

1 HOUSE BILL NO. 47

2 INTRODUCED BY J. DOOLING

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA INFORMATION
6 TECHNOLOGY ACT; REVISING TERMINOLOGY; REVISING RULEMAKING AUTHORITY; PROVIDING THE
7 DEPARTMENT OF ADMINISTRATION SOLE AUTHORITY TO TERMINATE AN AGENCY'S INFORMATION
8 TECHNOLOGY RESOURCE AND REQUIRING THE USE OF AN ALTERNATIVE INFORMATION
9 TECHNOLOGY RESOURCE; AND AMENDING SECTIONS 2-4-302, 2-6-1102, 2-17-505, 2-17-506, 2-17-512,
10 2-17-513, 2-17-514, 2-17-515, 2-17-516, 2-17-518, 2-17-521, 2-17-523, 2-17-524, 2-17-526, 2-17-532, 2-17-
11 533, 2-17-534, 2-17-546, 2-17-551, 2-17-552, 2-17-1101, 2-17-1102, 2-17-1103, 2-18-101, 7-22-2151, 10-3-
12 106, 61-3-346, 61-3-347, 61-11-105, 75-10-805, AND 87-1-272, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 2-4-302, MCA, is amended to read:

17 **"2-4-302. Notice, hearing, and submission of views.** (1) (a) Prior to the adoption, amendment, or
18 repeal of any rule, the agency shall give written notice of its proposed action. The proposal notice must include
19 a statement of either the terms or substance of the intended action or a description of the subjects and issues
20 involved, the reasonable necessity for the proposed action, and the time when, place where, and manner in
21 which interested persons may present their views on the proposed action. The reasonable necessity must be
22 written in plain, easily understood language.

23 (b) The agency shall state in the proposal notice the date on which and the manner in which
24 contact was made with the primary sponsor as required in subsection (2)(e). If the notification to the primary
25 sponsor was given by mail, the date stated in the proposal notice must be the date on which the notification
26 was mailed by the agency. If the proposal notice fails to state the date on which and the manner in which the
27 primary sponsor was contacted, the filing of the proposal notice under subsection (2)(a) is ineffective for the
28 purposes of this part and for the purposes of the law that the agency cites in the proposal notice as the

1 authority for the proposed action.

2 (c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall
3 pay or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

4 (i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and

5 (ii) the number of persons affected.

6 (2) (a) The proposal notice must be filed with the secretary of state for publication in the register,
7 as provided in 2-4-312. When the agency files the proposal notice with the secretary of state to prepare it for
8 publication in the register, the agency shall concurrently send an electronic copy of the proposal notice to the
9 appropriate administrative rule review committee. If the secretary of state requires formatting changes to the
10 proposal notice before it may be published, the agency is not required to send another copy of the proposal
11 notice to the committee. The requirement to concurrently send a copy of the proposal notice to the committee is
12 fulfilled if the agency sends an electronic copy to each member of the staff of the appropriate rule review
13 committee on the same day that the notice is filed with the secretary of state.

14 (b) (i) Except as provided in subsection (2)(b)(ii), within 3 days of publication, a copy of the
15 published proposal notice must be sent to interested persons who have made timely requests to the agency to
16 be informed of its rulemaking proceedings, and to the office of any professional, trade, or industrial society or
17 organization or member of those entities who has filed a request with the appropriate administrative rule review
18 committee when the request has been forwarded to the agency as provided in subsection (2)(c).

19 (ii) In lieu of sending a copy of the published proposal notice to an interested person who has
20 requested the notice, the agency may, with the consent of that person, send that person an electronic
21 notification that the proposal notice is available on the agency's website and an electronic link to the part of the
22 agency's website or a description of the means of locating that part of the agency's website where the notice is
23 available.

24 (iii) Each agency shall create and maintain a list of interested persons and the subject or subjects
25 in which each person on the list is interested. A person who submits a written comment or attends a hearing in
26 regard to proposed agency action under this part must be informed of the list by the agency. An agency
27 complies with this subsection (2)(b)(iii) if it includes in the proposal notice an advisement explaining how
28 persons may be placed on the list of interested persons and if it complies with subsection (7).

1 (c) The appropriate administrative rule review committee shall forward a list of all organizations or
2 persons who have submitted a request to be informed of agency actions to the agencies that the committee
3 oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request
4 of any person requesting to be added to or deleted from the list.

5 (d) The proposal notice required by subsection (1) must be published at least 30 days in advance
6 of the agency's proposed action. The agency shall post the proposal notice on a state ~~electronic~~ digital access
7 system or other electronic communications system available to the public.

8 (e) (i) When an agency begins to work on the substantive content and the wording of a proposal
9 notice for a rule that initially implements legislation, the agency shall contact, as provided in subsection (8), the
10 legislator who was the primary sponsor of the legislation to:

11 (A) obtain the legislator's comments;

12 (B) inform the legislator of the known dates by which each step of the rulemaking process must be
13 completed; and

14 (C) provide the legislator with information about the time periods during which the legislator may
15 comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative
16 rule review committee.

17 (ii) If the legislation affected more than one program, the primary sponsor must be contacted
18 pursuant to this subsection (2)(e) each time that a rule is being proposed to initially implement the legislation for
19 a program.

20 (iii) Within 3 days after a proposal notice covered under subsection (2)(e)(i) has been published as
21 required in subsection (2)(a), a copy of the published notice must be sent to the primary sponsor contacted
22 under this subsection (2)(e).

23 (3) If a statute provides for a method of publication different from that provided in subsection (2),
24 the affected agency shall comply with the statute in addition to the requirements contained in this section.
25 However, the notice period may not be less than 30 days or more than 6 months.

26 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested
27 persons at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit
28 data, views, or arguments, orally or in writing. If an amended or supplemental notice is filed, additional time may

1 be allowed for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking
2 must state that opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less,
3 of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by
4 the appropriate administrative rule review committee, or by an association having not less than 25 members
5 who will be directly affected. If the proposed rulemaking involves matters of significant interest to the public, the
6 agency shall schedule an oral hearing.

7 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested
8 case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise
9 required by statute, nothing in this section alters that requirement.

10 (6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the
11 agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a
12 new proposal for purposes of compliance with this chapter.

13 (7) At the commencement of a hearing on the intended action, the person designated by the
14 agency to preside at the hearing shall:

15 (a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the
16 register; and

17 (b) inform the persons at the hearing of the provisions of subsection (2)(b) and provide them an
18 opportunity to place their names on the list.

19 (8) (a) For purposes of contacting primary sponsors under subsection (2)(e), a current or former
20 legislator who wishes to receive notice shall keep the current or former legislator's name, address, e-mail
21 address, and telephone number on file with the secretary of state. The secretary of state may also use
22 legislator contact information provided by the legislative services division for the purposes of the register. The
23 secretary of state shall update the contact information whenever the secretary of state receives corrected
24 information from the legislator or the legislative services division. An agency proposing rules shall consult the
25 register when providing sponsor contact.

26 (b) An agency has complied with the primary bill sponsor contact requirements of this section
27 when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address,
28 and telephone number on file with the secretary of state pursuant to subsection (8)(a). If the agency is able to

1 contact the primary sponsor by using less than all of these three methods of contact, the other methods need
2 not be used.

