

SENATE BILL NO. 308

INTRODUCED BY A. OLSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING INFORMATION TECHNOLOGY  
5 PROCUREMENT REQUIREMENTS; PROHIBITING THE STATE FROM PROVIDING OR SELLING  
6 BROADBAND OR TELECOMMUNICATIONS NETWORK SERVICES TO PRIVATE ENTITIES; DISCOURAGING  
7 THE UNIVERSITY SYSTEM FROM PROVIDING OR SELLING BROADBAND OR TELECOMMUNICATIONS  
8 NETWORK SERVICES TO PRIVATE ENTITIES; REQUIRING THE STATE TO MAXIMIZE THE USE OF  
9 PRIVATE PROVIDERS IN OFFERING AND DEPLOYING BROADBAND OR TELECOMMUNICATIONS  
10 NETWORK SERVICES; ENCOURAGING THE UNIVERSITY SYSTEM TO MAXIMIZE THE USE OF PRIVATE  
11 PROVIDERS IN OFFERING AND DEPLOYING BROADBAND OR TELECOMMUNICATIONS NETWORK  
12 SERVICES; AMENDING SECTIONS 2-17-505, 2-17-506, 2-17-512, 2-17-515, 2-17-516, AND 2-17-518, MCA;  
13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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17 **NEW SECTION. Section 1. Limitations on certain telecommunications and broadband services.**  
18 A state agency may not provide, sell, resell, or otherwise transfer, assign, or authorize through leases, contracts,  
19 memorandums of understanding, service agreements, or similar delegations of operation or management a  
20 statewide telecommunications network, a broadband network, or a portion of a statewide telecommunications  
21 network or broadband network to a private entity or to any other entity, other than a state agency.

22  
23 **NEW SECTION. Section 2. Use of private providers.** (1) A state agency shall maximize the use of  
24 private providers in offering or deploying telecommunications network or broadband network services and  
25 facilities.

26 (2) The procurement of supplies, facilities, or services associated with telecommunications networks or  
27 broadband networks is subject to Title 18, chapter 4.

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

30 **"2-17-505. Policy.** (1) It is the policy of the state that information technology be used to improve the

1 quality of life of Montana citizens by providing educational opportunities, creating quality jobs and a favorable  
2 business climate, improving government, and protecting individual privacy and the privacy of the information  
3 contained within information technology systems.

4 (2) It is the policy of the state that the development of information technology resources in the state must  
5 be conducted in an organized, deliberative, and cost-effective manner. The following principles must guide the  
6 development of state information technology resources:

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

9 (b) Whenever feasible and cost-effective, common data is entered once and shared among agencies.

10 (c) In order to minimize unwarranted duplication, similar information technology systems and data  
11 management applications are implemented and managed in a coordinated manner.

12 (d) Planning and development of information technology resources are conducted in conjunction with  
13 budget development and approval.

14 (e) Information technology systems are deployed aggressively whenever it can be shown that it will  
15 provide improved services to Montana citizens.

16 (f) ~~Public-private~~ Except as provided in [sections 1 and 2], public-private partnerships are used to deploy  
17 information technology systems when practical and cost-effective.

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

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

23 (3) It is the policy of the state that the department must be accountable to the governor, the legislature,  
24 and the citizens of Montana."  
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26 **Section 4.** Section 2-17-506, MCA, is amended to read:

27 **"2-17-506. Definitions.** In this part, unless the context requires otherwise, the following definitions apply:

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

29 (2) "Broadband network" includes but is not limited to, regardless of the technology used:

30 (a) data, voice, and video communications and information delivered over internet protocol services;

1           **(b) internet protocol services;**  
 2           **(c) internet access and transport;**  
 3           **(d) information technology services;**  
 4           **(e) unlit or dark fiber optics;**  
 5           **(f) high-speed wireless transmissions delivered with federal communications commission licensed or**  
 6 **unlicensed spectrum; or**

7           **(g) the functional equivalent of the services described in subsections (1)(a) through (1)(f).**  
 8           ~~(2)~~**(3)** "Central computer center" means any stand-alone or shared computer and associated equipment,  
 9 software, facilities, and services administered by the department for use by state agencies.

