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As of: February 24, 2006 (2:34pm)

LC10003

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs
Interim Committee

A Bill for an Act entitled: "An Act allowing a district court to award costs and reasonable attorney fees to a plaintiff who prevails in a civil action brought to enforce the plaintiffs' rights under the public participation in government statutes; amending section 2-3-221, MCA; and providing an applicability date."

WHEREAS, section 2-3-221, MCA, now provides that a district court may award costs and attorney fees to a plaintiff who prevails in a civil action to enforce the public's right to know provision in Art. II, sec. 9, of the Montana Constitution; and

WHEREAS, because the Montana Supreme Court held in Allstate Ins. Co. v. Billings that the provisions of Art. II, sec. 9, of the Montana Constitution are self-executing and do not need implementing legislation, the rights granted by Art. II, sec. 9 of the Montana Constitution are not necessarily the same as the rights granted under the right to public participation in government statutes in Title 2, chapter 3, parts 1 and 2, MCA; and

WHEREAS, persons successfully litigating to enforce their rights under the public participation in government statutes should have the same right to payment of costs and fees as person

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who successfully litigate their right to know under Art II, section 9, of the Montana Constitution.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce his the plaintiff's rights under Article II, section 9, of the Montana constitution, or the plaintiff's rights under parts 1 or 2 of this chapter, may be awarded his the plaintiff's costs and reasonable attorneys' fees."

{*Internal References to 2-3-221: None.*}

NEW SECTION. **Section 2. Applicability.** [This act] applies to civil actions filed after [the effective date of this act].

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