3 (9) This section applies to the department of labor and industry adopting a rule relating to a
4 commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of
5 department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."
6

7 **Section 2.** Section 2-6-1102, MCA, is amended to read:

8 **"2-6-1102. Department of administration -- powers and duties.** (1) To ensure compatibility with the
9 information technology systems of state government and to promote adherence to records management
10 principles and best practices, the department of administration, in consultation with the secretary of state, shall
11 establish standards for technological compatibility for state agencies for records management equipment or
12 systems used to electronically capture, store, or retrieve public records through computerized, optical, or other
13 electronic methods.

14 (2) The department of administration, in consultation with the secretary of state, shall approve all
15 acquisitions of executive branch agency records management equipment or systems used to electronically
16 capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure
17 compatibility with the standards developed under subsection (1).

18 (3) The department of administration is responsible for the management and operation of
19 equipment, systems, facilities, and processes integral to ~~the department's central computer center and~~
20 ~~statewide telecommunications system~~ information technology resources and the state telecommunications
21 network."

22

23 **Section 3.** Section 2-17-505, MCA, is amended to read:

24 **"2-17-505. Policy.** (1) It is the policy of the state that information technology be used to improve the
25 quality of life of Montana citizens by providing educational opportunities, creating quality jobs and a favorable
26 business climate, improving government, and protecting individual privacy and the privacy of the information
27 contained within information technology ~~systems~~ resources.

28 (2) It is the policy of the state that the development of information technology resources in the

1 state must be conducted in an organized, deliberative, and cost-effective manner.

2 (3) It is the policy of the state that information technology is essential and vital to the people of the
3 state of Montana, and the services, systems, and infrastructure are therefore considered to be an asset of the
4 state.

5 (4) The following principles must guide the development of ~~state~~ information technology resources:

6 (a) There are statewide information technology ~~policies, standards, procedures, and guidelines~~
7 policies, framework, controls, standards, procedures, and guidelines applicable to all state agencies and other
8 entities using ~~the state network~~ an information technology resource.

9 (b) Mitigation of risks is a priority in order to protect individual privacy and the privacy of
10 information contained within information technology ~~systems-resources~~ as they become more interconnected
11 and as the liabilities stemming from the risk to information technology, ~~also known as cyber risk~~, have
12 increased.

13 (c) Whenever feasible and not an undue ~~cyber~~ risk, common data is entered once and shared
14 among government entities at any level or political subdivision.

15 (d) Third-party providers of data, such as citizens, businesses, and other government entities, are
16 responsible for the accuracy and integrity of the data provided to government entities.

17 (e) Third-party providers of information technology resources, such as infrastructure as a service,
18 platform as a service, and software as a service, shall comply with state security and information technology
19 policies, risk management framework, controls, standards, procedures, and guidelines when providing
20 information technology resources to government entities.

21 ~~(e)(f)~~ Government entities are required to conduct business through open, transparent processes to
22 ensure accountability to the citizenry, and information technology provides access to information through simple
23 and expeditious procedures.

24 ~~(f)(g)~~ In order to minimize ~~unwarranted~~ duplication, shared or similar information technology ~~systems~~
25 resources and data management applications ~~are~~ must be implemented and managed in a coordinated
26 manner.

27 ~~(g)(h)~~ Planning and development of information technology resources are conducted in conjunction
28 with budget development and approval.

1 ~~(h)(i)~~ Information technology ~~systems-resources~~ are deployed aggressively whenever it can be
2 shown that it will provide improved services to Montana citizens.

3 ~~(j)(l)~~ Public-private partnerships are used to deploy information technology ~~systems-resources~~ when
4 practical and cost-effective.

5 ~~(j)(k)~~ ~~State information technology systems~~ Information technology resources are developed in
6 cooperation with the federal government and local governments with the objective of providing seamless
7 access to information and services to the greatest degree possible.

8 ~~(k)(l)~~ ~~State information technology systems~~ Information technology resources are able to
9 accommodate ~~electronic-digital~~ transmissions between the state and its citizens, businesses, and other
10 government entities, including providing ~~financial~~ incentives for citizens and businesses to use ~~electronic-digital~~
11 government services.

12 ~~(l)(m)~~ ~~State information technology systems~~ Information technology resources are able to embrace
13 the economics of digitized records to avoid duplication and transport costs.

14 ~~(m)(n)~~ Electronic-Digital record creation, management, storage, and retrieval processes and
15 procedures are used to create and deliver professional records management experiences for the citizens of
16 Montana.

17 ~~(n)(o)~~ ~~State information technology systems~~ Information technology resources are able to embrace
18 continuous process improvement initiatives in order to keep pace with new and emerging technologies and
19 delivery channels in order to allow citizens to determine when, where, and how they interact with government
20 agencies.

21 (5) It is the policy of the state that the department must be accountable to the governor, the
22 legislature, and the citizens of Montana."

23

24 **Section 4.** Section 2-17-506, MCA, is amended to read:

25 "**2-17-506. Definitions.** In this part, unless the context requires otherwise, the following definitions
26 apply:

27 (1) "Board" means the information technology board established in 2-15-1021.

28 ~~(2) "Central computer center" means any stand-alone or shared computer and associated equipment,~~

1 ~~software, facilities, and services administered by the department for use by state agencies.~~

2 ~~(3)(2)~~ "Chief information officer" means a person appointed by the director of the department to carry
3 out the duties and responsibilities of the department relating to information technology.

4 ~~(4)(3)~~ "Data" means any information stored on information technology resources.

5 ~~(5)(4)~~ "Department" means the department of administration established in 2-15-1001.

6 ~~(5)~~ "Digital" means electronic data and the information technology resources used to store,
7 retrieve, and send data.

8 (6) ~~"Electronic-Digital access system" means a system capable of making data accessible by~~
9 ~~means of an information technology facility in a voice, video, or electronic data form, including but not limited to~~
10 ~~the internet resource.~~

11 (7) "Information technology resource" means any hardware, software, and associated services,
12 and infrastructure including state and third-party platforms, networks, systems, or facilities, used to store or
13 transmit information in any form, ~~including voice, video, and electronic data.~~

14 (8) "Long-range information technology capital project" means a discrete long-range information
15 technology system or application, including the replacement or upgrade to existing systems.

16 (9) "Private safety agency" has the same meaning as provided in 10-4-101.

17 (10) "Public safety agency" has the same meaning as provided in 10-4-101.

18 (11) "State agency" means any entity of the executive branch, including the university system.

