

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

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MONTANA COURT OF CHANCERY PROVIDING
6 JURISDICTION, PROCEDURE, JUDGES, QUALIFICATIONS, STAFF, A REMOVAL PROCESS, HEARINGS,
7 ALTERNATIVE DISPUTE RESOLUTION, SUPERVISION, COMPENSATION, AND TRANSITION;
8 PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

9
10 WHEREAS, the legislature seeks to improve the quality of justice afforded by the state judicial system
11 and improve Montana's economic competitiveness; and

12 WHEREAS, the need to do so is particularly pressing in the areas of business law, land use law, and
13 constitutional law; and

14 WHEREAS, experience, both within and outside of Montana, has demonstrated that the improved
15 quality of justice from courts with special expertise benefits the citizens of a state and improves a state's
16 economic competitiveness;

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

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20 NEW SECTION. Section 1. Chancery court-- creation. Under the provisions of Article VII, section
21 1, of the Montana Constitution, there is created the Montana court of chancery.

22
23 NEW SECTION. Section 2. Jurisdiction. The chancery court has the power to:

24 (1) Hear and resolve suits for equitable or declaratory relief based on the alleged unconstitutionality or
25 other illegality of a legislative enactment or a proposed or adopted legislative referendum or proposed or
26 adopted citizen initiative;

27 (2) Hear and resolve suits for equitable or declaratory relief pertaining to use of land, other than suits
28 challenging or based on local zoning regulations; and

1 (3) For cases arising out of any of the following, to hear and resolve suits for equitable or declaratory
2 relief and for claims for money damages when the amount in controversy exceeds eighty thousand
3 dollars, exclusive of claims for punitive or exemplary damages, prejudgment or post judgment interest, costs
4 and attorney fees:

5 (a) an alleged breach of contract, other than a claim arising principally from alleged discriminatory
6 practices, but including an agreement creating, amending, restructuring or terminating a partnership,
7 corporation, joint venture or other business enterprise;

8 (b) restructuring, merger, consolidation, dissolution, or the sale of substantially all the assets of a
9 partnership, corporation, joint venture or other business enterprise;

10 (c) the sale, underwriting, or other transfer of securities;

11 (d) a trade secret;

12 (e) a transaction governed by the uniform commercial code;

13 (f) a shareholder derivative action;

14 (g) a commercial class action;

15 (h) a business transaction with one or more commercial banks or other financial institution;

16 (i) a dispute concerning the internal affairs of business organizations;

17 (j) a dispute concerning commercial or environmental insurance coverage;

18 (k) any transactions involving a business trust; and

19 (l) an application to stay or compel arbitration or affirm or disaffirm an arbitration award involving any of
20 the foregoing.

21

22 NEW SECTION. Section 3. **Removal of action to the chancery court.** Any action brought in district
23 court over which the district court and the chancery court have concurrent jurisdiction shall, on motion of any
24 party, be transferred to the chancery court.

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26 NEW SECTION. ~~Section 4.~~Section 3. **Arbitration and mediation.** A chancery judge may submit to
27 arbitration any matter pending in chancery court, either upon agreement of the parties or upon application of
28 either party showing an arbitration agreement and the refusal of the opposing party to arbitrate. A chancery

1 judge may order mediation in any matter pending in chancery court.

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3 NEW SECTION. Section 5. Chancery court proceedings. (1) At the earliest practicable date, the
4 chancery court shall promulgate its own rules and procedures, subject to the approval or disapproval of the
5 Montana supreme court.

6 (2) The chancery court must adopt rules and procedures that further the just and timely resolution
7 of the business, constitutional, ballot-issue, and land use cases entrusted to it. To these ends, the court may
8 utilize alternative dispute resolution, and streamlined motion and discovery practice.

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10 NEW SECTION. Section 6. Supervision and administration. (1) The Montana supreme court shall
11 supervise the activities of the chancery court judges and associated personnel, but the governor shall pay the
12 expenses of the chancery court judges and the salaries and expenses of the chancery judges' staffs from
13 appropriations made for that purpose.

14 (2) The term "salaries and expenses" as used in this section includes, but is not limited to, the
15 salaries and expenses of personnel, the cost of office equipment and office space, and other necessary
16 expenses that may be incurred in the administration of [this act].

