1      SENATE BILL NO. 212

2      INTRODUCED BY D. ZOLNIKOV

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4      A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO TECHNOLOGY;

5      CREATING THE RIGHT TO COMPUTE ACT; REQUIRING SHUTDOWN CAPABILITIES FOR CRITICAL

6      INFRASTRUCTURE FACILITIES CONTROLLED BY AN ARTIFICIAL INTELLIGENCE SYSTEM; PROVIDING

7      DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9      WHEREAS, innovations in computational technology, such as machine learning, enable technological

10     breakthroughs in nearly every sector, leading to increased economic growth and greater prosperity; and

11     WHEREAS, ensuring the United States remains at the forefront of computational technology is critical

12     for driving economic growth, safeguarding national security, and retaining a competitive edge over adversarial

13     nations; and

14     WHEREAS, while recognizing the benefits of recent innovations in computational technologies,

15     technology industry leaders have also expressed concern that some applications of powerful computational

16     resources may pose a high risk to public health and safety; and

17     WHEREAS, federal and state governments increasingly propose far-reaching restrictions on the ability

18     to privately own or make use of computational resources for lawful purposes, some of which may infringe on

19     fundamental constitutional rights to property and free expression; and

20     WHEREAS, the Montana Legislature is the proper branch of government to establish policies and

21     principles relating to the ability to own and make use of computational resources within the context of state

22     constitutional provisions.

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

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26     NEW SECTION. **Section 1.    Short title.** [Sections 1 through 7] may be cited as the "Right to Compute

27     Act".

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1　　　　　NEW SECTION. **Section 2.** **Legislative findings -- intent.** The legislature finds that the rights to

2　　acquire, possess, and protect property under Article II, section 3, of the Montana constitution, and the freedom

3　　of expression under Article II, section 7, of the Montana constitution, also embody the notion of a fundamental

4　　right to own and make use of technological tools, including computational resources. Any restrictions placed by

5　　the government on the ability to privately own or make use of computational resources for lawful purposes must

6　　be limited to those demonstrably necessary and narrowly tailored to fulfill a compelling government interest in

7　　public health or safety.

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9　　　　　NEW SECTION. **Section 3.** **Right to compute.** Government actions that restrict the ability to

10　　privately own or make use of computational resources for lawful purposes, which infringes on citizens'

11　　fundamental rights to property and free expression, must be limited to those demonstrably necessary and

12　　narrowly tailored to fulfill a compelling government interest in public health or safety.

13

14　　　　　NEW SECTION. **Section 4.** **Infrastructure controlled by artificial intelligence system --**

15　　**shutdown.** (1) When critical infrastructure facilities are controlled in whole or in part by an artificial intelligence

16　　system, the deployer shall ensure the capability to disable the artificial intelligence system's control over the

17　　infrastructure and revert to human control within a reasonable amount of time.

18　　　　　(2)　　When enacting a full shutdown, the deployer shall consider, as appropriate, disruptions to

19　　critical infrastructure that may result from a shutdown.

20　　　　　(3)　　Deployers shall implement, annually review, and test a risk management policy that includes a

21　　fallback mechanism and a redundancy and mitigation plan to ensure the deployer can continue operations and

22　　maintain control of the critical infrastructure facility without the use of the artificial intelligence system.

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24　　　　　NEW SECTION. **Section 5.** **Preservation of intellectual property.** Nothing in [sections 1 through 7]

25　　may be construed to alter, diminish, or interfere with the rights and remedies available under federal or state

26　　intellectual property laws, including but not limited to patent, copyright, trademark, and trade secret laws.

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28　　　　　NEW SECTION. **Section 6.** **Preemption by federal law.** Nothing in [sections 1 through 7] may be

1     construed to preempt federal laws.

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3          NEW SECTION. **Section 7.    Definitions.** As used in [sections 1 through 7], the following definitions

4     apply:

5          (1)     "Artificial intelligence system" means any machine learning-based system that, for any explicit

6     or implicit objective, infers from the inputs the system receives how to generate outputs, including but not

7     limited to content, decisions, predictions, and recommendations that can influence physical or virtual

8     environments.

9          (2)     "Compelling government interest in public health or safety" means a government interest of the

10     highest order in protecting the health and safety of the public that cannot be achieved through less restrictive

11     means. This includes but is not limited to:

12          (a)     ensuring critical infrastructure facilities controlled by an artificial intelligence system can be shut

13     down and the critical infrastructure facility can be returned to human control;

14          (b)     addressing conduct that deceives or defrauds the public;

15          (c)     protecting individuals, especially minors, from harm by a person who distributes deepfakes and

16     other harmful synthetic content with actual knowledge of the nature of that material; and

17          (d)     taking actions that prevent or abate common law nuisances created by physical datacenter

18     infrastructure.

19          (3)     "Computational resources" means any tools, technologies, systems, or infrastructure, whether

20     digital, analog, existing, or some other form, that facilitate any form of computation, data processing, storage,

21     transmission, manipulation, control, creation, dissemination, or use of information and data. This includes but is

22     not limited to hardware, software, algorithms, sensors, networks, protocols, platforms, services, systems,

23     cryptography, machine learning, or quantum applications.

24          (4)     "Critical infrastructure facility" has the same meaning as provided in 82-1-601.

25          (5)     "Deployer" means an individual, company, or other organization that utilizes an artificial

26     intelligence system.

27          (6)     "Government actions" means any law, ordinance, regulation, rule, policy, fee, condition, test,

28     permit, or administrative practice enacted by a government entity that restricts the common or intended use of

1    computational resources by its owner or invitees.

2          (7)      "Government entity" means any unit of state government including the state, counties, cities,

3    towns, or political subdivisions, and any branch, department, division, office, or government entity of state or

4    local government.

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6          NEW SECTION. **Section 8.    Severability.** If a part of [this act] is invalid, all valid parts that are

7    severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

8    the part remains in effect in all valid applications that are severable from the invalid applications.

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10         NEW SECTION. **Section 9.    Codification instruction.** [Sections 1 through 7] are intended to be

11   codified as a new part of Title 2, chapter 10, and the provisions of Title 2, chapter 10, apply to [sections 1

12   through 7].

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14         NEW SECTION. **Section 10.    Effective date.** [This act] is effective on passage and approval.

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