19 (12) ~~"Statewide State telecommunications network" means any telecommunications facilities,~~
20 ~~circuits, equipment, software, and associated contracted services information technology resources~~
21 ~~administered by the department for the transmission of voice, video, or electronic data from one device to~~
22 ~~another."~~

23

24 **Section 5.** Section 2-17-512, MCA, is amended to read:

25 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
26 planning and program responsibilities for information technology for state government, except the national
27 guard. The department shall:

28 (a) encourage and foster the ~~development~~ use of new and innovative information technology within

- 1 state government;
- 2 (b) promote, coordinate, and approve the procurement or development ~~and sharing~~ of shared
3 information technology application software, management systems, and information that provide similar
4 functions for multiple state agencies;
- 5 (c) cooperate with the office of economic development to promote economic development
6 initiatives based on information technology;
- 7 (d) establish and enforce a state strategic information technology plan as provided for in 2-17-521;
- 8 (e) establish and enforce statewide information technology policies, framework, controls, and
9 standards, procedures, and guidelines;
- 10 (f) review and approve state agency information technology plans provided for in 2-17-523;
- 11 (g) coordinate with the office of budget and program planning to evaluate budget requests that
12 include information technology resources. The department shall make recommendations to the office of budget
13 and program planning for the approval or disapproval of information technology budget requests, including an
14 estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or
15 capitalized, based on state accounting policy established by the department. An unfavorable recommendation
16 must be based on a determination that the request is not provided for in the approved agency information
17 technology plan provided for in 2-17-523.
- 18 (h) staff the information technology board provided for in 2-15-1021;
- 19 (i) fund the administrative costs of the information technology board provided for in 2-15-1021;
- 20 (j) review the use of information technology resources for all state agencies;
- 21 (k) review and approve state agency specifications and procurement methods for the acquisition of
22 information technology resources;
- 23 (l) review, approve, and sign all state agency contracts and shall review and approve other formal
24 agreements for information technology resources provided by the private sector and other government entities;
- 25 (m) broker, operate, and maintain a central computer center information technology resources for
26 the use of state government, political subdivisions, and other participating entities under terms and conditions
27 established by the department;
- 28 (n) operate and maintain a ~~statewide~~ state telecommunications network for the use of state

- 1 government, political subdivisions, and other participating entities under terms and conditions established by
2 the department;
- 3 (o) ensure that the ~~statewide-state~~ telecommunications network is properly maintained. The
4 department may establish a centralized maintenance program for the ~~statewide-state~~ telecommunications
5 network.
- 6 (p) coordinate public safety communications on behalf of public and private safety agencies as
7 provided for in 2-17-543 through 2-17-545;
- 8 (q) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
- 9 (r) provide ~~electronic~~ access to digital information and services of the state as provided for in 2-17-
10 532;
- 11 (s) provide assistance to the legislature, the judiciary, the governor, and state agencies relative to
12 state and interstate information technology matters;
- 13 (t) establish rates and other charges for services provided by the department;
- 14 (u) accept federal funds granted by congress or by executive order and gifts, grants, and
15 donations for any purpose of this section;
- 16 (v) dispose of personal property owned by it in a manner provided by law when, in the judgment of
17 the department, the disposal best promotes the purposes for which the department is established;
- 18 (w) implement this part and all other laws for the use of information technology in state
19 government;
- 20 (x) provide a biennial report to the state administration and veterans' affairs interim committee and
21 to the legislature as provided in 5-11-210 on the information technology activities of the department; and
- 22 (y) represent the state with public and private entities on matters of information technology.
- 23 (2) If it is in the state's best interest, the department may contract with qualified private
24 organizations, foundations, or individuals to carry out the purposes of this section.
- 25 (3) The director of the department shall appoint the chief information officer to assist in carrying out
26 the department's information technology duties."

27
28

Section 6. Section 2-17-513, MCA, is amended to read:

- 1 **"2-17-513. Duties of board.** The board shall:
- 2 (1) provide a forum to:
- 3 (a) guide state agencies, the legislative branch, the judicial branch, and local governments in the
- 4 development and deployment of intergovernmental information technology resources;
- 5 (b) share information among state agencies, local governments, and federal agencies regarding
- 6 the development of information technology resources;
- 7 (2) advise the department:
- 8 (a) in the development of cooperative contracts for the purchase of information technology
- 9 resources;
- 10 (b) regarding the creation, management, and administration of ~~electronic-digital~~ government
- 11 services and information on the internet;
- 12 (c) regarding the administration of ~~electronic-digital~~ government services contracts;
- 13 (d) on the priority of government services to be provided ~~electronically~~ digitally;
- 14 (e) on convenience fees prescribed in 2-17-1102 and 2-17-1103, if needed, for ~~electronic-digital~~
- 15 government services; and
- 16 (f) on any other aspect of providing ~~electronic-digital~~ government services;
- 17 (3) review and advise the department on:
- 18 (a) statewide information technology ~~standards and policies~~ policies, framework, controls,
- 19 standards, procedures, and guidelines;
- 20 (b) the state strategic information technology plan;
- 21 (c) major information technology budget requests;
- 22 (d) rates and other charges for services established by the department as provided in 2-17-
- 23 512(1)(t);
- 24 (e) requests for exceptions as provided for in 2-17-515;
- 25 (f) notification of proposed exemptions by the university system and office of public instruction as
- 26 provided for in 2-17-516;
- 27 (g) action taken by the department as provided in 2-17-514(1) for any activity that is not in
- 28 compliance with this part;

- 1 (h) the implementation of major information technology projects and advise the respective
2 governing authority of any issue of concern to the board relating to implementation of the project; and
- 3 (i) financial reports, management reports, and other data as requested by the department;
- 4 (4) study state government's present and future information technology needs and advise the
5 department on the use of emerging technology in state government;
- 6 (5) request information and reports that it considers necessary from any entity using or having
7 access to the ~~statewide-state~~ telecommunications network or ~~central-computer-center~~ information technology
8 resources;
- 9 (6) assist in identifying, evaluating, and prioritizing potential departmental and interagency
10 ~~electronic digital~~ government services;
- 11 (7) serve as a central coordination point for ~~electronic-digital~~ government services provided by the
12 department and other state agencies;
- 13 (8) study, propose, develop, or coordinate any other activity in furtherance of ~~electronic-digital~~
14 government services as requested by the governor or the legislature; and
- 15 (9) prepare and submit to the state administration and veterans' affairs interim committee in
16 accordance with 5-11-210 a report including but not necessarily limited to a summary of the board's activities, a
17 review of the electronic government program established under part 11 of this chapter, and any key findings
18 and recommendations that the board presented to the department."

19

20 **Section 7.** Section 2-17-514, MCA, is amended to read:

21 **"2-17-514. Department -- enforcement responsibilities.** (1) If the department determines that an
22 agency is not in compliance with the state strategic information technology plan provided for in 2-17-521, the
23 agency information technology plan provided for in 2-17-523, or the statewide information technology policies,
24 framework, controls, and standards, procedures, and guidelines provided for in 2-17-512, the department may
25 cancel or modify any contract, project, or activity that is not in compliance.

26 ~~(2) Prior to taking action provided for in subsection (1), the department shall review with the board any~~
27 ~~activities that are not in compliance.~~

28 (2) If the department determines that an agency is not in compliance with the state security

1 policies, framework, controls, standards, procedures, and guidelines provided for in 2-17-534, the department
2 may take appropriate action, in its sole discretion, up to and including terminating the information technology
3 resource and requiring the use of an alternative information technology resource.

4 (3) Any contract entered into by an agency that includes information technology resources must
5 include language developed by the department that references the department's enforcement responsibilities
6 provided for in subsection (1). A contract that does not contain the required language is considered to be in
7 violation of state law and is voidable pursuant to subsection (1). The language developed by the department
8 may not be varied pursuant to 18-4-224."

