

## 1 SENATE BILL NO. 265

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING VENUES FOR ARBITRATION IN ELECTRICAL  
5 GENERATION DISPUTES THAT OCCUR WITHIN MONTANA; PROVIDING STANDARDS FOR  
6 ARBITRATION PANELS IN ELECTRICAL GENERATION DISPUTES; AMENDING SECTION 27-5-323, MCA;  
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."  
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9 WHEREAS, electrical generation facilities located in Montana have significant implications for the  
10 economy, environment, and health and welfare of Montana consumers; and

11 WHEREAS, the Legislature, mindful of its constitutional obligations under Article II, section 16, of the  
12 Montana Constitution, enacted section 27-5-323, MCA, to ensure Montana residents have a right to arbitrate in  
13 Montana; and

14 WHEREAS, arbitration of disputes concerning Montana electrical generation facilities outside of  
15 Montana threatens Montana's laws, policies, and the interests of Montana in securing and maintaining a  
16 reliable source of electricity.

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

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20 **Section 1.** Section 27-5-323, MCA, is amended to read:

21 "**27-5-323. Venue.** (1) An initial application must be made to the court of the county in which the  
22 agreement provides the arbitration hearing must be held or, if the hearing has been held, in the county in which  
23 it was held. Otherwise, the application must be made in the county where the adverse party resides or has a  
24 place of business or, if the adverse party does not have a residence or place of business in this state, to the  
25 court of any county. All subsequent applications must be made to the court hearing the initial application unless  
26 the court otherwise directs. An agreement concerning venue involving a resident of this state is not valid unless  
27 the agreement requires that arbitration occur within the state of Montana. This requirement may only be waived  
28 upon the advice of counsel as evidenced by counsel's signature on the agreement.

1           (2) (a) An agreement concerning venue involving an electrical generation facility in this state is not  
2 valid unless the agreement requires that arbitration occur within the state before a panel of three arbitrators  
3 selected under the Uniform Arbitration Act unless all parties agree in writing to a single arbitrator.

4           (b) For the purposes of this subsection, "electrical generation facility" has the meaning provided in 15-  
5 24-3001."

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7           NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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9           NEW SECTION. Section 3. Retroactive applicability. [This act] applies retroactively, within the  
10 meaning of 1-2-109, to applications made on or after January 1, 2021.

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