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18 NEW SECTION. Section 7. Number of judges -- selection -- term of office -- qualifications.

19 (1)(a) The chancery court consists of three judges nominated by the governor and confirmed by the
20 senate. An appointment made while the senate is not in session is effective until the end of the next regular
21 legislative session. If an appointment subject to senate confirmation is not confirmed, the office is vacant and
22 another appointment must be made.

23 (b) Each judge must be selected within 90 days of the effective date of [this act]; and a
24 replacement judge must be selected within 90 days of a vacancy;

25 (c) Each judge is appointed for a term of six years, except as provided in [section 11].

26 (d) The terms of each judge are staggered as provided in [section 11].

27 (2) A chancery court judge shall have the qualifications for supreme court judges found in Article
28 VII, section 9, of the Montana constitution. (see 3-7-221(2)).

1 (3) The judges of the chancery court shall designate one of their number to serve as chief judge.

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4 **NEW SECTION. Section 8. Hearings -- location -- staff.** (1) Matters before the chancery court will
5 be heard initially by one judge without a jury; except that a judge may empanel an advisory jury to assist with
6 fact-finding .

7 (c) Any party dissatisfied with a final or interlocutory determination by the trial judge may appeal to
8 the chancery court en banc.

9 (d) Any party dissatisfied with a final determination may appeal to the Montana supreme court.

10 (3) The chancery court shall have its central offices in Helena, Montana, but one judge shall hold
11 trials in Billings, another in Great Falls, and a third in Missoula. The initial location must be determined by the
12 party initiating the action, but is subject to changes of venue, as the needs of justice may require. Upon request
13 of the parties, the court may permit proceedings to be held remotely.

14 (4) The court may hire a clerk of court, law clerks, and administrative staff as needed

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16 **NEW SECTION. Section 9. Applications -- investigation -- public comment.** (1) An eligible
17 attorney may apply for the position of chancery court judge by completing and submitting to the governor an
18 original signed paper application and an electronic copy of the original application by the deadline date
19 designated by the governor. The application must state specifically that the applicant has expertise in
20 constitutional law, land use law, or business law, and detail at length the reasons for the claimed expertise.

21 (2) The governor shall advertise and solicit applications as soon as is practicable after [the
22 effective date of this act].

23 (3) The application period must close within 30 days of [the effective date of this act].

24 (4) Within the remaining 60 days, as provided in [section 7], the governor may authorize
25 investigations concerning the qualifications of applicants.

26 (5) Following the application deadline, the governor shall establish a reasonable period for
27 reviewing applications and interviewing applicants that provides at least 30 days for public comment concerning
28 applicants.

1 **NEW SECTION. Section 10. Compensation -- expenses.** Judges must be paid a salary that is 20%
2 greater than the current salary for an associate justice of the Montana supreme court as provided in 2-16-403.
3 The salary of a judge of the chancery court may not be reduced.

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5 **NEW SECTION. Section 11. Transition.** (1) The initial three judges of chancery court shall serve
6 terms of office as follows:

7 (a) One judge shall serve a term that ends on the first day of January 2031 and until the judge's
8 successor is appointed;

9 (b) One judge shall each serve a term that ends on the first day of January 2029 and until the
10 judge's successor is appointed; and

11 (c) One judge shall each serve a term that ends on the first day of January 2027 and until the
12 judge's successor is appointed.

13 (2) The governor nominating each judge shall designate which of the three is to serve each of these
14 three terms.

15 (3) After the expiration of a term provided for in subsections (2) and (3), the governor shall appoint
16 a person to serve a full 6-year term as provided in [section 7]. A member who previously served an abbreviated
17 term may be reappointed for a full 6-year term.

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19 **NEW SECTION. Section 12. Appropriation.** (1) There is appropriated \$_____ from the general
20 fund to the judicial branch and to the credit of the chancery court for the court's operations and personnel costs
21 for the biennium beginning July 1, 2025.

22 (2) The legislature intends that the appropriation in this section be considered part of the ongoing
23 base of the next legislative session.

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25 **NEW SECTION. Section 13.****Section 13. Codification instruction.** [Sections 1 through 10] are
26 intended to be codified as an integral part of Title 3, and the provisions of Title 3 apply to [sections 1 through
27 10].

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