THE RIGHT TO COMPUTE MODEL LEGISLATION

AN ACT GENERALLY REVISING LAWS RELATED TO TECHNOLOGY; CREATING THE RIGHT TO COMPUTE ACT; PROVIDING DEFINITIONS;

WHEREAS, innovations in computational technology, such as machine learning, enable technological breakthroughs in nearly every sector, leading to increased economic growth and greater prosperity; and

WHEREAS, ensuring the United States remains at the forefront of computational technology is critical for driving economic growth, safeguarding national security, and retaining a competitive edge over adversarial nations; and

WHEREAS, while recognizing the benefits of recent innovations in computational technologies, technology industry leaders have also expressed concern that some applications of powerful computational resources may pose a high risk to public health and safety; and

WHEREAS, federal and state governments increasingly propose far-reaching restrictions on the ability to privately own or make use of computational resources for lawful purposes, some of which may infringe on fundamental constitutional rights to property and free expression; and

WHEREAS, the Montana Legislature is the proper branch of government to establish policies and principles relating to the ability to own and make use of computational resources within the context of state constitutional provisions.

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

Section 1. Short title. [Sections 1 through 6] may be cited as the "Right to Compute Act".

Section 2. Legislative findings -- intent. The legislature finds that the rights to acquire, possess, and protect property under Article II, section 3, of the Montana constitution, and the freedom of expression under Article II, section 7, of the Montana constitution, also embody the notion of a fundamental right to own and make use of technological tools, including computational resources. Any restrictions placed by the government on the ability to privately own or make use of computational resources for lawful purposes must be limited to those demonstrably necessary and narrowly tailored to fulfill a compelling government interest.

Section 3. Right to compute. Government actions that restrict the ability to privately own or make use of computational resources for lawful purposes, which infringes on citizens' fundamental rights to property and free expression, must be limited to those demonstrably necessary and narrowly tailored to fulfill a compelling government interest.

Section 4. Preservation of intellectual property. Nothing in [sections 1 through 6] may be construed to alter, diminish, or interfere with the rights and remedies available under federal or state intellectual property laws, including but not limited to patent, copyright, trademark, and trade secret laws.

Section 5. Preemption by federal law. Nothing in [sections 1 through 6] may be construed to preempt federal laws.

Section 6. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Compelling government interest " means a government interest of the highest order in protecting the public that cannot be achieved through less restrictive means. This includes but is not limited to:

(a) ensuring that a critical infrastructure facility controlled by an artificial intelligence system develops a risk management policy;

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

(c) protecting individuals, especially minors, from harm by a person who distributes deepfakes and other harmful synthetic content with actual knowledge of the nature of that material; and

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

(2) "Computational resources" means any tools, technologies, systems, or infrastructure, whether digital, analog, existing, or some other form, that facilitate any form of computation, data processing, storage, transmission, manipulation, control, creation, dissemination, or use of information and data. This includes but is not limited to hardware, software, algorithms, sensors, networks, protocols, platforms, services, systems, cryptography, machine learning, or quantum applications.

(3) "Government actions" means any law, ordinance, regulation, rule, policy, condition, test, permit, or administrative practice enacted by a government entity that restricts the common or intended use of computational resources by its owner or invitees.

(4) "Government entity" means any unit of state government including the state, counties, cities, towns, or political subdivisions, and any branch, department, division, office, or government entity of state or local government.

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Codification instruction. [Sections 1 through 6] are intended to be codified as a new part of Title 2, chapter 10, and the provisions of Title 2, chapter 10, apply to [sections 1 through 6].

Section 9. Effective date. [This act] is effective on passage and approval.