

1 HOUSE BILL NO. 412

2 INTRODUCED BY D. BEDEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE CODE OF ETHICS; EXPANDING  
5 THE PROHIBITION ON THE USE OF PUBLIC RESOURCES FOR POLITICAL PURPOSES; EXPANDING  
6 PORTIONS OF THE CODE OF ETHICS TO JUDICIAL OFFICERS; PROHIBITING THE USE OF THE GREAT  
7 SEAL OR OFFICIAL STATE LETTERHEAD FOR CERTAIN COMMUNICATIONS; PROVIDING DEFINITIONS;  
8 AMENDING SECTIONS 2-2-102, 2-2-103, 2-2-121, 2-2-136, AND 13-35-226, MCA."

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

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12 NEW SECTION. Section 1. Use of public ~~resource~~ resources for political purposes. (1) Except  
13 as provided in ~~subsection (2)~~ this section, a judicial officer, public officer, legislator, or public employee may not  
14 use or permit the use of public time, facilities, equipment, state letterhead, supplies, personnel, or funds to  
15 solicit support for or opposition to any political committee, the nomination or election of any person to public  
16 office, or the passage of a ballot issue unless the use is:

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(a) authorized by law; or

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(b) properly incidental to another activity required or authorized by law, such as the function of a  
19 judicial officer, public officer, legislator, or public employee in the normal course of duties.

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(2) As used in subsection (1), "properly incidental to another activity required or authorized by law"

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does not include any activities related to solicitation of support for or opposition to the nomination or election of  
22 a person to public office or political committees organized to support or oppose a candidate or candidates for  
23 public office. With respect to ballot issues, properly incidental activities are restricted to:

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(a) the activities of a judicial officer, public officer, legislator, or public employee related to  
25 determining the impact of passage or failure of a ballot issue on state or local government operations;

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(b) in the case of a school district, as defined in Title 20, chapter 6, compliance with the

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requirements of law governing public meetings of the local board of trustees, including the resulting

**Amendment - 1st Reading/2nd House-blue - Requested by: David Bedey - (S) Legislative Administration**

- 2023

68th Legislature 2023

Drafter: Joe Kolman, 406-444-3747

HB0412.001.003

1 dissemination of information by a board of trustees or a school superintendent or a designated employee in a  
2 district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors.  
3 Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond  
4 issue or levy submitted to the electors.

5 (3) Subsection (1) is not intended to restrict the right of a judicial officer, public officer, legislator, or  
6 public employee to express personal political views.

7 (4) (a) If the public officer or public employee is a Montana highway patrol chief or highway patrol  
8 officer appointed under Title 44, chapter 1, the term "equipment" as used in subsection (1) includes the chief's  
9 or officer's official highway patrol uniform.

10 (b) A Montana highway patrol chief's or highway patrol officer's title may not be referred to in the  
11 solicitation of support for or opposition to any political committee, the nomination or election of any person to  
12 public office, or the passage of a ballot issue.

13 (5) A judicial officer, public officer, legislator, or public employee that violates this section may also  
14 be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.

15 (6) (a) Legislators are allowed limited use of public time, facilities, equipment, state letterhead,  
16 supplies, and personnel to:

17 (i) respond to inquiries or comments from the public, media, or government agencies;

18 (ii) express opinions in any media or platform, including online and social media; and

19 (iii) publicly support or oppose statewide ballot issues or the nomination of a person to a public  
20 office.

21 (b) Subsection (6)(a) does not allow a legislator to use state resources to:

22 (i) pay for promotions related to statewide ballot issues or nominations for public office; or

23 (ii) campaign for public office or support or oppose the election of any person to public office.

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25 **Section 2.** Section 2-2-102, MCA, is amended to read:

26 **"2-2-102. Definitions.** As used in this part, the following definitions apply:

27 (1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any

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HB0412.001.003

1 (b) other threats or promises, express or implied, intended or calculated to influence the political  
2 opinions or actions of the employer's workers or employees.

3 (3) A person may not coerce, command, or require a public employee to support or oppose any  
4 political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

5 (4) A public employee may not solicit support for or opposition to any political committee, the  
6 nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the  
7 place of employment. However, subject to 2-2-121 and [section 1], this section does not restrict the right of a  
8 public employee to perform activities properly incidental to another activity required or authorized by law or to  
9 express personal political views.

10 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by  
11 the commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125."

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13 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an  
14 integral part of Title 2, chapter 2, part 1, and the provisions of Title 2, chapter 2, part 1, apply to [section 1].

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16 COORDINATION SECTION. Section 8. Coordination instruction. (1) If both House Bill No. 167 and  
17 [this act] are passed and approved and if House Bill No. 167 contains a section that amends 2-2-121(3)(b) to  
18 include a new subsection (3)(b)(ii), then the section in House Bill No. 167 amending 2-2-121 is void, and  
19 [section 1] of this act is amended to include a new subsection (3) that must read as follows:

20 "(3) It is a properly incidental activity for personal staff of legislative leadership who are exempt as  
21 provided in 2-18-104 to support nonelection political caucus activity involving legislative business in the normal  
22 course of duties as directed by legislative leadership."

23 (2) If Senate Bill No. 128 and [this act] are passed and approved and if Senate Bill No. 128  
24 contains a section that amends 2-2-121(3)(b) to include a new subsection (3)(b)(ii), then the section in Senate  
25 Bill No. 128 amending 2-2-121 is void, and [section 1] of this act is amended to include a new subsection (2)(c)  
26 that must read as follows:

27 "(c) the activities of personal staff of legislative leadership who are exempt as provided in 2-18-104,

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1 related to assisting legislators in expressing opinions on a statewide ballot issue involving an initiative,  
2 referendum, or constitutional amendment."  
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4 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are  
5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
6 the part remains in effect in all valid applications that are severable from the invalid applications.

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