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SENATE BILL NO. 378
INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INTO EVIDENCE BUSINESS RECORDS KEPT IN THE ORDINARY COURSE OF BUSINESS THAT ARE ACCOMPANIED BY A SWORN AFFIDAVIT OR CERTIFICATION OF THE RECORDS CUSTODIAN OR OTHER QUALIFIED PERSON."

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

NEW SECTION. Section 1. Affidavit of business records. (1) The original or a copy of a business

record that meets the requirements of Rule 803(6) of the Montana Rules of Evidence, as shown by a sworn affidavit or certification of the records custodian or other qualified person, is self-authenticating and does not need extrinsic evidence of authenticity in order to be admitted. An affidavit or certification must contain the following information:

- (a) a statement showing that the person signing the affidavit or certification is the custodian or is otherwise qualified;
- (b) a statement identifying the memorandum, report, record, or data compilation;
- (c) a statement showing that the memorandum, report, record, or data compilation was made at or near the time of the acts, events, conditions, opinions, or diagnosis;
- (d) a statement showing that the business records were kept in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the memorandum, report, record, or data compilation; and
- (e) a statement indicating whether the documents are the original or are true and correct copies.

(2) A party intending to offer an affidavit or certification pursuant to this section must disclose the evidence to all other parties. The party offering the affidavit or certification must give all other parties written notice at least 21 days before the trial or hearing of the intent to offer the affidavit or certification and must make the business records and affidavit or certification available for inspection so that the other parties have a fair opportunity to challenge the admissibility of the evidence.

