



AN ACT PROVIDING FOR LEGISLATIVE INTERVENTION IN A DECLARATORY JUDGMENT ACTION; PROVIDING THE RIGHT TO INTERVENE TO LEGISLATIVE OFFICERS; PROVIDING THE RIGHT TO INTERVENE TO A PRIMARY SPONSOR WHO VOTED FOR PASSAGE AND APPROVAL OF THE LEGISLATION AT ISSUE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Findings of purpose -- legislator intervention in legal challenges authorized.** (1) The legislature finds that:

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

(b) an individual legislator in the legislator's capacity as the primary sponsor of legislation at issue who voted for passage and approval of the legislation has a plain, direct, and adequate interest in maintaining the effectiveness of the legislator's vote and has a personal stake in ensuring proper interpretation and administration of the constitution and legislative enactments and referendums that is distinguishable from that of the public generally; and

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

(2) The officers of the legislature and a legislator in the legislator's capacity as the primary sponsor of legislation at issue who voted for passage and approval of the legislation may intervene as of right, individually or jointly, in declaratory judgment actions involving alleged constitutional or statutory violations of state law.

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

Montana.

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

(5) Subject to available appropriation authority, an officer of the legislature may use funding that is approved by the legislative council or funding that is under the direction and control of the officer of the legislature to pay attorney fees and costs associated with intervention under subsection (2). A sponsor is responsible for paying attorney fees and costs associated with intervention under subsection (2) unless funding is approved by the legislative council.

(6) For the purposes of this section, "officer of the legislature" means the speaker of the house and the president of the senate.

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

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

**Section 4. Applicability.** [This act] applies to proceedings initiated after [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 278, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

SENATE BILL NO. 278

INTRODUCED BY S. FITZPATRICK

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