

1 SENATE BILL NO. 278

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LEGISLATIVE INTERVENTION IN A
5 DECLARATORY JUDGMENT ACTION; PROVIDING THE RIGHT TO INTERVENE TO LEGISLATIVE
6 OFFICERS; PROVIDING THE RIGHT TO INTERVENE TO A PRIMARY SPONSOR AND COSPONSOR WHO
7 VOTED FOR PASSAGE AND APPROVAL OF THE LEGISLATION AT ISSUE; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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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. Findings of purpose -- legislator intervention in legal challenges**

13 **authorized.** (1) The legislature finds that:

14 (a) proper interpretation and administration of the constitution and legislative enactments and
15 referendums of the state are matters of great public interest and significant importance;

16 (b) AN individual legislators LEGISLATOR in ~~their~~ THE LEGISLATOR'S capacity as ~~sponsors or~~
17 ~~cospensors~~ THE PRIMARY SPONSOR of legislation at issue who voted for passage and approval of the legislation
18 ~~have~~ HAS a plain, direct, and adequate interest in maintaining the effectiveness of ~~their votes~~ THE LEGISLATOR'S
19 VOTE and ~~have~~ HAS a personal stake in ensuring proper interpretation and administration of the constitution and
20 legislative enactments and referendums that is distinguishable from that of the public generally; and

21 (c) the officers of the legislature have a plain, direct, and adequate interest in ensuring proper
22 interpretation and administration of legislative enactments.

23 (2) The officers of the legislature and ~~legislators~~ A LEGISLATOR in ~~their~~ THE LEGISLATOR'S capacity as
24 ~~a~~ THE PRIMARY sponsor ~~or cospensor~~ of legislation at issue who voted for passage and approval of the
25 legislation may intervene AS OF RIGHT, individually or jointly, in declaratory judgment actions involving alleged
26 constitutional or statutory violations of state law.

27 (3) Nothing in this section supersedes the authority of the attorney general to represent the state of
28 Montana.

1 (4) The participation of an officer of the legislature in any action, state or federal, as a party or
2 otherwise, does not constitute a waiver of legislative immunity or legislative privilege of any individual legislator,
3 officer of the legislature, or legislative staff.

4 (5) SUBJECT TO AVAILABLE APPROPRIATION AUTHORITY, AN OFFICER OF THE LEGISLATURE MAY USE
5 FUNDING THAT IS APPROVED BY THE LEGISLATIVE COUNCIL OR FUNDING THAT IS UNDER THE DIRECTION AND CONTROL
6 OF THE OFFICER OF THE LEGISLATURE TO PAY ATTORNEY FEES AND COSTS ASSOCIATED WITH INTERVENTION UNDER
7 SUBSECTION (2). A SPONSOR IS RESPONSIBLE FOR PAYING ATTORNEY FEES AND COSTS ASSOCIATED WITH
8 INTERVENTION UNDER SUBSECTION (2) UNLESS FUNDING IS APPROVED BY THE LEGISLATIVE COUNCIL.

9 ~~(5)(6)~~ For the purposes of this section, "officer of the legislature" means the speaker of the house,
10 and the president of the senate, OR THE MINORITY LEADER OF THE HOUSE OR SENATE.

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12 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
13 integral part of Title 5, chapter 2, part 1, and the provisions of Title 5, chapter 2, part 1, apply to [section 1].

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

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17 NEW SECTION. Section 4. Applicability. [This act] applies to proceedings initiated after [the
18 effective date of this act].

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