9

10 **Section 8.** Section 2-17-515, MCA, is amended to read:

11 **"2-17-515. Granting exceptions to state agencies.** Subject to 2-17-516, the department may grant
12 exceptions to any policy, standard, or other requirement of this part if it is in the best interests of the state of
13 Montana. The department shall inform the ~~board~~ governor, the office of budget and program planning, and the
14 legislative finance committee of all exceptions that are granted and of the rationale for granting the exceptions.
15 The department shall maintain written documentation that identifies the terms and conditions of the exception
16 and the rationale for the exception. If an exception is granted, the department shall provide the written
17 documentation in accordance with 5-11-210."

18

19 **Section 9.** Section 2-17-516, MCA, is amended to read:

20 **"2-17-516. Exemptions -- department of justice -- secretary of state -- university system -- STATE**
21 **AUDITOR -- office of public instruction -- national guard.** (1) Unless the proposed activities would
22 detrimentally affect the operation of ~~the central computer center or the statewide state~~ ANY INFORMATION
23 TECHNOLOGY RESOURCE OR THE STATE telecommunications network, the office of public instruction, THE OFFICE
24 OF THE STATE AUDITOR, and the secretary of state are exempt from 2-17-512(1)(k) and (1)(l).

25 (2) Unless the proposed activities would detrimentally affect the operation of ~~the central computer~~
26 ~~center or the statewide~~ any information technology resource or the state telecommunications network, the
27 department of justice and the university system are exempt from:

28 (a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;

1 (b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;

2 (c) the budget approval provisions of 2-17-512(1)(g); and

3 (d) the provisions of 2-17-512(1)(k) and (1)(l).

4 (3) ~~The department, upon notification of proposed activities by the~~ THE department of justice, the
5 secretary of state, the university system, ~~or THE OFFICE OF THE STATE AUDITOR, AND~~ the office of public
6 instruction; SHALL NOTIFY THE DEPARTMENT OF PROPOSED ACTIVITIES BY SUBMITTING AN INFORMATION TECHNOLOGY
7 PROCUREMENT REQUEST AND THE DEPARTMENT shall determine if ~~the central computer center or the statewide any~~
8 information technology resource or the state telecommunications network would be detrimentally affected by
9 the proposed activity.

10 (4) (a) For purposes of this section, a proposed activity affects the operation of ~~the central~~
11 ~~computer center or the statewide any information technology resource or the state~~ telecommunications network
12 if it detrimentally affects the processing workload, reliability, cost of providing service, or support service
13 requirements of ~~the central computer center or the statewide any information technology resource or the state~~
14 telecommunications network or fails to meet the minimum security policies and standards set by the
15 department.

16 (b) Potential loss of revenue from fees paid by the department of justice, the secretary of state, the
17 university system, THE OFFICE OF THE STATE AUDITOR, or the office of public instruction for not utilizing services
18 offered by the department are not considered a detrimental effect to ~~the statewide telecommunications network~~
19 ~~or central computer center any information technology resource or the state telecommunications network~~. If the
20 department of justice, the secretary of state, the university system, THE OFFICE OF THE STATE AUDITOR, or the
21 office of public instruction does not utilize a service program after the department's rate was set for the
22 biennium, the agency shall continue to pay any fees associated with the service or program for the remainder of
23 the biennium.

24 (5) When reviewing proposed activities of the university system, the department shall consider and
25 make reasonable allowances for the unique educational needs and characteristics and the welfare of the
26 university system as determined by the board of regents.

27 (6) When reviewing proposed activities of the office of public instruction, the department shall
28 consider and make reasonable allowances for the unique educational needs and characteristics of the office of

1 public instruction to communicate and share data with school districts.

2 (7) When reviewing proposed activities of the department of justice OR THE OFFICE OF THE STATE
3 AUDITOR, the department shall consider and make reasonable allowances for the unique safety and security
4 needs and characteristics of the department of justice OR THE OFFICE OF THE STATE AUDITOR to communicate and
5 share data with federal, state, and local law enforcement entities.

6 (8) Section 2-17-512(1)(u) may not be construed to prohibit the university system from accepting
7 federal funds or gifts, grants, or donations related to information technology or telecommunications.

8 (9) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."
9

10 **Section 10.** Section 2-17-518, MCA, is amended to read:

11 **"2-17-518. Rulemaking authority.** (1) The department ~~shall~~may adopt rules to implement this part,
12 including the following:

13 (a) rules to guide the review and approval process for state agency software and management
14 systems that provide similar functions for multiple state agencies, which must include but are not limited to:

- 15 (i) identifying the software and management systems that must be approved;
- 16 (ii) establishing the information that state agencies are required to provide to the department; and
- 17 (iii) establishing guidelines for the department's approval decision;

18 (b) rules to guide the review and approval process for state agency acquisition of information
19 technology resources, which must include but are not limited to processes and requirements for:

- 20 (i) agency submissions to gain approval for acquiring information technology resources;
- 21 (ii) approving specifications for information technology resources; and
- 22 (iii) approving contracts for information technology resources; and

23 (c) rules for granting exceptions from the requirements of this part, which must include but are not
24 limited to:

- 25 (i) a process for applying for an exception; and
- 26 (ii) guidelines for determining the department's approval decision.

27 (2) The department may adopt rules to guide the development of state agency information
28 technology plans. The rules may include:

- 1 (a) agency plan review procedures;
- 2 (b) agency plan content requirements;
- 3 (c) guidelines for the department's approval decision; and
- 4 (d) dispute resolution processes and procedures.

5 (3) Adequate rules for the use of any information technology resources must be adopted by the
6 supreme court for judicial branch agencies.

7 (4) The legislative council shall adopt enterprise principles and technical standards within an
8 enterprise architecture program as a part of the legislative branch information technology plan, as provided for
9 in 5-11-405, that will fulfill the intent of adequate rules for use of information technology resources for the
10 consolidated legislative branch, as provided for in 5-2-504."

11

12 **Section 11.** Section 2-17-521, MCA, is amended to read:

13 **"2-17-521. State strategic information technology plan -- biennial report.** (1) The department
14 shall prepare a state strategic information technology plan. The department shall seek the advice of the board
15 in the development of the plan.

16 (2) The plan must:

17 (a) reflect the policies as set forth in 2-17-505 and be in accordance with statewide ~~standards and~~
18 policies, framework, controls, standards, procedures, and guidelines established by the department;

19 (b) establish the statewide mission, goals, and objectives for the use of information technology,
20 including goals for electronic access to government records, information, and services; and

21 (c) establish the strategic direction for how state agencies will develop and use information
22 technology resources to provide state government services.

23 (3) The department shall update the plan as necessary. The plan and any updates must be
24 distributed as provided in 2-17-522.

25 (4) The department shall prepare a biennial report on information technology based on agency
26 information technology plans and performance reports required under 2-17-524 and other information
27 considered appropriate by the department. The biennial report must include:

28 (a) an analysis of the state's information technology infrastructure, including its value, condition,

- 1 and capacity;
- 2 (b) an evaluation of performance relating to information technology;
- 3 (c) an assessment of progress made toward implementing the state strategic information
4 technology plan;
- 5 (d) an inventory of ~~state information services, equipment, and proprietary software~~ information
6 technology resources;
- 7 (e) agency budget requests for major projects; and
- 8 (f) other information as determined by the department or requested by the governor or the
9 legislature."

