

House of Intro
To Com. No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

Second House
To Com No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

INTRODUCED

1989

STATE OF WYOMING

89LSO-0306.01

HOUSE BILL NO. 0020

Conflict of interest - public employees.

Sponsored by: Representative(s) FREUDENTHAL

A BILL

for

1 AN ACT to create W.S. 9-1-103 through 9-1-110 relating to
2 conflict of interest for public officials and employees;
3 requiring specified state officials and employees to file
4 statements of financial interests; providing penalties for
5 violation of the act; providing for administration by the
6 state examiner; granting rulemaking authority; and provid-
7 ing for an effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. W.S. 9-1-103 through 9-1-110 are created
10 to read:

- 1 -

HB 0020

NO SIGNIFICANT FISCAL IMPACT

1 9-1-103. Short title. This act may be cited as the
2 "Wyoming Conflict of Interest Act."

3 9-1-104. Definitions.

4 (a) As used in this act:

5 (i) "Business" means any corporation, partner-
6 ship, sole proprietorship, firm, enterprise, franchise,
7 association, organization, self-employed individual, hold-
8 ing company, joint stock company, receivership, trust or
9 any legal entity through which business is conducted for
10 profit;

11 (ii) "Business with which he is associated"
12 means any business in which the person or a member of the
13 person's immediate family is a director, officer, employee
14 or owner directly or indirectly of more than five percent
15 (5%) of the business;

16 (iii) "Candidate for public office" means any
17 person who has filed an application for nomination or
18 election, or who has been nominated by petition, for gov-
19 ernor, secretary of state, state treasurer, state auditor,
20 superintendent of public instruction, justice of the
21 Wyoming supreme court, district judge, member of the

1 Wyoming senate or member of the Wyoming house of represen-
2 tatives to appear on the ballot for election as a public
3 official;

4 (iv) "Commissioner" means the state ethics
5 commissioner. The state examiner, by virtue of his
6 office, shall be the state ethics commissioner;

7 (v) "Gift" means a payment, loan subscription,
8 advance, deposit of money, services or anything of value
9 unless consideration of equal or greater value is given in
10 exchange;

11 (vi) "Governmental body" means any department,
12 commission, council, board, bureau, committee, legislative
13 body, agency or other establishment of the executive or
14 legislative department of the state;

15 (vii) "Immediate family" means a spouse and
16 dependent children residing in the person's household;

17 (viii) "Income" means any money or thing of
18 value received, or to be received as a claim on future
19 services, whether in the form of a fee, salary, expense,
20 allowance, forbearance, forgiveness, interest, dividend,
21 royalty, rent, capital gain or any other form of
22 recompense or any combination thereof;

1 (ix) "Ministerial action" means an action that
2 a person performs in a given state of facts in a pre-
3 scribed manner in obedience to the mandate of legal
4 authority, without regard to, or the exercise of, the
5 person's own judgment upon the propriety of the action
6 being taken;

7 (x) "Person" means a business, individual,
8 corporation, union, association, firm, partnership, com-
9 mittee, club or other organization or group of persons;

10 (xi) "Public employee" means any individual
11 who receives compensation at an annual rate of forty-four
12 thousand dollars (\$44,000.00) or more from the state, who
13 has been nominated by the governor to serve as a public
14 employee and whose nomination has been confirmed by the
15 Wyoming senate;

16 (xii) "Public official" means a candidate for
17 public office who has been elected to serve in the execu-
18 tive, legislative or judicial department of the state; and

19 (xiii) "State employee" means any person
20 employed by the state of Wyoming.

21 9-1-105. Statement of financial interest required to

1 be filed.

2 (a) Each public official and public employee shall
3 file a statement of financial interests for the preceding
4 calendar year with the commissioner on or before January
5 30 of each year that he holds such a position.

