Senate Bill No. 162–Senator Kieckhefer

CHAPTER..........

AN ACT relating to electronic transactions; including a public blockchain as a type of electronic record for the purposes of the Uniform Electronic Transactions Act; providing that a person who uses a public blockchain to secure information does not relinquish any right of ownership related to that information; requiring a governmental agency to consider certain uses of its equipment and software in acquiring, replacing or updating an information processing system; requiring a governmental agency to accept a certified copy of a record in electronic form under certain circumstances; authorizing a governmental agency to charge and collect certain fees relating to a certified copy of a record in electronic form; prohibiting a local government from taxing or imposing restrictions upon the use of a public blockchain; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**
Existing law gives legal recognition to electronic records, signatures and contracts that comply with certain requirements and allows an electronic record or signature to satisfy a requirement for a written record or signature in certain circumstances. (NRS 719.240-719.350) For these purposes, the definition of electronic record includes a blockchain under existing law. (NRS 719.090) Existing law also imposes certain restrictions on the authority of cities and counties to tax or regulate the use of a blockchain. (NRS 244.3535, 268.0979) **Section 7** of this bill amends the definition of "blockchain" to also include a "public blockchain," which is defined in **section 2** of this bill.

**Section 4** of this bill provides that a person who uses a public blockchain to secure information that the person owns or has a right to use does not thereby relinquish any right of ownership or use of such information, except as otherwise provided by an agreement of the person. **Section 4** further provides that the provisions of **section 4** are not to be deemed to affect the status of, or any legal right or obligation relating to, a document submitted to a governmental agency or official or a document that is a public record.

Under existing law, governmental agencies of this State and its political subdivisions are generally free to determine whether, and the extent to which, they will accept, process, use and rely upon an electronic record. (NRS 719.350) **Section 5** of this bill requires such an agency to consider the use of equipment and software that will enable the agency to send, accept, process, use and rely upon electronic records and electronic signatures whenever the agency acquires, replaces or updates an information processing system or any part of such a system. **Section 5** also prohibits any such agency from refusing to accept, process, use or rely upon a certified copy of a record from another governmental agency solely because the copy is in electronic form, but permits an agency to reject a certified copy in electronic form if the agency would be required to acquire and pay for any equipment or software to accept, process, use or rely upon the copy in the form provided. **Section 5** also authorizes an agency to charge and collect the same fee for providing a certified copy in electronic form as is provided by law for providing a

certified copy in paper form. Finally, if an agency receiving a certified copy in electronic form incurs a fee or other cost for accepting or processing such a copy, **section 5** authorizes the agency to charge and collect a fee to recover that cost.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 719 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

**Sec. 2.** *"Public blockchain" means an electronic record of transactions or other data which:*

*1. Is uniformly ordered;*

*2. Is processed using a decentralized method by which two or more unaffiliated computers or machines verify the recorded transactions or other data;*

*3. Is redundantly maintained by two or more unaffiliated computers or machines to guarantee the consistency or nonrepudiation of the recorded transactions or other data;*

*4. Is validated by the use of cryptography; and*

*5. Does not restrict the ability of any computer or machine to:*

*(a) View the network on which the record is maintained; or*

*(b) Maintain or validate the state of the public blockchain.*

**Sec. 3.** *"State of the public blockchain" means the cumulative record of data on a public blockchain, consisting of the first block of the public blockchain, all finalized transactions on the public blockchain and all block rewards recorded on the public blockchain.*

**Sec. 3.5.** *"Unaffiliated computers or machines" means computers or machines that are not under common ownership or control.*

**Sec. 4.** *1. A person who uses a public blockchain to secure information that the person owns or has the right to use does not thereby relinquish any right of ownership or use with respect to the information, except to the extent that an agreement of the person expressly provides for the transfer of such a right.*

*2. Nothing contained in subsection 1 shall be deemed to affect the status of, or any right or obligation established by law with respect to, any document that is:*

*(a) Filed with or otherwise submitted to a governmental agency or official, including, without limitation, any document*

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*that is submitted for recording in the office of a county recorder; or*

    *(b)  A public record for the purposes of NRS 239.010.*

    **Sec. 5.**  *1.  Whenever a governmental agency of this State or a political subdivision of this State acquires, replaces or updates an information processing system or any part of such a system, including, without limitation, any software used by the system, the governmental agency shall consider the use of equipment and software that enables the governmental agency to send, accept, process, use and rely upon electronic records and electronic signatures, including, without limitation, certified copies of the records of the governmental agency in electronic form or certified copies of the records of an originating agency that are provided in electronic form.*

    *2.  If a person provides a receiving agency with a certified copy of a record of an originating agency, the receiving agency:*

    *(a)  Shall not refuse to accept, process, use or rely upon the certified copy solely because it is in electronic form.*

    *(b)  May refuse to accept, process, use or rely upon the certified copy if it is in electronic form and the receiving agency would be required to acquire and pay for any equipment or software to accept, process, use or rely upon the certified copy in the form provided.*

    *3.  An originating agency may charge and collect the same fee for a certified copy in electronic form as is provided by law for a certified copy in paper form.*

    *4.  If a receiving agency incurs a fee or other cost for accepting or processing a certified copy in electronic form, the receiving agency may charge and collect a fee to accept or process such a copy, in an amount not to exceed the actual cost to the receiving agency of accepting or processing the copy.*

    *5.  As used in this section:*

    *(a)  "Originating agency" means a governmental agency which attests that a certified copy described in subsection 2 is a true copy of a record of the governmental agency.*

    *(b)  "Receiving agency" means a governmental agency of this State or a political subdivision of this State to which a certified copy is provided as described in subsection 2.*

    **Sec. 6.**  NRS 719.020 is hereby amended to read as follows:

    719.020   As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 719.030 to 719.180, inclusive, *and sections 2, 3 and 3.5 of this act* have the meanings ascribed to them in those sections.

**Sec. 7.** NRS 719.045 is hereby amended to read as follows:

719.045  *1.*  "Blockchain" means an electronic record of transactions or other data which is:

[1.] *(a)* Uniformly ordered;

[2.] *(b)* ***Processed using a decentralized method by which one or more computers or machines verify the recorded transactions or other data;***

*(c)* Redundantly maintained or processed by one or more computers or machines to guarantee the consistency or nonrepudiation of the recorded transactions or other data; and

[3.] *(d)* Validated by the use of cryptography.

*2.  **The term includes, without limitation, a public blockchain.***

**Sec. 8.** NRS 719.350 is hereby amended to read as follows:

719.350  1.  Except as otherwise provided in subsection 6 of NRS 719.290 and NRS 719.345, ***and section 5 of this act,*** each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

2.  Except as otherwise provided in NRS 719.345, to the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3.  Except as otherwise provided in subsection 6 of NRS 719.290 and NRS 719.345, ***and section 5 of this act,*** the provisions of this chapter do not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

**Sec. 9.** 1. This section and sections 1 to 4, inclusive, 6 and 7 of this act become effective on October 1, 2019.

2. Sections 5 and 8 of this act become effective on January 1, 2020.