10

11 **Section 12.** Section 2-17-523, MCA, is amended to read:

12 **"2-17-523. Agency information technology plans -- policy.** (1) Each state agency is required to
13 develop and maintain an agency information technology plan. The agency information technology plans must
14 reflect the content and format requirements specified in 2-17-524.

15 (2) An agency information technology plan must be submitted to and approved by the department
16 as described in 2-17-527.

17 (3) New investments in information technology resources can be included in the governor's budget
18 only if the ~~project is contained in the approved technology~~ is in the agency information technology plan and is in
19 support of the state information technology strategic plan."

20

21 **Section 13.** Section 2-17-524, MCA, is amended to read:

22 **"2-17-524. Agency information technology plans -- form and content -- performance reports.** (1)

23 Each agency's information technology plan must include but is not limited to the following:

24 (a) a statement of the agency's mission, goals, and objectives for information technology, including
25 a discussion of how the agency uses or plans to use information technology to provide mission-critical services
26 to Montana citizens and businesses;

27 (b) an explanation of how the agency's mission, goals, and objectives for information technology
28 support and conform to the state strategic information technology plan required in 2-17-521;

- 1 (c) a baseline profile of the agency's current information technology resources and capabilities
2 that:
- 3 (i) includes sufficient information to fully support state-level review and approval activities; and
4 (ii) will serve as the basis for subsequent planning and performance measures;
- 5 (d) an evaluation of the baseline profile that identifies real or potential deficiencies or obsolescence
6 of the agency's information technology resources and capabilities;
- 7 (e) a list of new ~~projects~~ technology strategies and resources required to meet the objectives of the
8 agency's information technology plan. The investment required for the new projects and resources must be
9 developed using life-cycle cost analysis, including the initial investment, maintenance, and replacement costs,
10 and must fulfill or support an agency's business requirements.
- 11 (f) when feasible, estimated schedules and funding required to implement identified projects; and
12 (g) any other information required by law or requested by the department, the governor, or the
13 legislature.
- 14 (2) Each agency's information technology plan must project activities and costs over a 6-year time
15 period, consisting of the biennium during which the plan is written or updated and the 2 subsequent bienniums.
- 16 (3) Each agency shall prepare and submit to the department a biennial performance report that
17 evaluates progress toward the objectives articulated in its information technology plan. The report must include:
- 18 (a) an evaluation of the agency's performance relating to information technology;
19 (b) an assessment of progress made toward implementing the agency information technology
20 plan; and
21 (c) an inventory of agency information ~~services, equipment, and proprietary software~~ technology
22 resources.
- 23 (4) State agencies shall prepare agency information technology plans and biennial performance
24 reports using standards, elements, forms, and formats specified by the department."
25

26 **Section 14.** Section 2-17-526, MCA, is amended to read:

27 **"2-17-526. Information technology project budget summary.** (1) (a) The office of budget and
28 program planning, in cooperation with the department, shall prepare a statewide summary of:

1 (i) proposed major new information technology ~~projects~~ strategic objectives contained in the state
2 budget; and

3 (ii) proposed major information technology ~~projects~~ purchases or implementation impacting
4 another state agency or branch of government to be funded within the current operating budgets, including
5 replacement of or upgrade to existing systems.

6 (b) The office of budget and program planning and the department shall jointly determine the
7 criteria for classifying a project as a major information technology project.

8 (2) The information technology ~~project~~ strategic objective summary must include:

9 (a) a listing by institution, agency, or branch of all proposed major information technology ~~projects~~
10 purchases or implementations described in subsection (1). Each proposed ~~project~~ purchase or implementation
11 included on the list must include:

12 (i) a description of what would be accomplished by completing the ~~project~~ purchase or
13 implementation;

14 (ii) a list of the existing information technology applications for all branches of government that
15 may be impacted by the ~~project~~ purchase or implementation;

16 (iii) an estimate, prepared in consultation with the impacted agencies, of the costs and resource
17 impacts on existing information technology applications;

18 (iv) the estimated cost of the ~~project~~ purchase or implementation;

19 (v) the source for funding the ~~project~~ purchase or implementation, including funds within an
20 existing operating budget or a new budget request; and

21 (vi) the estimated cost of operating information technology ~~systems~~ resources.

22 (b) a listing of internal service rates proposed for providing information technology services. Each
23 internal service rate included on the list must include:

24 (i) a description of the services provided; and

25 (ii) a breakdown, aggregated by fund type, of requests included in the state budget to support the
26 rate.

27 (c) any other information as determined by the budget director or the department or as requested
28 by the governor or the legislature.

1 (3) The information technology project summary must be presented to the legislative fiscal analyst
2 in accordance with 17-7-111(4)."

3

4 **Section 15.** Section 2-17-532, MCA, is amended to read:

5 **"2-17-532. Establishment.** (1) The department shall establish and maintain appropriate ~~electronic~~
6 ~~access systems~~ information technology resources for state agencies ~~to use to provide direct electronic for use~~
7 in access to information and services by citizens, businesses, and other government entities. State agencies
8 shall establish ~~electronic-digital~~ access systems that meet minimum technical standards established by the
9 department. Agencies involved in communicating information or providing services to the public shall use these
10 systems to provide appropriate information to the public, including but not limited to:

- 11 (a) descriptions of agency functions, including contact information;
- 12 (b) agency program services provided to citizens, businesses, and other government entities;
- 13 (c) environmental assessments;
- 14 (d) rulemaking notices;
- 15 (e) board vacancy notices as required by 2-15-201;
- 16 (f) agency reports mandated by statute;
- 17 (g) parks reports required by 23-1-110;
- 18 (h) requests for bids or proposals; and
- 19 (i) public meeting notices and agendas.

20 (2) The purpose of ~~electronic-digital~~ access systems is to encourage the practice of providing for
21 direct citizen, business, and other government entity access to state ~~computerized information and services~~
22 information technology resources."

23

24 **Section 16.** Section 2-17-533, MCA, is amended to read:

25 **"2-17-533. Responsibilities.** (1) The department shall:

- 26 (a) establish policies, framework, controls, standards, and procedures, and guidelines for the
27 ~~electronic-digital~~ access systems;
- 28 (b) establish appropriate services to support state agencies' use of the ~~electronic-digital~~ access

1 systems; and

2 (c) develop user-friendly systems for entities regularly interacting with state government, including
3 but not limited to citizens, businesses, and other government entities, and promote the systems' use to reduce
4 ~~copying and mailing~~ costs for state government and as a means to obtain information and services faster and in
5 a more cost-effective manner.

6 (2) The department shall provide security to protect the integrity of its ~~electronic~~ digital access
7 systems.

8 (3) Each department is responsible for ensuring the integrity and appropriateness of the
9 information that it places in the ~~electronic~~ digital access systems.

10 (4) The department shall provide for an equitable method for recovering the cost of operating the
11 ~~electronic~~ digital access systems that the department provides."

