Bauer*
 3 *Burnett Mercer Zwick Salim Beck*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE OFFICERS AND EMPLOYEES TO REPORT
 5 MEMBERSHIP IN AND CONTRIBUTIONS TO ORGANIZATIONS THAT PARTICIPATE IN PROCEEDINGS
 6 BEFORE THE EMPLOYING AGENCY OR THAT LOBBY THE LEGISLATURE; AMENDING SECTION 2-2-121,
 7 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

- 10
 11 **Section 1.** Section 2-2-121, MCA, is amended to read:
 12 **"2-2-121. Rules of conduct for state officers and state employees.** (1) Proof of commission of any
 13 act enumerated in this section is proof that the actor has breached ~~his~~ a fiduciary duty.
 14 (2) A state officer or a state employee may not:
 15 (a) use state time, facilities, or equipment for ~~his~~ the officer's or employee's private business
 16 purposes;
 17 (b) engage in a substantial financial transaction for ~~his~~ the officer's or employee's private business
 18 purposes with a person whom ~~he~~ the officer or employee inspects or supervises in the course of ~~his~~ official
 19 duties;
 20 (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or
 21 other economic benefit from ~~his~~ the officer's or employee's agency;
 22 (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic
 23 benefit from any state agency;
 24 (e) perform an official act directly and substantially affecting to its economic benefit a business or
 25 other undertaking in which ~~he~~ the officer or employee either has a substantial financial interest or is
 26 engaged as counsel, consultant, representative, or agent; or
 27 (f) solicit or accept employment, or engage in negotiations or meetings to consider employment,
 28 with a person whom ~~he~~ the officer or employee regulates in the course of ~~his~~ official duties without first
 29 giving written notification to ~~his~~ the officer's or employee's supervisor and department director.
 30 (3)(a) A state officer or a state employee shall annually report to the secretary of state membership

1 in organizations that:

2 (i) participate in proceedings before the agency that employs the officer or employee; or

3 (ii) engage in lobbying the legislature with regard to subjects within the jurisdiction of the agency.

4 (b) The report must include the amount of dues and contributions paid during the previous year to
5 each listed organization. Union membership and dues are not required to be reported.

6 (c) A state officer or a state employee may not engage in any activity on behalf of an organization
7 listed in the report under subsection (3)(a) that would constitute a conflict of interest with regard to the
8 officer's or employee's job duties.

9 ~~(3)(4)~~ A department head or a member of a quasi-judicial or rulemaking board may perform an
10 official act notwithstanding subsection (2)(e) if ~~his~~ participation is necessary to the administration of a
11 statute and if ~~he~~ the department head or board member complies with the voluntary disclosure procedures
12 under 2-2-131.

13 ~~(4)(5)~~ Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
14 unless ~~he~~ the member is also a full-time state employee."
15

16 NEW SECTION. Section 2. Applicability. The first report filed pursuant to 2-2-121(3) must cover
17 1993 and 1994.
18

19 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.
20

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0410, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring state officers and employees to report membership in and contributions to organizations that participate in proceedings before the employing agency or that lobby the legislature.

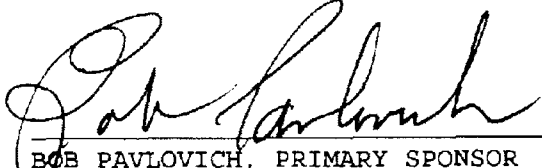
ASSUMPTIONS:

1. It will be the responsibility of the Secretary of State to receive and file the documents required.
2. No investigatory authority is vested with the Secretary of State as regards these documents.
3. No prosecutorial authority is delegated to the Secretary of State to handle any potential violations of this act.

FISCAL IMPACT:

This bill has no fiscal impact on state government.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


BOB PAVLOVICH, PRIMARY SPONSOR DATE

Fiscal Note for HB0410, as introduced

HB 410

HOUSE BILL NO. 410

INTRODUCED BY PAVLOVICH, FELAND, ORR, ROSE, BAER, BURNETT, MERCER, QUILICI, GALVIN,
BECK, DEVLIN, KEATING

A BILL FOR AN ACT ENTITLED: "~~AN ACT REQUIRING STATE OFFICERS AND EMPLOYEES TO REPORT MEMBERSHIP IN AND CONTRIBUTIONS TO ORGANIZATIONS THAT PARTICIPATE IN PROCEEDINGS BEFORE THE EMPLOYING AGENCY OR THAT LOBBY THE LEGISLATURE~~ EMPLOYEES TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST; AMENDING SECTION 2-2-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION."

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

Section 1. Section 2-2-121, MCA, is amended to read:

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(2) A state officer or a state employee may not:

(a) use state time, facilities, or equipment for ~~his~~ the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for ~~his~~ the officer's or employee's private business purposes with a person whom ~~he~~ the officer or employee inspects or supervises in the course of ~~his~~ official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from ~~his~~ the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any state agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which ~~he~~ the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom ~~he~~ the officer or employee regulates in the course of ~~his~~ official duties without first

1 giving written notification to ~~his~~ the officer's or employee's supervisor and department director.

2 ~~(3)(a) A state officer or a state employee shall annually report to the secretary of state membership~~
3 ~~in organizations that:~~

4 ~~(i) participate in proceedings before the agency that employs the officer or employee; or~~

5 ~~(ii) engage in lobbying the legislature with regard to subjects within the jurisdiction of the agency.~~

6 ~~(b) The report must include the amount of dues and contributions paid during the previous year to~~
7 ~~each listed organization. Union membership and dues are not required to be reported.~~

8 ~~(e) SHALL NOTIFY THE EMPLOYEE'S IMMEDIATE SUPERVISOR THAT A POTENTIAL CONFLICT~~
9 ~~OF INTEREST EXISTS WHEN AN ORGANIZATION OF WHICH THE EMPLOYEE IS A MEMBER IS INVOLVED~~
10 ~~IN A PROCEEDING BEFORE THE EMPLOYING AGENCY THAT IS WITHIN THE SCOPE OF THE EMPLOYEE'S~~
11 ~~JOB DUTIES.~~

12 ~~(B) THE EMPLOYEE'S SUPERVISOR SHALL MAKE THE DISCLOSED INFORMATION AVAILABLE TO~~
13 ~~AN INTERESTED PERSON UPON THE PERSON'S REQUEST.~~

14 ~~(4) A state officer or a state employee may not engage in any activity, INCLUDING LOBBYING, AS~~
15 ~~DEFINED IN 5-7-102, on behalf of an organization listed in the report under subsection (3)(a) that would~~
16 ~~constitute a conflict of interest with regard to~~ OF WHICH THE OFFICER OR EMPLOYEE IS A MEMBER
17 WHILE ENGAGED IN PERFORMING the officer's or employee's job duties.

18 ~~(3)(4) (5)~~ A department head or a member of a quasi-judicial or rulemaking board may perform an
19 official act notwithstanding subsection (2)(e) if ~~his~~ participation is necessary to the administration of a
20 statute and if ~~he~~ the department head or board member complies with the voluntary disclosure procedures
21 under 2-2-131.

22 ~~(4)(5) (6)~~ Subsection (2)(d) does not apply to a member of a board, commission, council, or
23 committee unless ~~he~~ the member is also a full-time state employee."

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25 NEW SECTION. Section 2. Applicability. The first report filed pursuant to 2-2-121(3) must cover
26 1993 and 1994.

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other economic benefit from ~~his~~ the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic
benefit from any state agency;

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