

2-15-406 through 2-15-410 reserved.

2-15-411. Commissioner of political practices. (1) There is a commissioner of political practices who is appointed as provided in 13-37-102.

(2) The office of the commissioner is attached to the office of the secretary of state for administrative purposes only, as specified in 2-15-121, except that the provisions of subsections (1)(b), (1)(c), (2)(a), (2)(b), (2)(d), (2)(e), and (3)(a) of 2-15-121 do not apply.

History: En. 23-4785 by Sec. 10, Ch. 480, L. 1975; amd. Sec. 62, Ch. 365, L. 1977; amd. Sec. 1, Ch. 461, L. 1977; R.C.M. 1947, 23-4785(part); amd. Sec. 19, I.M. No. 85, approved Nov. 4, 1980.

Cross-References

Powers and duties, Title 13, ch. 37.

2-15-412. Board of state canvassers. The board of state canvassers created in 13-15-502 is allocated to the office of the secretary of state for administrative purposes only as prescribed in 2-15-121.

History: En. 82A-2102 by Sec. 1, Ch. 272, L. 1971; R.C.M. 1947, 82A-2102; amd. Sec. 12, Ch. 184, L. 1979.

Cross-References

Powers and duties, Title 13, ch. 15, part 5.

2-15-413. Repealed. Sec. 407, Ch. 571, L. 1979.

History: En. by Code Commissioner, 1979; amd. Sec. 13, Ch. 184, L. 1979.

Part 5 Attorney General

2-15-501. General duties. It is the duty of the attorney general:

(1) to prosecute or defend all causes in the supreme court in which the state or any officer of the state in the officer's official capacity is a party or in which the state has an interest;

(2) to represent the state in all bankruptcy proceedings in which the state's interest may be affected and in other debt collection proceedings at the request of a state agency;

(3) after judgment in any of the causes referred to in subsections (1) and (2), to direct the issuing of a process as may be necessary to carry the judgment into execution;

(4) to keep a register of all cases prosecuted or defended by the attorney general. The register must be open to the inspection of the public during business hours. The attorney general shall deliver the register to the attorney general's successor in office.

(5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney shall, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of the county attorney's duties or to prosecute or defend appropriate cases in which the state or any officer of the state in the officer's official capacity is a party or in which the state has an interest;

(7) to give an opinion in writing, without fee, to the legislature or either house of the legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, or to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. The attorney general shall give the opinion within 3 months following the date that it is requested unless the attorney general certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer, board, commission, or department, the attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

(8) to discharge the duties of a member of the board of examiners and state board of land commissioners;

(9) to perform all other duties as required by law.

History: (1) thru (12) Ap. p. Sec. 460, Pol. C. 1895; re-en. Sec. 193, Rev. C. 1907; re-en. Sec. 199, R.C.M. 1921; Cal. Pol. C. Sec. 470; re-en. Sec. 199, R.C.M. 1935; amd. Sec. 89, Ch. 199, L. 1965; amd. Sec. 13, Ch. 344, L. 1973; amd. Sec. 1, Ch. 257, L. 1975; amd. Sec. 1, Ch. 118, L. 1977; amd. Sec. 12, Ch. 343, L. 1977; Sec. 82-401, R.C.M. 1947; Ap. p. Sec. 4450, Pol. C. 1895; amd. Sec. 1, p. 76, L. 1899; re-en. Sec. 3052, Rev. C. 1907; re-en. Sec. 4819, R.C.M. 1921; Cal. Pol. C. Sec. 4256; amd. Sec. 1, Ch. 187, L. 1935; re-en. Sec. 4819, R.C.M. 1935; amd. Sec. 1, Ch. 17, L. 1965; Sec. 16-3101, R.C.M. 1947; (13) En. Sec. 1, Ch. 158, L. 1925; re-en. Sec. 199.1, R.C.M. 1935; Sec. 82-402, R.C.M. 1947; R.C.M. 1947, 16-3101(part), 82-401, 82-402; amd. Sec. 5, Ch. 125, L. 1983; amd. Sec. 1, Ch. 691, L. 1991; amd. Sec. 1, Ch. 196, L. 1995; amd. Sec. 1, Ch. 72, L. 1999.

Cross-References

Cath of office, Art. III, sec. 3, Mont. Const.; 2-16-211.
 Impeachment, Art. V, sec. 13, Mont. Const.; Title 5, ch. 5, part 4.
 Election, Art. VI, sec. 2, Mont. Const.
 Qualifications for office, Art. VI, sec. 3, Mont. Const.
 Duties, Art. VI, sec. 4, Mont. Const.
 Vacancy in office — how filled, Art. VI, sec. 6, Mont. Const.
 Board of Land Commissioners, Art. X, sec. 4, Mont. Const.; 77-1-201.
 Opinions published in Administrative Register, 2-4-312.
 Legal assistance for administrative hearings, 2-4-611.
 Appointment of member of Reserved Water Rights Compact Commission, 2-15-212.
 Board of Examiners, 2-15-1007.
 Department of Justice, 2-15-2001; Title 44.
 Salary, 2-16-405.
 County Attorneys generally, 7-4-2716.
 Tobacco products reserve fund — Attorney General duties, 16-11-403.
 Contract actions against state — service and duties, 18-1-412, 18-1-413.
 Duty of Attorney General with regard to crime victims, 41-5-1416, 46-24-103.
 Appointment of railroad special peace officers, Title 44, ch. 4, part 9.

