

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 16, 2025

The Honorable Brandon Ler
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Matt Regier
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Ler and President Regier:

Coming into the 2025 legislative session, judicial reform was one of our shared priorities. Over the past four and a half years, we've seen a dramatic rise in judicial activism, a pervasive problem that upsets our constitutional order and infringes upon the right of policymakers to pass laws.

In an attempt to address judicial activism, Senate Bill 239 imposes a requirement that courts seek amicus briefs – *amicus curiae* or “friend of the court” briefs – in subdivision litigation. Under the American judicial system, amicus briefs can already be submitted to a court hearing a case, though there is no mandate on courts to seek them.

While I certainly appreciate Senate Bill 239's emphasis on ensuring stakeholder input and participation in litigation, the bill places a burden on courts to somehow identify all interested governing bodies to participate in the case without a clear process. The practical effect of Senate Bill 239's mandate will delay resolution of cases for an unknown amount of time while the court waits to hear from an unknown number of amici, dragging out the judicial process and potentially increasing costs for all parties.

Furthermore, Senate Bill 239 allows anyone who is interested in the case who files amicus brief to become a party to the litigation for the purpose of appealing a decision. For an example of Senate Bill 239's potential impact, Jones sues Smith. Johnson, who is simply interested in the case but not directly affected by its outcome (unlike named parties or intervenors), files an amicus brief in support of Jones. Jones loses her case and opts not to appeal the court's decision. Johnson, who has only filed her opinion on the matter before the court and has no direct stake in the litigation, may appeal the court's decision.

From the standpoint of first principles, the American court system is driven by parties in cases, not by individual judges. And seeing as Montana courts already allow affected parties to intervene and interested parties to be amici in lawsuits, Senate Bill 239 is unnecessary.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 239: "AN ACT PROVIDING FOR GOVERNING BODIES TO FILE AMICUS BRIEFS AND TO INTERVENE IN ACTIONS CHALLENGING SUBDIVISION APPLICATIONS IN DISTRICT COURT; AND AMENDING SECTIONS 76-3-625 AND 76-25-503, MCA."

Sincerely,



Greg Gianforte
Governor



Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State