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INTRODUCED BY House BILL NO. 579
DEANNY CRUICK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE ETHICS LAWS; REVISING ETHICAL REQUIREMENTS FOR PUBLIC OFFICERS AND EMPLOYEES; PROHIBITING A PUBLIC OFFICER OR EMPLOYEE WHO IS NOT LICENSED AS A LOBBYIST FROM USING PUBLIC TIME, EQUIPMENT, SUPPLIES, OR FACILITIES TO SUPPORT OR OPPOSE STATE OR FEDERAL LEGISLATION OR URGING OTHERS TO SUPPORT OR OPPOSE STATE OR FEDERAL LEGISLATION; ALLOWING A PUBLIC OFFICER OR PUBLIC EMPLOYEE TO USE PUBLIC FACILITIES OR EQUIPMENT IN FULFILLING A PRO BONO OBLIGATION UNDER A PROFESSIONAL RESPONSIBILITY CODE; AMENDING SECTION 2-2-121, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A Except as provided in subsection (8), a public officer or a public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

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

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

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which 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.

1 with a person whom the officer or employee regulates in the course of official duties without first giving
2 written notification to the officer's or employee's supervisor and department director.

3 (3) A public officer or public employee may not use public time, facilities, equipment, supplies,
4 personnel, or funds for any campaign activity persuading or affecting a political decision unless the use is:

5 (a) authorized by law; or

6 (b) properly incidental to another activity required or authorized by law, such as the function of an
7 elected public official, the official's staff, or the legislative staff in the normal course of duties.

8 (4) A state employee may not participate in a proceeding when an organization of which the
9 employee is an officer or director is:

10 (a) involved in a proceeding before the employing agency that is within the scope of the
11 employee's job duties; or

12 (b) attempting to influence a local, state, or federal proceeding in which the employee represents
13 the state.

14 (5) A state officer or state employee may not engage in any activity, including lobbying, as defined
15 in 5-7-102, on behalf of an organization of which the officer or employee is a member while performing the
16 officer's or employee's job duties. The provisions of this subsection do not prohibit an officer or employee
17 from performing charitable fundraising activities if approved by the employee's supervisor or authorized by
18 law. Unless licensed pursuant to 5-7-103, a public officer or employee may not use public time, equipment,
19 supplies, or facilities to support or oppose state or federal legislation or urge others to support or oppose
20 state or federal legislation.

21 (6) A department head or a member of a quasi-judicial or rulemaking board may perform an official
22 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration
23 of a statute and if the person complies with the disclosure procedures under 2-2-131.

24 (7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
25 unless the member is also a full-time public employee.

26 (8) A public officer or public employee may use public facilities or equipment in fulfilling a pro bono
27 obligation under a professional responsibility code.

28 ~~(8)(9)~~ (9) A person who purposely or knowingly violates this section is guilty of a misdemeanor and
29 upon conviction shall be punished by a fine of not less than \$50 or more than \$1,000, by imprisonment
30 in the county jail for not more than 6 months, or by both. A civil proceeding under 2-2-136 or 2-2-144 does

1 not preclude an action under this subsection."

2

3 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 1997.

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-END-

1 HOUSE BILL NO. 579

2 INTRODUCED BY KITZENBERG, DENNY, GRINDE

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22 purposes with a person whom the officer or employee inspects or supervises in the course of official duties;23 (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or
24 other economic benefit from the officer's or employee's agency;25 (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic
26 benefit from any agency;27 (e) perform an official act directly and substantially affecting to its economic benefit a business or
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21 (6) A department head or a member of a quasi-judicial or rulemaking board may perform an official
22 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration
23 of a statute and if the person complies with the disclosure procedures under 2-2-131.

24 (7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
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