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INTRODUCED BY House BILL NO. 571

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISCLOSURE OF CONFLICT OF INTEREST LAW AND RULES OF CONDUCT FOR LEGISLATORS; REQUIRING DISCLOSURE OF A CONFLICT OF INTEREST; AND AMENDING SECTIONS 2-2-104, 2-2-111, AND 2-2-112, MCA."

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

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

"2-2-104. Rules of conduct for all public officers, ~~legislators~~, and employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached ~~his~~ a fiduciary duty.

A public officer, ~~legislator~~, or employee may not:

(a) disclose or use confidential information acquired in the course of ~~his~~ the officer's or employee's official duties in order to further substantially ~~his~~ the officer's or employee's personal economic interests;

or

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

(i) ~~which that~~ would tend improperly to influence a reasonable person in ~~his~~ that position to depart from the faithful and impartial discharge of ~~his~~ the officer's or employee's public duties; or

(ii) ~~which he that the officer or employee~~ knows or ~~which that~~ a reasonable person in ~~his~~ that position should know under the circumstances is primarily for the purpose of rewarding ~~him~~ the officer or employee for official action ~~he has~~ taken.

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

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

"2-2-111. Rules of conduct for legislators. (1) Proof of commission of any act enumerated in this

1 ~~section~~ subsection is proof that the legislator committing the act has breached his a fiduciary duty. A
2 legislator may not:

3 ~~(1)(a)~~ (a) accept a fee, contingent fee, or any other compensation, except ~~his~~ the legislator's official
4 compensation provided by statute, for promoting or opposing the passage of legislation;

5 ~~(2)(b)~~ (b) seek other employment ~~for himself~~ or solicit a contract for ~~his~~ the legislator's services by the
6 use of ~~his~~ the legislator's office;

7 (c) disclose or use confidential information acquired in the course of the legislator's official duties
8 in order to further the legislator's personal economic interests;

9 (d) accept or receive, directly or indirectly, a gift or substantial economic benefit as a gratuity from
10 a person or entity, except as provided in this section;

11 (e) accept a substantial gift or other gratuity if it could reasonably be inferred that the gift or
12 gratuity is intended to improperly influence the performance of the legislator's official duties, actions, or
13 judgments;

14 (f) accept a substantial gift or gratuity that the legislator knows or should under the circumstances
15 know is primarily for the purpose of rewarding the legislator for official action that the legislator has taken.

16 (2) A legislator may accept reimbursement for reasonable food, travel, lodging, and other expenses
17 incurred to attend a meeting at which the legislator has a speaking engagement, participates in a panel
18 discussion, or otherwise engages in an activity in the legislator's official capacity.

19 (3) (a) An economic benefit tantamount to a gift includes without limitation:

20 (i) a loan at a rate of interest substantially lower than the commercial rate then currently prevalent
21 for similar loans; and

22 (ii) compensation that is received for private services rendered and that is at a rate substantially
23 exceeding the fair market value of the services.

24 (b) Campaign contributions reported as required by statute are not gifts or economic benefits
25 tantamount to gifts."

26

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

28 **"2-2-112. ~~Ethical principles~~ Conflict of interest rules for legislators. ~~(1) The principles in this section~~
29 ~~are intended only as guides to legislator conduct and do not constitute violations as such of the public trust~~
30 ~~of legislative office.~~**

1 ~~(2)~~(1) When a legislator ~~must take~~ takes official action on a legislative matter as to which ~~he~~ the
2 legislator has a conflict created by a ~~personal~~ or financial interest ~~which~~ that would be directly and
3 substantially affected by the legislative matter, ~~he should consider disclosing~~ the legislator shall disclose
4 or ~~eliminating~~ eliminate the interest creating the conflict or ~~abstaining~~ abstain from the official action. In
5 making ~~his~~ this decision, ~~he~~ the legislator should further consider:

6 (a) whether the conflict impedes ~~his~~ the legislator's independence of judgment;

7 (b) the effect of ~~his~~ the legislator's participation on public confidence in the integrity of the
8 legislature; and

9 (c) whether ~~his~~ the legislator's participation is likely to have any significant effect on the disposition
10 of the matter.

11 ~~(3)~~(2) A conflict situation does not arise from legislation affecting the entire membership of a class.

12 ~~(4)~~(3) If a A legislator who elects to disclose or eliminate the interest creating the conflict, ~~he~~ or
13 who elects to abstain shall do so as provided in the joint rules of the legislature."

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