12

13 **Section 17.** Section 2-17-534, MCA, is amended to read:

14 **"2-17-534. Security responsibilities of department.** The department is responsible for providing
15 centralized management and coordination of state policies for security of data and information technology
16 resources and shall:

17 (1) establish and maintain the minimum ~~security standards and policies, framework, controls,~~
18 standards, procedures, and guidelines to implement 2-15-114, including the physical security of ~~the central~~
19 ~~computer center, statewide telecommunications network, and backup facilities consistent with these standards~~
20 information technology resources and the state telecommunications network;

21 (2) establish guidelines to assist agencies in identifying information technology personnel
22 occupying positions of special trust or responsibility or sensitive locations;

23 (3) establish standards and policies for the exchange of data between any agency information
24 technology resource and any other state agency, private entity, or public entity to ensure that exchanges do not
25 jeopardize data security and confidentiality;

26 (4) coordinate and provide for a training program regarding security of data and information
27 technology resources to serve governmental technical and managerial needs;

28 (5) include appropriate security requirements in the specifications for solicitation of state contracts

1 for procuring data and information technology resources; and

2 (6) ~~upon-on~~ request, provide technical and managerial assistance relating to information
3 technology security."
4

5 **Section 18.** Section 2-17-546, MCA, is amended to read:

6 **"2-17-546. Exemption of criminal justice information network -- exception.** The provisions of this
7 part do not apply to the criminal justice information network or its successor except for the provisions dealing
8 with the purchase, maintenance, and allocation of telecommunication ~~facilities~~ service delivery. However, the
9 department of justice shall cooperate with the department to coordinate ~~the telecommunications networks~~
10 services of the state."
11

12 **Section 19.** Section 2-17-551, MCA, is amended to read:

13 **"2-17-551. Definitions.** As used in 2-17-550 through 2-17-553, the following definitions apply:

14 (1) "Collect" means the gathering of personally identifiable information about a user of an internet
15 service, online service, or website by or on behalf of the provider or operator of that service or website by any
16 means, direct or indirect, active or passive, including:

17 (a) an online request for the information by the provider or operator, regardless of how the
18 information is transmitted to the provider or operator;

19 (b) the use of an online service to gather the information; or

20 (c) tracking or use of any identifying code linked to a user of a service or website, including the use
21 of cookies.

22 (2) "Governmental entity" means the state and political subdivisions of the state.

23 (3) "Government ~~website~~ operator" or "operator" means a governmental entity that operates a
24 website located on the internet or an online service and or social media presence or uses any digital means of
25 providing digital services that collects or maintains personal information from or about the users of or visitors to
26 the website or online service or on whose behalf information is collected or maintained.

27 (4) "Internet" means, collectively, the myriad of computer and telecommunications facilities,
28 including equipment and operating software, that comprise the interconnected worldwide network of networks

1 that use the transmission control protocol/internet protocol or any predecessor or successor protocols to
2 communicate information of all kinds by wire or radio.

3 (5) "Online" means any activity regulated by 2-17-550 through 2-17-553 that is effected by active
4 or passive use of an internet connection, regardless of the medium by or through which the connection is
5 established.

6 (6) "Personally identifiable information" means individually identifiable information about an
7 individual collected online, including:

8 (a) a first and last name;

9 (b) a residence or other physical address, including a street name and name of a city or town;

10 (c) an e-mail address;

11 (d) a telephone number;

12 (e) a social security number; or

13 (f) unique identifying information that an internet service provider or a government ~~website~~
14 operator collects and combines with any information described in subsections (6)(a) through (6)(e).

15 (7) "Political subdivision" means any county, city, municipal corporation, school district, or other
16 political subdivision or public corporation.

17 (8) "State" means the state of Montana or any office, department, agency, authority, commission,
18 board, institution, hospital, college, university, or other instrumentality of the state."

19

20 **Section 20.** Section 2-17-552, MCA, is amended to read:

21 **"2-17-552. Collection of personally identifiable information -- requirements.** (1) A government
22 ~~website~~ operator may not collect personally identifiable information online from a ~~website~~ user unless the
23 operator complies with the provisions of this section.

24 (2) (a) A government ~~website~~ operator shall ensure ~~that the website~~ the information delivery
25 system or platform:

26 (a)(i) identifies who operates the ~~website~~ system;

27 (b)(ii) provides ~~the address and telephone number at which the operator may be contacted as well as~~
28 ~~an electronic~~ both physical and electronic means for contacting the operator; and

1 ~~(e)(iii)~~ generally describes the operator's information practices, including policies to protect the privacy
2 of the user and the steps taken to protect the security of the collected information; and

3 (b) If the department determines that an agency is not in compliance with the state security
4 policies, framework, controls, standards, procedures, and guidelines provided for in 2-17-534, the department
5 may take appropriate action, in its sole discretion, up to and including terminating the information technology
6 resource and requiring the use of an alternative information technology resource.

7 (3) In addition to the requirements of subsection (2)(a), if the personally identifiable information
8 may be used for a purpose other than the express purpose of the website for the collection or may be given or
9 sold to a third party, except as required by law, then the operator shall ensure that the website information
10 technology resource includes:

11 (a) a clear and conspicuous notice to the user that the information collected could be used for
12 other than the purposes of the website collection;

13 (b) a general description of the types of third parties that may obtain the information; and

14 (c) a clear, conspicuous, and easily understood online procedure requiring an affirmative
15 expression of the user's permission before the information is collected."

16

17 **Section 21.** Section 2-17-1101, MCA, is amended to read:

18 "**2-17-1101. Short title.** This part may be cited as the "Montana ~~Electronic-Digital~~ Government
19 Services Act"."

20

21 **Section 22.** Section 2-17-1102, MCA, is amended to read:

22 "**2-17-1102. Definitions.** As used in this part, unless the context requires otherwise, the following
23 definitions apply:

24 (1) "Convenience fee" means a fee charged to recover the costs of providing ~~electronic-digital~~
25 government services.

26 (2) "Costs" means the overall costs that the department may incur to provide ~~electronic digital~~
27 government services, including the costs of contracts entered into with private entities to assist in providing
28 ~~electronic-digital~~ government services.

1 (3) "Department" means the department of administration provided for in 2-15-1001.

2 (4) "Infrastructure" means the underlying technology necessary to provide ~~electronic-digital~~
3 government services."
4

5 **Section 23.** Section 2-17-1103, MCA, is amended to read:

6 **"2-17-1103. Responsibilities of department for ~~electronic-digital~~ government.** (1) The department
7 shall:

8 (a) provide the ability for state agencies to offer ~~electronic-digital~~ government services by providing
9 a reasonable and secure infrastructure;

10 (b) provide a point of entry for ~~electronic-digital~~ government services to achieve a single face of
11 government;

12 (c) encourage a common look and feel for all ~~electronic-digital~~ government services for the benefit
13 of the customers of the services;

14 (d) set technological standards for ~~electronic-digital~~ government services;

15 (e) use technology that enables the greatest number of customers to obtain access to ~~electronic~~
16 ~~digital~~ government services;

17 (f) promote the benefits of ~~electronic-digital~~ government services through educational, marketing,
18 and outreach initiatives;

19 (g) promote transparency in information management; and

20 (h) share and coordinate information with political subdivisions whenever possible.

21 (2) To fulfill the responsibilities in subsection (1), the department may contract with private entities.
22 The department may charge convenience fees and may allow private entities to collect the convenience fees on
23 selected ~~electronic-digital~~ government services in order to provide funding for the support and furtherance of
24 ~~electronic-digital~~ government services.

