

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING LEGISLATIVE LEADERSHIP TO VACATE A WRIT OF
6 MANDAMUS; PROHIBITING CONTEMPT OF COURT FINDING AGAINST THAT ELECTED OFFICIAL; AND
7 AMENDING SECTION 27-26-102, MCA."

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

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11 **Section 1.** Section 27-26-102, MCA, is amended to read:

12 **"27-26-102. When and by whom issued -- writ vacated by President of the Senate or Speaker of**
13 **the House -- contempt proceedings unavailable.** (1) A writ of mandamus may be issued by the supreme

14 court or the district court or any judge of the district court to any lower tribunal, corporation, board, or person to
15 compel the performance of an act that the law specially enjoins as a duty resulting from an office, trust, or
16 station or to compel the admission of a party to the use and enjoyment of a right or office to which the party is
17 entitled and from which the party is unlawfully precluded by the lower tribunal, corporation, board, or person.

18 (2) The writ must be issued in all cases in which there is not a plain, speedy, and adequate remedy
19 in the ordinary course of law.

20 (3) (a) When a writ of mandamus is issued to compel an elected official, as defined in 10-1-1003,
21 to produce documents or to perform or not perform an action, the President of the Senate or the Speaker of the
22 House may file a notice vacating the writ in the court which issued the writ. The notice vacating the writ must be
23 filed within ten business days of it being issued.

24 (b) When a writ is vacated pursuant to this subsection, the writ is considered vacated, is
25 unenforceable and may not be executed upon.

26 (c) An elected official for whom a notice vacating a writ of mandamus pursuant to this subsection
27 may not be found in either civil or criminal contempt of court."

28 - END -