6 (b) Each candidate for public office shall file a
7 statement of financial interests for the preceding calen-
8 dar year with the commissioner within ten (10) days of
9 filing his application for nomination or election, or his
10 nomination by petition, to appear on the ballot for elec-
11 tion, provided, that this subsection shall not apply to a
12 person who has filed a statement pursuant to subsection
13 (a) of this section. An application for nomination or
14 election, or nomination by petition, shall not be consid-
15 ered legal unless a statement of financial interests is
16 timely filed in proper form, and the name shall not appear
17 on the ballot.

18 (c) No public employee shall be allowed to take the
19 oath of office or enter or continue upon his duties unless
20 he has filed a statement of financial interests with the
21 commissioner or as required by this act. Any public offi-
22 cial, public employee or candidate for public office who
23 fails to file a statement is guilty of a misdemeanor.

1 (d) Any public official filing a statement with the
2 commissioner pursuant to this act shall file a copy of
3 that statement with the county clerk in the county in
4 which he maintains his primary residence. The county
5 clerk shall make such statements available for public
6 inspection and copying during regular office hours and
7 make copying facilities available free of charge or at a
8 cost not to exceed actual cost.

9 (e) The statement of financial interests shall be
10 filed on a form prescribed by the commissioner and shall
11 be signed under penalty of false swearing by the person
12 required to file the statement.

13 (f) The statement shall include the following infor-
14 mation for the preceding calendar year with regard to the
15 person required to file the statement and the members of
16 his immediate family:

17 (i) The names of all businesses with which he
18 is associated;

19 (ii) The category or type and amount of all
20 sources of income in excess of one thousand dollars
21 (\$1,000.00). It shall be sufficient to report whether the
22 amount within the following ranges:

1 (A) Less than two thousand five hundred
2 dollars (\$2,500.00);

3 (B) Over two thousand five hundred dol-
4 lars (\$2,500.00) and under five thousand dollars
5 (\$5,000.00);

6 (C) Over five thousand dollars
7 (\$5,000.00) and under ten thousand dollars (\$10,000.00);

8 (D) Over ten thousand dollars
9 (\$10,000.00) and under twenty-five thousand dollars
10 (\$25,000.00); and

11 (E) Over twenty-five thousand dollars
12 (\$25,000.00).

13 (iii) The name and the amount of stock or own-
14 ership interest in excess of one thousand dollars
15 (\$1,000.00) at fair market value held in a business by the
16 person;

17 (iv) The legal description of all real prop-
18 erty in the state, excluding the person's primary resi-
19 dence, the fair market value of which exceeds two thousand
20 five hundred dollars (\$2,500.00) in which a financial
21 interest was held, and a statement of the amount and

1 nature of the consideration received or paid in exchange
2 for such interest, and the name and address of the person
3 furnishing or receiving such consideration;

4 (v) The name, address and type of security
5 given of each creditor to whom the value of five thousand
6 dollars (\$5,000.00) or more was owed and still outstand-
7 ing, provided, that debts arising out of retail install-
8 ment transactions need not be included.

9 9-1-106. Restricted activities.

10 (a) No public official or public employee shall rep-
11 resent a person other than the state for compensation
12 before any governmental body where the matter before the
13 governmental body is of a nonministerial nature. This
14 section shall not be construed to prohibit the performance
15 of ministerial functions including, but not limited to,
16 the filing or amendment of tax returns, applications for
17 permits and licenses, incorporation papers and other docu-
18 ments. This section does not apply where the matter
19 before the governmental body is a contested case.

20 (b) No person shall offer or give to a public offi-
21 cial or state employee or a member of his immediate family
22 and no public official or state employee shall solicit a

1 gift to influence him in his official duties.

2 (c) No public official or state employee shall
3 accept any benefit or compensation in addition to that
4 received in his official capacity for having exercised his
5 official powers or performed his official duties.

6 (d) No public official or state employee shall use
7 or disclose confidential information gained in the course
8 of or by reason of his official position or activities to
9 further his own financial interests or those of anyone
10 else.

11 (e) Any public official or public employee who has a
12 substantial personal financial interest distinct from that
13 of the general public in any governmental decision shall
14 disqualify himself from voting on that decision.