25 (3) The department or a private entity under a contract as provided in subsection (2) may not use
26 any data associated with providing ~~electronic-digital~~ government services for any purpose that is not provided
27 for by law."
28

1 **Section 24.** Section 2-18-101, MCA, is amended to read:

2 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following
3 definitions apply:

4 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
5 government recognized in the state budget.

6 (2) "Base salary" means the base hourly pay rate annualized paid to an employee, excluding
7 overtime and longevity.

8 (3) "Benchmark" means a representative position in a specific occupation that is used to illustrate
9 the application of the job evaluation factor used to classify the occupation.

10 (4) "Blue-collar pay plan" means a strictly negotiated classification and pay plan consisting of
11 unskilled or skilled labor, trades, and crafts occupations.

12 (5) "Board" means the board of personnel appeals established in 2-15-1705.

13 (6) "Broadband classification plan" means a job evaluation method that measures the difficulty of
14 the work and the knowledge or skills required to perform the work.

15 (7) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on a
16 classification plan, including market midpoint and occupational wage ranges.

17 (8) "Compensation" means the annual or hourly wage or salary and includes the longevity
18 allowance provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

19 (9) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors
20 that contribute to success in a position.

21 (10) "Department" means the department of administration created in 2-15-1001.

22 (11) (a) Except in 2-18-306, "employee" means any state employee other than an employee
23 excepted under 2-18-103 or 2-18-104.

24 (b) The term does not include a student intern.

25 (12) "Job evaluation factor" means a measure of the complexities of the predominant duties of a
26 position.

27 (13) "Job sharing" means the sharing by two or more persons of a position.

28 (14) "Market midpoint" means the median base salary that other employers pay to employees in

1 comparable occupations as determined by the department's salary survey of the relevant labor market.

2 (15) "Occupation" means a generalized family of positions having substantially similar duties and
3 requiring similar qualifications, education, and experience.

4 (16) "Occupational wage range" means a range of pay, including a minimum, market midpoint, and
5 maximum salary, for a specific occupation that is most consistent with the pay being offered by competing
6 employers for fully competent employees within that occupation. The salary for an employee may be less than
7 the minimum salary.

8 (17) "Pay band" means a wide salary range covering a number of different occupations. Pay bands
9 are used for reporting and analysis purposes only.

10 (18) "Pay progression" means a process by which an employee's compensation may be increased,
11 based on documented factors determined by the department, to bring the employee's compensation to a higher
12 rate within the occupational wage range of the employee.

13 (19) "Permanent employee" means an employee who is designated by an agency as permanent,
14 who was hired through a competitive selection process unless excepted from the competitive process by law,
15 and who has attained or is eligible to attain permanent status.

16 (20) "Permanent status" means the state an employee attains after satisfactorily completing an
17 appropriate probationary period.

18 (21) "Personal staff" means those positions occupied by employees appointed by the elected
19 officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as
20 a whole.

21 (22) "Position" means a collection of duties and responsibilities currently assigned or delegated by
22 competent authority, requiring the full-time, part-time, or intermittent employment of one person.

23 (23) "Program" means a combination of planned efforts to provide a service.

24 (24) "Seasonal employee" means a permanent employee who is designated by an agency as
25 seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights
26 or benefits accrued during the preceding season.

27 (25) "Short-term worker" means a person who:

28 (a) may be hired by an agency without using a competitive hiring process for an hourly wage

- 1 established by the agency;
- 2 (b) may not work for the agency for more than 90 days in a continuous 12-month period;
- 3 (c) is not eligible for permanent status;
- 4 (d) may not be hired into a permanent position by the agency without a competitive selection
- 5 process;
- 6 (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter; and
- 7 (f) may be discharged without cause.
- 8 (26) "Student intern" means a person who:
- 9 (a) has been accepted in or is currently enrolled in an accredited school, college, or university and
- 10 may be hired by an agency in a student intern position without using a competitive selection process;
- 11 (b) is not eligible for permanent status;
- 12 (c) is not eligible to become a permanent employee without a competitive selection process;
- 13 (d) must be covered by the hiring agency's workers' compensation insurance;
- 14 (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter; and
- 15 (f) may be discharged without cause.
- 16 (27) (a) "Telework" means a flexible work arrangement ~~where~~ in which a designated employee may
- 17 work from:
- 18 (i) home within the state of Montana or an alternative worksite within the state of Montana 1 or
- 19 more days a week instead of physically traveling to a central workplace; or
- 20 (ii) an alternative worksite outside the state of Montana limited to:
- 21 (A) employees who are mental health professionals as defined in 27-1-1101 involved in
- 22 psychological or psychiatric evaluations and treatment;
- 23 (B) employees engaged in providing services related to information technology resources as
- 24 defined in 2-17-506;
- 25 (C) employees who are medical professionals involved in medical evaluations and treatment; or
- 26 (D) employees who are engaged in providing services related to economic development outside
- 27 the state and whose work duties require the employees to reside out of state.
- 28 (b) The office of budget and program planning must approve a designated employee's alternative

1 worksite outside the state of Montana before the employee begins work.

2 (28) "Temporary employee" means an employee who:

3 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

4 (b) performs duties on a temporary basis;

5 (c) is not eligible for permanent status;

6 (d) is terminated at the end of the employment period; and

7 (e) is not eligible to become a permanent employee without a competitive selection process."

8

9 **Section 25.** Section 7-22-2151, MCA, is amended to read:

10 **"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district, including
11 the department of transportation; the department of fish, wildlife, and parks; the department of corrections; the
12 department of natural resources and conservation; and the university system, shall enter into a written
13 agreement with the board. The agreement must specify mutual responsibilities for integrated noxious weed
14 management on state-owned or state-controlled land within the district. The agreement must include the
15 following:

16 (a) an integrated noxious weed management plan, which must be updated biennially;

17 (b) a noxious weed management goals statement;

18 (c) a specific plan of operations for the biennium, including a budget to implement the plan; and

19 (d) a provision requiring a biennial performance report by the board to the state weed coordinator
20 in the department of agriculture, on a form to be provided by the state weed coordinator, regarding the success
21 of the plan.

22 (2) The board and the governing body of each incorporated municipality within the district shall
23 enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the
24 boundaries of the municipality. The board may implement management procedures described in the plan within
25 the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality
26 remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

27 (3) A board may develop and carry out its noxious weed management program in cooperation with
28 boards of other districts, with state and federal governments and their agencies, or with any person within the

1 district. The board may enter into cooperative agreements with any of these parties.

2 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all
3 noxious weed actions that are subject to the agreement required under subsection (1) to the state weed
4 coordinator and shall post a copy of the statement or summary on a state ~~electronic~~ digital access system."

5

6 **Section 26.** Section 10-3-106, MCA, is amended to read:

7 **"10-3-106. Communications.** (1) The division shall coordinate whatever means exist for rapid and
8 efficient communications in time of emergency or disaster.

9 (2) The division shall, in cooperation with the department of administration, consider the desirability
10 of supplementing communications resources or of integrating them into a comprehensive state or state-federal
11 telecommunications or other communications system or network.

12 (3) The division shall, in cooperation with the department of administration and local political
13 subdivisions, evaluate the possibility of multipurpose use of communications systems or networks for general
14 state and local governmental purposes.