2-15-502. Qualification of assistants. Each assistant attorney general must be duly licensed to practice law in the state of Montana at the time of his appointment.

History: En. Sec. 2, p. 96, L. 1901; en. Sec. 2, Ch. 13, L. 1907; Sec. 197, Rev. C. 1907; re-en. Sec. 203, R.C.M. 1921; re-en. Sec. 203, R.C.M. 1935; R.C.M. 1947, 82-406.

Cross-References

Admission to Bar of Montana — Supreme Court, Art. VII, sec. 2, Mont. Const.; Title 37, ch. 61, part 1.
 Deputies and assistants, Title 2, ch. 16, part 3.

2-15-503. Representation of state in bankruptcy and debt collection proceedings — collection of fees from state agencies. (1) In all matters involving bankruptcy or collection of debts owed to the state in which the attorney general provides legal assistance to a state agency, the attorney general may charge a fee to the agency plus reimbursement for actual expenses reasonably incurred. The fee may be an hourly charge, or the attorney general may designate a percentage of collected proceeds to be retained for the costs of providing legal assistance. The fees and expenses must be reasonably related to the costs of the attorney general in providing legal assistance to state agencies in bankruptcy and debt collection matters.

(2) Fees and expenses retained by the attorney general under subsection (1) must be deposited in an account in the internal service fund for the costs of providing legal assistance in bankruptcy and debt collection matters. Any funds in excess of the amount appropriated for operation of the bankruptcy program must be carried forward into the next fiscal year for continued operation of the program. Any excess funds carried forward into the next fiscal year, after meeting a 60-day working capital reserve, must be used to reduce the designated percentage of the collected proceeds charged to the various agencies. All amounts collected that are not applied to fees must be deposited to the account or fund of the agency to which the debt was originally owed.

History: En. Sec. 2, Ch. 72, L. 1999.

Part 6 State Auditor

2-15-601. State auditor. There is a state auditor as provided in Article VI, section 1, of the Montana constitution.

History: En. by Code Commissioner, 1979.

Workers' compensation, Title 39, ch. 71.

Workers' compensation state compensation insurance fund, Title 39, ch. 71, part 23.

2-15-1020. Appellate defender commission — duties — rules. (1) There is an appellate defender commission.

(2) The commission consists of five members appointed by the governor as follows:

(a) one district judge nominated by the district judges under a nominating procedure initiated and conducted by the supreme court and certified by the chief justice of the supreme court;

(b) three attorneys. In selecting the attorney appointees, the governor shall consider recommendations submitted by the president of the state bar of Montana, as follows:

(i) at least two attorneys who are experienced in the defense of felonies, at least one of whom has served a minimum of 1 year as a full-time public defender for a governmental agency or a public corporation; and

(ii) at least one attorney who has been licensed to practice law in this state for a minimum of 10 years.

(c) one member of the general public who is not an attorney or a judge, active or retired.

(3) The members shall serve staggered 3-year terms.

(4) The commission is allocated to the department of administration for administrative purposes only pursuant to 2-15-121.

(5) A member of the commission may not while serving a term on the commission serve as a county attorney or a deputy county attorney, the attorney general or an assistant attorney general, the United States district attorney or an assistant United States district attorney, or a law enforcement official.

(6) Members of the commission may not receive a salary for service on the commission but must be reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the discharge of official duties.

(7) The commission shall make rules for the conduct of its affairs.

(8) The commission shall develop a system of indigent appellate defense services.

(9) The commission shall propose to the supreme court minimum standards to which all trial and appellate public defenders, including locally appointed private counsel, shall conform.

(10) The commission shall compile and keep current a statewide roster of attorneys eligible for appointment by an appropriate court as trial and appellate defense counsel for indigent defendants. The roster must be supplied to all justices and judges in the state.

(11) The commission shall establish qualifications, duties, and priorities for the appellate defender, provided for in 46-8-211, not inconsistent with those established in 46-8-212.

History: En. Sec. 2, Ch. 781, L. 1991.

2-15-1021. Information technology board — membership — qualifications — vacancies — compensation. (1) There is an information technology board. The board consists of 19 members who are appointed as follows:

(a) the director of the department of administration, who serves as presiding officer of the board;

(b) the chief information officer provided for in 2-17-511;

(c) the director of the office of budget and program planning;

(d) six members who are directors of state agencies and who are appointed by the governor;

(e) two members representing local government, appointed by the governor;

(f) one member representing the public service commission, appointed by the public service commission;

(g) one member representing the private sector, appointed by the governor;

(h) one member of the house of representatives, appointed by the speaker of the house of representatives;

(i) one member of the senate, appointed by the president of the senate;

(j) one member representing the legislative branch, appointed by the legislative branch computer system planning council;

(k) one member representing the judicial branch, appointed by the chief justice of the supreme court;

(l) one member representing the university system, appointed by the board of regents; and
(m) one member representing K-12 education, appointed by the superintendent of public instruction.

