| 1 | HOUSE BILL NO. 177 |

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2   INTRODUCED BY S. BOGGIO

3   BY REQUEST OF THE SECRETARY OF STATE

4

5   A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA ELECTRONIC TRANSACTIONS WITH

6   STATE AGENCIES AND LOCAL GOVERNMENT UNITS ACT; AMENDING SECTIONS 30-18-102, 30-18-118,

7   AND 61-11-503, MCA; AND REPEALING SECTIONS 2-20-101, 2-20-102, 2-20-103, 2-20-104, 2-20-105,

8   2-20-106, 2-20-107, 2-20-108, 2-20-109, 2-20-110, AND 2-20-111, MCA."

9

10   WHEREAS, the 56th Montana Legislature adopted the Montana Electronic Transactions With State

11   Agencies and Local Government Units Act in an effort to establish processes by which citizens, businesses, and

12   other entities could effectively, efficiently, and legally transact official business with state and local governments

13   through technology enabled by electronic means; and

14   WHEREAS, the 57th Montana Legislature adopted the Uniform Electronic Transactions Act in an effort

15   to expand processes by which citizens, businesses, and other entities can effectively, efficiently, and legally

16   transact official business through technology enabled by electronic means; and

17   WHEREAS, the adoption and implementation of the Uniform Electronic Transactions Act has eliminated

18   the need for the Montana Electronic Transactions With State Agencies and Local Government Units Act.

19

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

21

22   **Section 1.** Section 30-18-102, MCA, is amended to read:

23   **"30-18-102. Definitions.** In this part:

24   (1) "agreement" means the bargain of the parties in fact, as found in their language or inferred from other

25   circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise

26   applicable to a particular transaction.;

27   (2) "automated transaction" means a transaction conducted or performed, in whole or in part, by

28   electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by

29   an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an

30   obligation required by the transaction.;

1   (3) "computer program" means a set of statements or instructions to be used directly or indirectly in an

2   information processing system in order to bring about a certain result~;~

3   (4) "contract" means the total legal obligation resulting from the parties' agreement as affected by this

4   part and other applicable law~.~;~

5   (5) "cryptosystem" means a system that transforms or encrypts information for the purpose of secrecy

6   or authenticity. The term includes a computer-based security procedure capable of generating and using a key

7   pair.

8   (5)(6) "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,

9   electromagnetic, or similar capabilities~.~;~

10   (6)(7) "electronic agent" means a computer program or an electronic or other automated means used

11   independently to initiate an action or respond to electronic records or performances, in whole or in part, without

12   review or action by an individual~.~;~

13   (7)(8) "electronic record" means a record created, generated, sent, communicated, received, or stored

14   by electronic means~.~;~

15   (8)(9) "electronic signature" means an electronic sound, symbol, or process attached to or logically

16   associated with a record and executed or adopted by a person with the intent to sign the record~.~;~

17   (9)(10) "governmental agency" means an executive, legislative, or judicial agency, department, board,

18   commission, authority, institution, or instrumentality of the federal government or of a state or of a county,

19   municipality, or other political subdivision of a state~.~;~

20   (10)(11) "information" means data, text, images, sounds, codes, computer programs, software,

21   databases, or the like~.~;~

22   (11)(12) "information processing system" means an electronic system for creating, generating, sending,

23   receiving, storing, displaying, or processing information~.~;~

24   (12)(13) "person" means an individual, corporation, business trust, estate, trust, partnership, limited

25   liability company, association, joint venture, governmental agency, public corporation, or any other legal or

26   commercial entity~.~;~

27   (13)(14) "record" means information that is inscribed on a tangible medium or that is stored in an

28   electronic or other medium and is retrievable in perceivable form~.~;~

29   (14)(15) "security procedure" means a procedure employed for the purpose of verifying that an electronic

30   signature, record, or performance is that of a specific person or for detecting changes or errors in the information

1   in an electronic record. The term includes a procedure that requires the use of algorithms or other codes,

2   identifying words or numbers, encryption, or callback or other acknowledgment procedures.

3   (15)(16) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United

4   States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The

5   term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally

6   acknowledged by a state.

7   (17) "STATE AGENCY" MEANS A DEPARTMENT, BOARD, COMMISSION, AUTHORITY, OR OTHER GOVERNMENTAL

8   ENTITY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING THE MONTANA UNIVERSITY SYSTEM, THAT SENDS

9   OR RECEIVES ELECTRONIC RECORDS;

10   (16)(17)(18) "transaction" means an action or set of actions occurring between two or more persons

11   relating to the conduct of business, commercial, or governmental affairs."

12

13   **Section 2.** Section 30-18-118, MCA, is amended to read:

14   **"30-18-118. Interoperability.** (1) The secretary of state may encourage and promote consistency and

15   interoperability with similar requirements adopted by other governmental agencies of this and other states and

16   the federal government and nongovernmental persons interacting with governmental agencies of this state. If

17   appropriate, those standards may specify differing levels of standards from which governmental agencies of this

18   state may choose in implementing the most appropriate standard for a particular application.

19   (2) The secretary of state ANY STATE AGENCY may adopt rules to implement this part for state government

20   that are consistent with the provisions of Title 2, chapter 20, however,. However, governmental agencies are not

21   limited to the use of a cryptosystem, as defined in 2-20-103, or any other specific technology for electronic

22   transactions provided for in this part."

23

24   **Section 3.** Section 61-11-503, MCA, is amended to read:

25   **"61-11-503. Definitions.** As used in this part, the following definitions apply:

26   (1) "Disclose" means to engage in any practice or conduct that makes available or known, by means of

27   any communication to another person, organization, or entity, personal information contained in a motor vehicle

28   record.

29   (2) "Express consent" means an affirmative authorization given in writing by a person to whom personal

30   information pertains that specifically allows the department to release personal information to another person,

1   organization, or entity. Consent may be conveyed electronically if the conveyance includes an electronic

2   signature, as defined in ~~2-20-103~~ 30-18-102, from the person to whom the personal information pertains.

3   (3) "Highly restricted personal information" means an individual's photograph or image, social security

4   number, or medical or disability information.

5   (4) "Motor vehicle record" means any record maintained by the department that pertains to a driver's

6   license, commercial driver's license, driving permit, motor vehicle title, motor vehicle registration, or identification

7   card issued by the department.

8   (5) "Person" does not mean a state agency or local government entity.

9   (6) (a) "Personal information" means information that identifies a person, including a person's name,

10   address, telephone number, social security number, driver's license or identification number, date of birth,

11   photograph or image, and medical or disability information.

12   (b) The term does not include the five-digit zip code of an address, information on vehicular accidents,

13   driving or equipment-related violations, a person's driver's license or vehicle registration status, or a vehicle's

14   insurance status.

15   (7) "Record" includes all books, papers, photographs, photostats, cards, film, tapes, recordings,

16   electronic data, printouts, or other documentary materials, regardless of physical form or characteristics."

17

18   NEW SECTION. **Section 4. Repealer.** Sections 2-20-101, 2-20-102, 2-20-103, 2-20-104, 2-20-105,

19   2-20-106, 2-20-107, 2-20-108, 2-20-109, 2-20-110, and 2-20-111, MCA, are repealed.

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