15 (4) The division shall assist political subdivisions in the orderly development of telecommunications
16 systems complementary to the ~~statewide~~ state telecommunications network."

17

18 **Section 27.** Section 61-3-346, MCA, is amended to read:

19 **"61-3-346. County motor vehicle computer committee.** (1) There is a county motor vehicle
20 computer committee.

21 (2) The committee is allocated to the department of justice for administrative purposes only as
22 provided in 2-15-121.

23 (3) The committee consists of:

24 (a) an employee of the department of ~~administration, appointed by the director of the department~~
25 justice information technology division, appointed by the attorney general;

26 (b) two county treasurers, appointed by the Montana county treasurers association; and

27 (c) two employees of the department of justice, appointed by the attorney general."

28

1 **Section 28.** Section 61-3-347, MCA, is amended to read:

2 **"61-3-347. Duties of county motor vehicle computer committee.** (1) The county motor vehicle
3 computer committee shall:

4 (a) establish the requirements and specifications for the county motor vehicle computer system to
5 be used by county treasurers and the department of justice to register and renew the registration of motor
6 vehicles, boats, snowmobiles, and off-highway vehicles;

7 (b) approve the purchase of computer equipment, including peripherals, to be used for the
8 registration and renewal of the registration of motor vehicles, boats, snowmobiles, and off-highway vehicles;

9 (c) approve the procedures for the development of the county motor vehicle computer system
10 provided for in 61-3-345 and for training in the use of that system.

11 (2) As used in this section, "computer system" means the county motor vehicle application system
12 and does not include the central computer centers or imply that the department of administration is responsible
13 for establishing policy and operating and maintaining ~~central computer centers~~ the county motor vehicle
14 computer system."

15

16 **Section 29.** Section 61-11-105, MCA, is amended to read:

17 **"61-11-105. Release of information -- fees.** (1) Subject to the limitations of this section, the
18 department shall, upon request, furnish a person the individual Montana driving record of a driver or licensee,
19 containing the following data:

20 (a) the driver's or licensee's name, driver's license number, and date of birth;

21 (b) driver's license status, including the license type and any endorsements, the license issue date,
22 license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver
23 or licensee, and the license expiration date;

24 (c) convictions of the driver or licensee; and

25 (d) traffic accidents in which the driver or licensee was involved.

26 (2) The department may not enter into any agreement to disclose or sell, in bulk, any data
27 contained in an individual Montana driving record unless the requester of the information provides the
28 department with the names, driver's license numbers, and dates of birth of the drivers or licensees from whose

1 records a change in license status or conviction activity is to be reported.

2 (3) (a) The department may not disclose personal information or highly restricted personal
3 information from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-
4 508, or 61-11-509.

5 (b) The department may not disclose medical certification status, driver self-certification status, or
6 medical certificate information from a CDLIS driver record as part of an individual Montana driving record
7 except as expressly authorized under 49 CFR 384.225.

8 (4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-
9 203, may not be released by the department unless the release is requested or approved by a party involved in
10 the accident or is required by court order or a duly executed subpoena.

11 (5) (a) Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a
12 fee of \$4 must be paid for each individual Montana driving record requested. A fee of \$10 must be paid if a
13 certified Montana record, as provided in 61-11-102(7), is requested. A fee of 6 cents must be paid for each
14 individual Montana driving record that is searched by the department to report to a requester a change in
15 license status or conviction activity from one or more individual Montana driving records.

16 (b) An individual Montana driving record must be provided without charge to any criminal justice
17 agency, as defined in 44-5-103, or other state or federal agency.

18 (6) In addition to the fees required in 61-11-510(3) and subsection (5) of this section, an individual
19 Montana driving record or any report compiled from one or more individual Montana driving records that are
20 ~~electronically~~ digitally transmitted to a requester by an authorized agent as provided in 61-3-116 or through a
21 point of entry for ~~electronic~~ digital government services are subject to the convenience fee provided for in 2-17-
22 1103 or 61-3-116.

23 (7) The department may require a requester, other than a federal, state, or local government
24 agency, seeking one or more individual Montana driving records or any data otherwise contained in one or
25 more individual Montana driving records in ~~electronic~~ digital format to use an authorized agent as provided in
26 61-3-116 or a point of entry for ~~electronic~~ digital government services to obtain the record or data."

27

28 **Section 30.** Section 75-10-805, MCA, is amended to read:

1 **"75-10-805. State government waste reduction and recycling program.** (1) In order to progress
2 toward achieving the waste reduction targets identified in 75-10-803, each state agency, the legislature, and the
3 university system shall:

4 (a) prepare a waste reduction and recycling plan to reduce the solid waste generated by state
5 government. This plan must be submitted to the department and must include, at a minimum, provisions for the
6 composting of yard wastes and the recycling of office and computer paper, cardboard, used motor oil, used oil
7 filters, and other materials produced by the state for which recycling markets exist or may be developed.

8 (b) establish and implement a waste reduction and recycling program; and

9 (c) apply computer technology to reduce the generation of waste paper through:

10 (i) the use of ~~electronic-digital~~ access systems;

11 (ii) the transfer of information in electronic rather than paper form; and

12 (iii) other applications of computer technology.

13 (2) The plan must be evaluated every 5 years and updated as necessary."
14

15 **Section 31.** Section 87-1-272, MCA, is amended to read:

16 **"87-1-272. Future fisheries improvement program -- funding priority -- reports required.** (1) In
17 order to enhance future fisheries through natural reproduction, the department shall establish and implement a
18 statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and
19 lakes of Montana's fisheries.

20 (2) When projects are suggested by the future fisheries review panel, the department shall,
21 through a public hearing process and with the approval of the commission, prioritize projects that have been
22 recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic
23 habitat of native fish species. The department shall fund and implement the program regarding the long-term
24 enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water,
25 and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future
26 fisheries improvement program may not restrict or interfere with the exercise of any water rights or property
27 rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that
28 a program project has been completed on private property does not create any right of public access to the

1 private property unless that right is granted voluntarily by the property owner.

2 (3) The department shall work in cooperation with private landowners, conservation districts,
3 irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement
4 program. Any department employee who is employed under this section to facilitate contact with landowners
5 must have experience in commercial or irrigated agriculture. The department shall encourage the use of
6 volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The
7 department may use contracted services:

8 (a) for negotiations with landowners, local officials, citizens, and others;

9 (b) for coordination with other agencies that may be involved in projects conducted under this
10 section; and

11 (c) to perform and supervise project work.

12 (4) Funds expended under this section may be used only for projects for the protection of the
13 fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the
14 commission and may not be used for the acquisition of any interest in land.

15 (5) (a) The department shall report to the commission on the progress of the future fisheries
16 improvement program every 12 months and post a copy of the report on a state ~~electronic~~digital access
17 system to ensure public access to the report.

18 (b) The department shall also present a detailed report to the legislature in accordance with 5-11-
19 210 on the progress of the future fisheries improvement program. The legislative report must include the
20 department's program activities and expenses since the last report and the project schedules and anticipated
21 expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

22 (c) In order to implement 87-1-273 and this section, the department may expend revenue from the
23 future fisheries improvement program for up to two additional full-time employees."

24 - END -