15 9-1-107. State ethics commissioner.

16 (a) There is created a state ethics commissioner who
17 shall be the state examiner.

18 (b) The commissioner shall have the authority to
19 appoint an executive director and such additional person-
20 nel as he requires to perform his duties under this act.
21 The executive director shall serve at the pleasure of the

1 commissioner.

2 9-1-108. Duties of the commissioner.

3 (a) The commissioner shall:

4 (i) Prescribe and publish after notice and
5 opportunity for public comment, rules and regulations to
6 carry out the provisions of this act;

7 (ii) Prescribe forms for statements required
8 by this act, and furnish such forms to persons required to
9 file such statements;

10 (iii) Prepare and publish a manual or guide-
11 lines setting forth recommended uniform methods of report-
12 ing for use by persons required to file under this act;

13 (iv) Accept and file any information volun-
14 tarily supplied that exceeds the requirement of this act;

15 (v) Preserve the statements filed with him for
16 eight (8) years from the date of receipt;

17 (vi) Make statements and reports filed with
18 the commissioner available for public inspection and copy-
19 ing for a reasonable cost during regular office hours;

20 (vii) Compile and maintain a current list and

1 summary of all statements filed;

2 (viii) Prepare and publish reports as he may
3 deem appropriate;

4 (ix) Audit statements and reports filed with
5 the commissioner;

6 (x) On his own initiative or upon request,
7 issue and publish advisory opinions on the requirements of
8 this act for those who wish to use the opinion to guide
9 their own conduct; and

10 (xi) Prepare an annual report to the legisla-
11 ture, the governor and the public, summarizing the activi-
12 ties of the commissioner under this act and recommending
13 any changes in the act.

14 9-1-109. Investigations by the commissioner.

15 (a) Upon a complaint signed under penalty of false
16 swearing by any person or upon his own motion, the commis-
17 sioner shall investigate any alleged violation of this
18 act. All proceedings and records relating to an investi-
19 gation shall be confidential until a final determination
20 is made by the commissioner. The commissioner or the
21 executive director shall notify any person under investi-

1 gation by the commissioner of the investigation and of the
2 nature of the alleged violation and shall continue to pro-
3 vide information to the complainant and the person under
4 investigation concerning action taken by the commissioner
5 together with the reasons for such action or nonaction.

6 (b) If after the investigation the commissioner
7 finds that probable cause exists for believing the allega-
8 tions of the complaint, after adequate notice to the
9 accused he shall conduct a hearing on the matter. Such
10 hearings shall be at closed session unless the accused
11 petitions for a public hearing.

12 (c) The commissioner shall have the same power to
13 compel the attendance of witnesses and to issue subpoenas
14 as is granted legislative committees.

15 (d) Any person whose activities are under investiga-
16 tion shall be entitled to be represented by counsel of his
17 own choosing and shall have an opportunity to examine all
18 records to be used at the hearing.

19 (e) The commissioner shall keep a record of his
20 investigations, inquiries and proceedings. All records
21 and transcripts of any investigations or inquiries under
22 this section shall be confidential until a final determi-

1 nation is made by the commissioner.

2 (f) The commissioner shall report any finding of
3 misconduct along with such information and documents as it
4 deems appropriate to the appropriate law enforcement
5 authorities.

6 9-1-110 Penalties.

7 (a) Any person who violates the provisions of this
8 act, other than by false swearing which is punishable
9 under W.S. 6-5-304, is guilty of a misdemeanor and shall
10 be fined not more than seven hundred fifty dollars
11 (\$750.00), or imprisoned for not more than six (6) months,
12 or both.

13 (b) The penalties prescribed in this act do not
14 limit the power of the judiciary or either house of the
15 legislature to discipline their own members.

16 Section 2. Each public official or public employee
17 holding office or employment with the state after the
18 effective date of this act, and before June 1, 1989, who
19 is required to file a statement of financial interests
20 under the provisions of this act, shall file the required
21 statement on or after June 1, 1989 and before June 30,
22 1989.