(2) Appointments must be made without regard to political affiliation and must be made solely for the wise management of the information technology resources used by the state.

(3) A vacancy occurring on the board must be filled by the appointing authority in the same manner as the original appointment.

(4) The board shall function in an advisory capacity as defined in 2-15-102.

(5) Members of the board must be reimbursed and compensated in the same manner as members of quasi-judicial boards under 2-15-124(7), except that legislative members are reimbursed and compensated as provided in 5-2-302.

History: En. Sec. 1, Ch. 313, L. 2001.

Compiler's Comments

Effective Date: Section 47, Ch. 313, L. 2001, provided that this section is effective July 1, 2001.

2-15-1022 through 2-15-1024 reserved.

2-15-1025. State banking board — composition — allocation. (1) There is a state banking board.

(2) The board is composed of six members. The members of the board must be appointed with consideration given banks of small, medium, and large size and to geographical distribution. Two of the six members must be active officers in state banks of Montana; one must be an active officer of a national bank doing business in Montana; and three must be members of the public, none of whom is an officer, director, or shareholder of any state or national bank. The board shall elect a presiding officer from its members.

(3) The members must be appointed by the governor, with the consent of the senate, for terms of 3 years. Vacancies must be filled by appointment for the unexpired term. A member may not serve more than two consecutive terms.

(4) The board is allocated to the department of administration for administrative purposes only as provided in 2-15-121.

History: En. Sec. 1, Ch. 420, L. 1973; Sec. 5-607, R.C.M. 1947; amd. and redes. 82A-407 by Sec. 21, Ch. 431, L. 1975; R.C.M. 1947, 82A-407; amd. Sec. 3, Ch. 321, L. 1979; amd. Sec. 14, Ch. 274, L. 1981; amd. Sec. 3, Ch. 52, L. 1993; amd. Sec. 1, Ch. 395, L. 1993; amd. Sec. 10, Ch. 483, L. 2001; Sec. 2-15-1803, MCA 1999; redes. 2-15-1025 by Sec. 221(3), Ch. 483, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 483 in (4) after "department" inserted "of administration". Amendment effective July 1, 2001.

Cross-References

Financial Institutions, Title 32.

Functions of Board, Title 32, ch. 1, part 2.

2-15-1026. Board of county printing — composition — allocation — compensation. (1) There is a board of county printing.

(2) The board consists of five members appointed by the governor with the consent of the senate for terms of 2 years.

(3) The members are:

(a) two members of the printing industry;

(b) two county commissioners;

(c) one member of the general public.

(4) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.

(5) The members of the board must be compensated and reimbursed in the same manner and amount as provided for in 37-1-133.

History: (1) thru (4) En. 82A-904 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 103, Ch. 348, L. 1974; Sec. 82A-904, R.C.M. 1947; (5) En. Sec. 4, Ch. 280, L. 1967; amd. Sec. 59, Ch. 348, L. 1974; Sec. 16-1228, R.C.M. 1947; R.C.M. 1947, 16-1228, 82A-904; amd. Sec. 1, Ch. 247, L. 1981; MCA 1979, 2-15-1102; redes. 2-15-1811 by Sec. 12, Ch. 274, L. 1981; amd. Sec. 2, Ch. 474, L. 1981; amd. Sec. 11, Ch. 483, L. 2001; Sec. 2-15-1811, MCA 1989; redes. 2-15-1026 by Sec. 221(3), Ch. 483, L. 2001.

- 2-17-811. Custodial care of capitol buildings and grounds.
- 2-17-812. Inventory of improvements
- 2-17-813 through 2-17-815 reserved.
- 2-17-816. Parking citations within capitol complex.
- 2-17-817. Highway patrol officers' memorial.
- 2-17-818 through 2-17-824 reserved.
- 2-17-825. Report to legislature.

Parts 9 and 10 reserved

Part 11 — Montana Electronic Government Services Act

- 2-17-1101. Short title.
- 2-17-1102. Definitions.
- 2-17-1103. Responsibilities of department for electronic government.
- 2-17-1104. Rulemaking.
- 2-17-1105. Electronic government advisory council.

Part 1 Real Property and Buildings

2-17-101. Allocation of space. (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate space, the department periodically shall identify the amount, location, and nature of space used by each agency.

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state to meet the agency's requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate building or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase property for quarters without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers of the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) For state agencies located in a city other than Helena, the department shall consolidate the offices of these agencies in a single, central location within the city whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in the city to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

History: En. Sec. 8, Ch. 271, L. 1963; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 82-3308; amd. Sec. Ch. 700, L. 1983; amd. Sec. 1, Ch. 594, L. 1985; amd. Sec. 1, Ch. 655, L. 1989; amd. Sec. 1, Ch. 7, L. 1993; amd. Sec. 11, Ch. 530, L. 1995; amd. Sec. 1, Ch. 20, L. 1997.

