

## 1 HOUSE BILL NO. 169

2 INTRODUCED BY S. GIST

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ETHICAL REQUIREMENTS FOR PUBLIC OFFICERS  
5 AND PUBLIC EMPLOYEES; PROHIBITING THE USE OF GOVERNMENT PROPERTY FOR PERSONAL  
6 GAIN; PROVIDING AN EXEMPTION FOR CERTAIN LAW ENFORCEMENT OFFICERS; ESTABLISHING A  
7 VIOLATION OF THIS ACT AS THEFT OF LABOR OR SERVICES OR USE OF PROPERTY; AMENDING  
8 SECTIONS 2-2-105 AND 45-6-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 **Section 1.** Section 2-2-105, MCA, is amended to read:

13 **"2-2-105. Ethical requirements for public officers and public employees.** (1) The requirements in  
14 this section are intended as rules of conduct, and violations constitute a breach of the public trust and public  
15 duty of office or employment in state or local government.

16 (2) Except as provided in subsection (4), a public officer or public employee may not acquire an  
17 interest in any business or undertaking that the officer or employee has reason to believe may be directly and  
18 substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

19 (3) A public officer or public employee may not, within 12 months following the voluntary termination  
20 of office or employment, obtain employment in which the officer or employee will take direct advantage,  
21 unavailable to others, of matters with which the officer or employee was directly involved during a term of office  
22 or during employment. These matters are rules, other than rules of general application, that the officer or  
23 employee actively helped to formulate and applications, claims, or contested cases in the consideration of  
24 which the officer or employee was an active participant.

25 (4) When a public employee who is a member of a quasi-judicial board or commission or of a board,  
26 commission, or committee with rulemaking authority is required to take official action on a matter as to which  
27 the public employee has a conflict created by a personal or private interest that would directly give rise to an  
28 appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter,

1 the public employee shall disclose the interest creating the conflict prior to participating in the official action.

2 (5) A public officer or public employee may not perform an official act directly and substantially  
3 affecting a business or other undertaking to its economic detriment when the officer or employee has a  
4 substantial personal interest in a competing firm or undertaking.

5 (6) (a) (i) A public officer or public employee of a local government or special district may not use  
6 publicly funded equipment or resources to obtain personal financial gain by direct or indirect compensation  
7 through increased wages, benefits, or sale of services. Violation of this subsection (6) may be prosecuted under  
8 45-6-305 or 45-6-317.

9 (ii) This subsection (6) may not be construed to limit the ability of a law enforcement officer to retain  
10 equipment when not on duty or to use retained equipment when contracted to provide security at an  
11 extracurricular school event.

12 (b) As used in this subsection (6), "publicly funded equipment" includes partially publicly funded  
13 equipment and donated equipment and resources that are under administrative management."

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15 **Section 2.** Section 45-6-305, MCA, is amended to read:

16 **"45-6-305. Theft of labor or services or use of property.** (1) A person commits the offense of theft  
17 when the person:

18 (a) obtains the temporary use of property, labor, or services of another that are available only for hire,  
19 by means of threat or deception or knowing that the use is without the consent of the person providing the  
20 property, labor, or services; ~~;~~ or

21 (b) is a public officer or public employee and misuses the equipment or resources of a local  
22 government or special district in violation of 2-2-105.

23 (2) A person convicted of theft of labor or services or use of property shall be fined not to exceed  
24 \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

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

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