

## 1 SENATE BILL NO. 408

2 INTRODUCED BY D. ZOLNIKOV

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT LEGISLATIVE BILL DRAFTING FILES ARE  
5 PUBLIC RECORDS THAT ARE AVAILABLE ON REQUEST PURSUANT TO MONTANA'S PUBLIC  
6 RECORDS LAWS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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8 WHEREAS, Montana has a deeply rooted commitment to the transparency and accountability of  
9 government, as demonstrated by the protections offered by the right to know in Article II, section 9, and the  
10 right of participation in the operations of government agencies in Article II, section 8, of the Montana  
11 Constitution; and

12 WHEREAS, the Montana Constitution has enshrined access to public information in the right to know in  
13 Article II, section 9, which states that "No person shall be deprived of the right to examine documents or to  
14 observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in  
15 cases in which the demand of individual privacy clearly exceeds the merits of public disclosure"; and

16 WHEREAS, the right of participation in Article II, section 8, of the Montana Constitution also ensures  
17 that the public must be given a reasonable opportunity to participate in the operation of government agencies  
18 prior to the final decision as may be provided by law; and

19 WHEREAS, these fundamental rights are the foundation on which every Montanan is able to exercise  
20 the power to hold elected officials accountable for their actions and decisions; and

21 WHEREAS, in recognition of its commitment to the principles of transparency and accountability, the  
22 Montana Legislature has had a long-standing policy of allowing public access to the information collected in  
23 legislative bill drafting files; and

24 WHEREAS, restoring and maintaining public access to bill drafting files will encourage the public's  
25 assertion of the right to know and facilitate more meaningful participation under the right of participation in the  
26 legislative process; and

27 WHEREAS, bill drafting files often contain communications between a bill drafter and parties that are  
28 not legislators, which are clearly not protected from disclosure under the Montana Constitution, whether or not a

1 legislator is included in the communications.

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

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5 NEW SECTION. **Section 1. Legislative bill drafting files.** (1) Legislative bill drafting files are public  
6 records as defined in 2-6-1002 and must be provided on request pursuant to Title 2, chapter 6, part 10.

7 (2) A legislative bill drafting file contains the history of the drafting, preparation, and process from  
8 the request to the introduction of a bill draft. The contents of a bill drafting file may include but are not limited to:

9 (a) draft versions of a bill prior to introduction;

10 (b) bills or laws from other states;

11 (c) uniform acts or model legislation from any source;

12 (d) reports, articles, papers, or any other research conducted on the topic of the bill draft;

13 (e) legal analysis;

14 (f) e-mails and other communications between the legislator and the bill drafter;

15 (g) e-mails and other communications between the bill drafter and any third party, whether or not  
16 the legislator was included in those communications; and

17 (h) any other resources or materials collected or compiled during the course of drafting the bill.

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19 NEW SECTION. **Section 2. Severability.** If a part of [this act] is invalid, all valid parts that are  
20 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
21 the part remains in effect in all valid applications that are severable from the invalid applications.

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23 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
24 integral part of Title 2, chapter 6, part 10, and the provisions of Title 2, chapter 6, part 10, apply to [section 1].

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26 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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