2-17-102. Warehouses. The department of administration may maintain, rent, lease, or construct warehouses.

History: En. Sec. 3, Ch. 197, L. 1921; re-en. Sec. 286, R.C.M. 1921; re-en. Sec. 286, R.C.M. 1935; amd. Sec. 2, Ch. 80, L. 1961; amd. Sec. 59, Ch. 326, L. 1974; R.C.M. 1947, 82-1903.

2-17-103. Press room. The department of administration may provide space in the capitol for the use of representatives of the press.

History: En. Sec. 1, Ch. 138, L. 1945; R.C.M. 1947, 43-601; amd. Sec. 1, Ch. 439, L. 1983; amd. Sec. 20, L. 1997.

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permission of the speaker of the house of representatives, the minority leader of the house, the president of the senate, and the minority leader of the senate.

History: En. Sec. 2, Ch. 655, L. 1989; amd. Sec. 3, Ch. 20, L. 1997.

2-17-109. Renumbered 2-17-810. Sec. 9, Ch. 476, L. 1997.

2-17-110. Repealed. Sec. 156, Ch. 370, L. 1987.

History: En. Sec. 3, Ch. 700, L. 1983.

2-17-111. Renumbered 2-17-811. Sec. 9, Ch. 476, L. 1997.

2-17-112. Fire protection for state-owned buildings — department of administration — state fire prevention and investigation program. (1) The department of administration shall obtain information necessary to prepare a budget for each biennium for fire protection services for state-owned buildings that present particular firefighting problems as determined by the state fire prevention and investigation program of the department of justice. In preparing the budget, the state may consider providing protection directly or contracting for protection with a local fire service and making payments to local governments for fire services provided to state agencies, all of which are subject to appropriation by the legislature.

(2) The department of justice shall review provisions for protection of state-owned buildings in connection with inspections conducted under 50-3-102.

History: En. 82-3310.1, 82-3310.2 by Secs. 1, 2, Ch. 481, L. 1977; R.C.M. 1947, 82-3310.1, 82-3310.2; amd. Sec. 12, Ch. 575, L. 1981; amd. Sec. 1, Ch. 706, L. 1991.

2-17-113. Renumbered 2-17-816. Sec. 9, Ch. 476, L. 1997.

2-17-114 through 2-17-120 reserved.

2-17-121 through 2-17-126. Repealed. Sec. 11, Ch. 467, L. 1987.

Compiler's Comments

Histories of Repealed Sections:

2-17-121 through 2-17-126. En. Secs. 1 through 6, Ch. 144, L. 1979.

2-17-127. Repealed. Sec. 74, Ch. 18, L. 1995.

History: En. Sec. 3, Ch. 691, L. 1989.

2-17-128 through 2-17-130 reserved.

2-17-131. Renumbered 2-17-817. Sec. 9, Ch. 476, L. 1997.

Part 2

Equipage and Supplies

2-17-201. Inspection of property and warehouses. The warehouses, supplies, furnishings, and property of all kinds used in and about the business of the state is subject at all times to the inspection of the department of administration and any officer or employee of any agency.

History: En. Sec. 13, Ch. 66, L. 1923; re-en. Sec. 293.13, R.C.M. 1935; amd. Sec. 78, Ch. 326, L. 1974; R.C.M. 1947, 82-1923.

2-17-202. Inventory — property to be charged to receiving agency. (1) Each person in charge of any state property shall, upon request of the department of administration, furnish a sworn statement of all personal property in the person's possession or under the person's charge belonging to the state, together with an estimate of its value. The person shall furnish any other information in connection with the statement that the department requires.

(2) Each state department, office, board, commission, and institution must be charged with all items of personal property and all other personal property placed at the disposal of the state department, office, board, commission, or institution and must be credited with all worn out, used, lost, injured, or destroyed property from time to time as reported to the department of administration. The entity is responsible for all items of personal property not accounted for. Property may be accounted for as provided in 18-6-101.

History: (1) En. Sec. 1, Ch. 66, L. 1923; re-en. Sec. 293.1, R.C.M. 1935; amd. Sec. 66, Ch. 326, L. 1974; Sec. 82-1911, R.C.M. 1947; (2) En. Sec. 2, Ch. 66, L. 1923; re-en. Sec. 293.2, R.C.M. 1935; Sec. 82-1912, R.C.M. 1947; R.C.M. 1947, 82-1911, 82-1912(part); amd. Sec. 1, Ch. 441, L. 1999.

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Part 3 Mailing and Copying

2-17-301. Supervision of mailing and copying facilities. (1) The department of administration shall maintain and supervise any central mailing, messenger service, and copying facilities for state agencies in the capitol area. The central mailing, messenger service, and copying facilities must be capable of supporting state agencies within a 10-mile radius of the capitol.

(2) Cost records must be maintained, and agencies must be billed for services received.

(3) The department of administration shall plan, review, and approve any additional installations of mail equipment for state agencies within a 10-mile radius of the capitol. In approving the installation of additional equipment or systems, the department shall first consult with and consider the recommendations and advice of the department heads of the various state agencies.

