

HOUSE BILL NO. 226

INTRODUCED BY K. HANSEN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A PERSONNEL FILE DOCUMENT IS NOT A PUBLIC RECORD FOR THE PURPOSES OF STATE AND LOCAL GOVERNMENT RECORDS MANAGEMENT; AMENDING SECTIONS 2-6-202 AND 2-6-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-6-202, MCA, is amended to read:

"2-6-202. Definitions. As used in this part, the following definitions apply:

(1) (a) "Public records" includes:

(i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record required by law to be kept as part of the official record, regardless of physical form or characteristics, that:

- (A) has been made or received by a state agency to document the transaction of official business;
- (B) is a public writing of a state agency pursuant to 2-6-101(2)(a); and
- (C) is designated by the state records committee for retention pursuant to this part; and

(ii) all other records or documents required by law to be filed with or kept by any agency of the state of Montana.

(b) The term includes electronic mail sent or received in connection with the transaction of official business.

(c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms, or a superseded publication, or a personnel file document that is constitutionally protected from public disclosure.

(2) "State records committee" or "committee" means the state records committee provided for in 2-15-1013."

Section 2. Section 2-6-401, MCA, is amended to read:



1 **"2-6-401. Definitions.** For the purposes of this part, the following definitions apply:

2 (1) "Local government" means:

3 (a) any city, town, county, consolidated city-county, or school district; and

4 (b) any subdivision of an entity named in subsection (1)(a).

5 (2) (a) "Public records" includes:

6 (i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage
7 media, map, drawing, or other document, including copies of the record required by law to be kept as part of the
8 official record, regardless of physical form or characteristics, that:

9 (A) has been made or received by any local government to document the transaction of official business;

10 (B) is a public writing of the local government pursuant to 2-6-101(2)(a); and

11 (C) is designated for retention by the local government records committee established in 2-6-402; and

12 (ii) all other records or documents required by law to be filed with or kept by any local government in the
13 state of Montana, except military discharge certificates filed under 7-4-2614.

14 (b) The term includes electronic mail sent or received in connection with the transaction of official duties.

15 (c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic
16 tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a
17 preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms,
18 ~~or a superseded publication, or a personnel file document that is constitutionally protected from public disclosure.~~

19 (3) "Records custodian" means any individual responsible for the proper filing, storage, or safekeeping
20 of any public records."

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22 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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