History: (1), (3) En. Sec. 6, Ch. 271, L. 1963; amd. Sec. 1, Ch. 298, L. 1967; amd. Sec. 3, Ch. 101, L. 1969; amd. Sec. 2, Ch. 313, L. 1971; amd. Sec. 80, Ch. 326, L. 1974; Sec. 82-3306, R.C.M. 1947; (2) En. Sec. 7, Ch. 271, L. 1963; amd. Sec. 98, Ch. 326, L. 1974; Sec. 82-3307, R.C.M. 1947; R.C.M. 1947, 82-3306, 82-3307; amd. Sec. 1, Ch. 486, L. 1983; amd. Sec. 26, Ch. 313, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 313 in (1) in first sentence removed reference to duplicating and inserted last sentence relating to support within a 10-mile radius; deleted former (2) that read: "(2) The department shall maintain and supervise any central telephone switchboard for state agencies located in Helena"; inserted (3) relating to additional installations of mail equipment within a 10-mile radius of the capitol; and made minor changes in style. Amendment effective July 1, 2001.

2-17-302. Repealed. Sec. 43, Ch. 313, L. 2001.

History: En. Sec. 3, Ch. 230, L. 1971; amd. Sec. 6, Ch. 215, L. 1974; amd. Sec. 86, Ch. 326, L. 1974; amd. Sec. 1, Ch. 315, L. 1975; amd. Sec. 1, Ch. 341, L. 1977; R.C.M. 1947, 82-3325; amd. Sec. 1, Ch. 307, L. 1983; amd. Sec. 1, Ch. 42, L. 1987; amd. Sec. 1, Ch. 2, L. 1993.

2-17-303. Renumbered 2-17-531. Sec. 44(3), Ch. 313, L. 2001.

2-17-304. Repealed. Sec. 43, Ch. 313, L. 2001.

History: En. Sec. 7, Ch. 230, L. 1971; amd. Sec. 87, Ch. 326, L. 1974; R.C.M. 1947, 82-3329.

2-17-305. Repealed. Sec. 43, Ch. 313, L. 2001.

History: En. Sec. 8, Ch. 230, L. 1971; R.C.M. 1947, 82-3330.

2-17-306. Renumbered 2-17-546. Sec. 44(3), Ch. 313, L. 2001.

2-17-307 through 2-17-310 reserved.

2-17-311. Renumbered 2-17-541. Sec. 44(3), Ch. 313, L. 2001.

2-17-312. Renumbered 2-17-542. Sec. 44(3), Ch. 313, L. 2001.

2-17-313. Renumbered 2-17-543. Sec. 44(3), Ch. 313, L. 2001.

2-17-314 through 2-17-320 reserved.

2-17-321. Repealed. Sec. 43, Ch. 313, L. 2001.

History: En. Sec. 1, Ch. 268, L. 1989; amd. Sec. 1, Ch. 440, L. 1997.

2-17-322. Renumbered 2-17-532. Sec. 44(3), Ch. 313, L. 2001.

2-17-323. Renumbered 2-17-533. Sec. 44(3), Ch. 313, L. 2001.

Part 4 Vehicles

2-17-401. Title to motor vehicles. The legal title to state-owned motor vehicles shall be held in the name of the state only, and all agencies holding title to motor vehicles are hereby required to transfer the same to the state. In instances where such transfer would affect the federal funding of the agency involved, the agency transferring a vehicle in accordance with this

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2-17-415 through 2-17-420 reserved.

2-17-421. Use — state business only — exception — compensation for driving personal vehicle — penalty for private use. (1) Except as provided in 2-17-424, a state officer or state employee may not use a state-owned or leased motor vehicle for personal use nor be compensated for driving a personal motor vehicle unless that motor vehicle is used on state business.

(2) Except for vehicles that have been approved for confidential license plates by the attorney general in accordance with 44-4-201, a decal must be affixed to the windshield of each state-owned or leased vehicle, with the following information contained on the decal:

"Any officer or employee of state government who uses or authorizes the use of any state-owned or leased motor vehicle in violation of the acceptable use rules provided for in 2-17-424 may be removed from office by the head of the department or establishment concerned."

(3) The head of a department or agency may terminate the employment of any state employee using state-owned or leased vehicles for personal use in violation of the rules provided for in 2-17-424.

History: En. Sec. 4, Ch. 320, L. 1971; amd. Sec. 176, Ch. 316, L. 1974; amd. Sec. 4, Ch. 355, L. 1974; R.C.M. 1947, 53-517; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 5, Ch. 535, L. 1991; amd. Sec. 2, Ch. 226, L. 1999; amd. Sec. 3, Ch. 431, L. 1999.

Cross-References

Mileage allowance — private vehicle for state business, 2-18-503.

2-17-422. Operating history. Each state agency shall maintain motor vehicle operating history records for motor vehicles under control of the agency. These records must show the purchase price of the vehicle and the items of expense incurred in the operation of the vehicle, including the expenses of gas, oil, repairs, labor, storage, and service. A complete summary of the operating cost and history record of all state-owned or leased vehicles and trucks must be prepared for each fiscal year.

History: En. Sec. 6, Ch. 320, L. 1971; amd. Sec. 178, Ch. 316, L. 1974; amd. Sec. 6, Ch. 355, L. 1974; R.C.M. 1947, 53-519(2); amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 6, Ch. 535, L. 1991; amd. Sec. 4, Ch. 431, L. 1999.

2-17-423. Rules. (1) The department of transportation may adopt and enforce reasonable rules governing the maintenance and operation of motor vehicles under control of the department.

(2) The department shall establish reasonable rules governing:

(a) the manner and procedure by which motor pool vehicles may be rented or leased to state officials, state agencies, or state employees;

(b) procedures for determining when a motor pool vehicle is not available for use; and

(c) rental charges for a motor pool vehicle that may include reimbursement of actual costs for administration, maintenance, service, operation, storage, replacement, and disposal costs.

(3) The department shall adopt and formulate travel rules providing:

(a) for scheduling of motor pool vehicles and filing an application for travel showing destination and date and time of departure and;

(b) for filing a report upon completion of the trip, showing mileage traveled and date and time of return.

History: (1)En. Sec. 2, Ch. 320, L. 1971; amd. Sec. 174, Ch. 316, L. 1974; amd. Sec. 2, Ch. 355, L. 1974; Sec. 53-515, R.C.M. 1947; (2)En. 53-519.3 by Sec. 11, Ch. 355, L. 1974; Sec. 53-519.3, R.C.M. 1947; (3)En. Sec. 5, Ch. 320, L. 1971; amd. Sec. 177, Ch. 316, L. 1974; amd. Sec. 5, Ch. 355, L. 1974; Sec. 53-518, R.C.M. 1947; R.C.M. 1947, 53-515(part), 53-518, 53-519.3; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 7, Ch. 535, L. 1991; amd. Sec. 5, Ch. 431, L. 1999.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

2-17-424. Acceptable uses — rulemaking. (1) The department of administration shall adopt reasonable rules defining the acceptable uses for a state-owned or leased motor vehicle. The rules may allow for limited personal use of a state-owned or leased motor vehicle for emergency, travel-related purposes and other lawful activities that do not result in excessive mileage or excessive wear and tear on the motor vehicle. The rules may not permit the routine

(f) Public-private partnerships are used to deploy information technology systems when practical and cost-effective.

(g) State information technology systems are developed in cooperation with the federal government and local governments with the objective of providing seamless access to information and services to the greatest degree possible.

(h) State information technology systems are able to accommodate electronic transmissions between the state and its citizens, businesses, and other government entities.

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

History: En. Sec. 3, Ch. 313, L. 2001.

Compiler's Comments

Effective Date: Section 47, Ch. 313, L. 2001, provided that this section is effective July 1, 2001.

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

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

(2) "Central computer center" means any stand-alone or shared computer and associated equipment, software, facilities, and services administered by the department for use by state agencies.

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

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

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

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

(7) "Information technology" means hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.

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

(9) "Statewide telecommunications network" means any telecommunications facilities, circuits, equipment, software, and associated contracted services administered by the department for the transmission of voice, video, or electronic data from one device to another.

History: En. Sec. 4, Ch. 313, L. 2001.

Compiler's Comments

Effective Date: Section 47, Ch. 313, L. 2001, provided that this section is effective July 1, 2001.

2-17-507 through 2-17-510 reserved.

2-17-511. Chief information officer — duties. The duties of the chief information officer include but are not limited to:

(1) carrying out all powers and duties of the department as assigned by the director of the department;

(2) serving as the chief policy advisor to the director of the department on statewide information technology issues; and

(3) assisting and advising the director of the department on the enforcement responsibilities provided in 2-17-514.

History: En. Sec. 5, Ch. 313, L. 2001.

Compiler's Comments

Effective Date: Section 47, Ch. 313, L. 2001, provided that this section is effective July 1, 2001.

2-17-512. Powers and duties of department. (1) The department is responsible for carrying out the planning and program responsibilities for information technology for state government. The department:

(a) shall encourage and foster the development of new and innovative information technology within state government;

- (b) shall promote, coordinate, and approve the development and sharing of shared information technology application software, management systems, and information that provide similar functions for multiple state agencies;
- (c) shall cooperate with the department of commerce to promote economic development initiatives based on information technology;
- (d) shall establish and enforce a state strategic information technology plan as provided for in 2-17-521;
- (e) shall establish and enforce statewide information technology policies and standards;
- (f) shall review and approve state agency information technology plans provided for in 2-17-523;
- (g) shall coordinate with the office of budget and program planning to evaluate budget requests that include information technology resources. The department shall make recommendations to the office of budget and program planning for the approval or disapproval of information technology budget requests. An unfavorable recommendation must be based on a determination that the request is not provided for in the approved agency information technology plan provided for in 2-17-523.
- (h) shall staff the information technology board provided for in 2-15-1021;
- (i) shall fund the administrative costs of the information technology board provided for in 2-15-1021;
- (j) shall review the use of information technology resources for all state agencies;
- (k) shall review and approve state agency specifications and procurement methods for the acquisition of information technology resources;
- (l) shall review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities;
- (m) shall operate and maintain a central computer center for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;
- (n) shall operate and maintain a statewide telecommunications network for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;
- (o) shall ensure that the statewide telecommunications network is properly maintained. The department may establish a centralized maintenance program for the statewide telecommunications network.
- (p) shall coordinate public safety communications on behalf of all state agencies as provided for in 2-17-541 through 2-17-543;
- (q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
- (r) shall provide electronic access to information and services of the state as provided for in 2-17-532;
- (s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to state and interstate information technology matters;
- (t) shall establish rates and other charges for services provided by the department;
- (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations for any purpose of this section;
- (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment of the department, the disposal best promotes the purposes for which the department is established;
- (w) shall implement this part and all other laws for the use of information technology in state government;
- (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided in 5-11-210 on the information technology activities of the department; and
- (y) shall represent the state with public and private entities on matters of information technology.

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(4) The legislative council shall serve as a long-range building committee to recommend to the legislature and the department of administration construction and remodeling priorities for the capitol.

History: En. Sec. 2, Ch. 141, L. 1979; amd. Sec. 2, Ch. 608, L. 1981; amd. Sec. 5, Ch. 700, L. 1983; amd. Sec. 3, Ch. 7, L. 1993; Sec. 5-17-102, MCA 1991; redes. 5-11-115 by Code Commissioner, 1993; amd. Sec. 8, Ch. 476, L. 1997; Sec. 5-11-115, MCA 1995; redes. 2-17-805 by Sec. 9, Ch. 476, L. 1997.

Cross-References

Allocation of office space, 2-17-101.

Custodial care of capitol buildings and grounds, 2-17-811.

2-17-806. Department of administration to establish policies on capitol. The department of administration, with the advice of the council, shall establish policies governing maintenance and beautification of the capitol, executive residence, and original governor's mansion. The policies must provide that all historic furnishings original to the capitol remain in the building if an agency relocates and may designate appropriate wall, floor, and window coverings for the capitol. The Montana Administrative Procedure Act does not apply to this part.

History: En. Sec. 6, Ch. 476, L. 1997.

2-17-807. Approval for displays and naming buildings. (1) A state building in the capitol complex may not be named after an individual, and a bust, statue, memorial, monument, or art display may not be permanently displayed in the capitol or on the capitol complex grounds unless the building name or display is approved by the legislature and complies with this section.

(2) A state building in the capitol complex may not be named after an individual unless the individual has been deceased for at least 5 years.

(3) All busts, statues, memorials, monuments, or art displays authorized, but not installed within 5 years of authorization, must be reauthorized.

History: En. Sec. 5, Ch. 476, L. 1997.

2-17-808 and 2-17-809 reserved.

2-17-810. Remodeling and renovation — senate chambers and former supreme court chambers to be preserved. (1) If future senate bodies determine that the location of the senate chambers should be moved, the department of administration shall keep and maintain the physical structure and location of the present senate chambers as a single room that must be used for legislative purposes. The room may not be divided in any manner, and the artwork and height of the ceiling must be maintained and preserved.

(2) The department of administration shall keep and maintain the physical structure and location of the supreme court chambers, which were occupied by the Montana supreme court until the new justice building was completed and dedicated in 1983, as a single room that must be used for legislative committee purposes. The room may not be divided in any manner, and the artwork and height of the ceiling must be maintained and preserved.

History: En. Sec. 2, Ch. 700, L. 1983; amd. Sec. 2, Ch. 7, L. 1993; Sec. 2-17-109, MCA 1995; redes. 2-17-810 by Sec. 9, Ch. 476, L. 1997.

2-17-811. Custodial care of capitol buildings and grounds. (1) The department of administration is custodian of all state property in the state capitol area, which is the geographic area within a 10-mile radius of the state capitol.

(2) It is the duty of the department to supervise and direct the work of caring for and maintaining buildings and equipment in the state capitol area. The department shall provide or approve all custodial, maintenance, and security work done on state-owned or leased buildings in the state capitol area.

(3) A state agency may not alter, improve, repair, or remodel a state building in the state capitol area without the approval of the department.

(4) It is the duty of the department of fish, wildlife, and parks to maintain or approve the maintenance of the grounds in the state capitol area.

History: En. Sec. 9, Ch. 271, L. 1963; amd. Sec. 98, Ch. 326, L. 1974; Sec. 82-3309, R.C.M. 1947; En. Sec. 10, Ch. 271, L. 1963; Sec. 82-3310, R.C.M. 1947; R.C.M. 1947, 82-3309, 82-3310; amd. Sec. 1, Ch. 69, L. 1985; amd. Sec. 1, Ch. 362, L. 1989; amd. Sec. 1, Ch. 625, L. 1991; Sec. 2-17-111, MCA 1995; redes. 2-17-811 by Sec. 9, Ch. 476, L. 1997.

(2) "Convenience fee" means a fee charged to recover the costs of providing electronic government services.

(3) "Costs" means the overall costs that the department may incur to provide electronic government services, including the costs of contracts entered into with private entities to assist in providing electronic government services.

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

(5) "Infrastructure" means the underlying technology necessary to provide electronic government services.

History: En. Sec. 2, Ch. 265, L. 2001.

2-17-1103. Responsibilities of department for electronic government. (1) The department shall:

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

(b) provide a point of entry for electronic government services to achieve a single face of government;

(c) encourage a common look and feel for all electronic government services for the benefit of the customers of the services;

(d) set technological standards for electronic government services;

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

(f) promote the benefits of electronic government services through educational, marketing, and outreach initiatives;

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

(2) To fulfill the responsibilities in subsection (1), the department may contract with private entities. The department may charge convenience fees and may allow private entities to collect the convenience fees on selected electronic government services in order to provide funding for the support and furtherance of electronic government services. The advisory council may advise the department on the amount of fees and the services on which to charge fees.

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

History: En. Sec. 3, Ch. 265, L. 2001.

2-17-1104. Rulemaking. The department may adopt rules to implement this part.

History: En. Sec. 4, Ch. 265, L. 2001.

2-17-1105. Electronic government advisory council. (1) There is an electronic government advisory council. The council consists of the following members:

(a) the director of the department, who serves as presiding officer;

(b) the secretary of state or the secretary of state's designee;

(c) the attorney general or the attorney general's designee;

(d) the director of the department of commerce or the director's designee;

(e) the director of the department of revenue or the director's designee;

(f) the state librarian or the state librarian's designee;

(g) a member of the house of representatives, appointed by the speaker of the house;

(h) a member of the senate, appointed by the president of the senate;

(i) an elected local government official, appointed by the governor;

(j) two representatives from state agencies that are not represented on the council, appointed by the governor;

(k) two members of the public, appointed by the governor; and

(l) the administrator of the information services division of the department.

(2) The advisory council shall:

(a) advise the department with regard to the creation, management, and administration of electronic government services and information on the internet;

(iii) appointment by an elected official to a public office if the appointment is provided for by law; or

(iv) engagement as an independent contractor or employment by an independent contractor.

(b) "Indian" means a person who is enrolled or who is a lineal descendant of a person enrolled upon an enrollment listing of the bureau of Indian affairs or upon the enrollment listing of a recognized Indian tribe, domiciled in the United States.

(c) "State agency" means a department, office, board, bureau, commission, agency, or other instrumentality of the executive or judicial branches of the government of this state.

History: En. Sec. 1, Ch. 506, L. 1991; amd. Sec. 5, Ch. 339, L. 1997.

2-18-112 through 2-18-114 reserved.

2-18-115. Exemption for certain university temporary employees — "temporary employee" defined. (1) With the exception of 2-18-603, the requirements of parts 6 and 7 of this chapter do not apply to a temporary employee of the university system.

(2) As used in this section, "temporary employee" means an employee of the university system who is hired into a position that is not permanent and who has negotiated an alternative benefits package through a labor organization certified to represent employees of the university system pursuant to Title 39, chapter 31. The employer contribution to the alternative benefits package may not exceed the cost of the benefits that the employee would otherwise be entitled to through employment.

History: En. Sec. 1, Ch. 121, L. 1995.

Part 2 Classification

2-18-201. Development of personnel classification plan. The department shall develop a personnel classification plan for all state positions and classes of positions in state service following hearings involving affected employees and employee organizations, except those exempt in 2-18-103 and 2-18-104. The legislative council shall in a like manner develop a classification plan for employees of the legislative branch, other than those of the office of consumer counsel.

History: En. Sec. 3, Ch. 440, L. 1973; R.C.M. 1947, 59-905; amd. Sec. 4, Ch. 512, L. 1979; amd. Sec. 12, Ch. 545, L. 1995.

2-18-202. Guidelines for classification. (1) In providing for the classification plan, the department shall group all positions in the state service into defined classes based on similarity of duties performed, responsibilities assumed, and complexity of work so that:

(a) similar qualifications of education, experience, knowledge, skill, and ability can be required of applicants for each position in the class;

(b) the same title can be used to identify each position in the class;

(c) similar pay may be provided under the same conditions with equity to each position within the class.

(2) A class may consist of only one position.

History: En. Sec. 4, Ch. 440, L. 1973; R.C.M. 1947, 59-906.

Cross-References

Classification — grievance, 2-18-1011 through 2-18-1013.

2-18-203. Review of positions — change in classification. (1) The department shall continuously review all positions on a regular basis and adjust classifications to reflect significant changes in duties and responsibilities. In the event that adjustments are to be made to class specifications, class series benchmarks, or criteria used for allocating positions to classes affecting employees within a bargaining unit, the department shall consult with the representative of the bargaining unit prior to implementation of the adjustments, except for blue-collar and teachers' classification plans, which plans must remain mandatory negotiable items under Title 39, chapter 31.

(2) Employees and employee organizations must be given the opportunity to appeal the allocation or reallocation of a position to a class. The grade assigned to a class and factors