10           ~~(3)~~**(4)** "Chief information officer" means a person appointed by the director of the department to carry  
 11 out the duties and responsibilities of the department relating to information technology.

12           ~~(4)~~**(5)** "Data" means any information stored on information technology resources.

13           ~~(5)~~**(6)** "Department" means the department of administration established in 2-15-1001.

14           ~~(6)~~**(7)** "Electronic access system" means a system capable of making data accessible by means of an  
 15 information technology facility in a voice, video, or electronic data form, including but not limited to the internet.

16           ~~(7)~~**(8)** "Information technology" means hardware, software, and associated services and infrastructure  
 17 used to store or transmit information in any form, including voice, video, and electronic data.

18           ~~(8)~~**(9)** "State agency" means any entity of the executive branch, including the university system.

19           ~~(9)~~**(10)** "Statewide telecommunications network" means any telecommunications facilities, circuits,  
 20 equipment, software, and associated contracted services administered by the department for the transmission  
 21 of voice, video, or electronic data from one device to another."

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

24           **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the  
 25 planning and program responsibilities for information technology for state government, except the national guard.

26 The department:

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

29           (b) shall promote, coordinate, and approve the development and sharing of shared information  
 30 technology application software, management systems, and information that provide similar functions for multiple

1 state agencies;

2 (c) shall cooperate with the office of economic development to promote economic development initiatives  
3 based on information technology;

4 (d) shall establish and enforce a state strategic information technology plan as provided for in 2-17-521;

5 (e) shall establish and enforce statewide information technology policies and standards;

6 (f) shall review and approve state agency information technology plans provided for in 2-17-523;

7 (g) shall coordinate with the office of budget and program planning to evaluate budget requests that  
8 include information technology resources. The department shall make recommendations to the office of budget  
9 and program planning for the approval or disapproval of information technology budget requests, including an  
10 estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or  
11 capitalized, based on state accounting policy established by the department. An unfavorable recommendation  
12 must be based on a determination that the request is not provided for in the approved agency information  
13 technology plan provided for in 2-17-523.

14 (h) shall staff the information technology board provided for in 2-15-1021;

15 (i) shall fund the administrative costs of the information technology board provided for in 2-15-1021;

16 (j) shall review the use of information technology resources for all state agencies;

17 (k) shall review and approve state agency specifications and procurement methods in accordance with  
18 [sections 1 and 2] for the acquisition of information technology resources;

19 (l) shall review, approve, and sign all state agency contracts and shall review and approve other formal  
20 agreements in accordance with [sections 1 and 2] for information technology resources provided by the private  
21 sector and other government entities;

22 (m) shall operate and maintain a central computer center for the use of state government, political  
23 subdivisions, and other participating entities under terms and conditions established by the department;

24 (n) shall operate and maintain a statewide telecommunications network for the use of state government;  
25 ~~political subdivisions, and other participating entities under terms and conditions established by the department;~~

26 (o) shall ensure that the statewide telecommunications network is properly maintained. The department  
27 may establish a centralized maintenance program for the statewide telecommunications network.

28 (p) shall coordinate public safety communications on behalf of all state agencies as provided for in  
29 2-17-541 through 2-17-543;

30 (q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;

1 (r) shall provide electronic access to information and services of the state as provided for in 2-17-532;

2 (s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to  
3 state and interstate information technology matters;

4 (t) shall establish rates and other charges for services provided by the department;

5 (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations  
6 for any purpose of this section;

7 (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment  
8 of the department, the disposal best promotes the purposes for which the department is established;

9 (w) shall implement this part and all other laws for the use of information technology in state government;

10 (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided  
11 in 5-11-210 on the information technology activities of the department; and

12 (y) shall represent the state with public and private entities on matters of information technology.

13 (2) If it is in the state's best interest, the department may contract with qualified private organizations,  
14 foundations, or individuals to carry out the purposes of this section.

15 (3) The director of the department shall appoint the chief information officer to assist in carrying out the  
16 department's information technology duties."

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18 **Section 6.** Section 2-17-515, MCA, is amended to read:

19 **"2-17-515. Granting exceptions to state agencies.** ~~Subject~~ Except as provided in [sections 1 and 2]  
20 and subject to 2-17-516, the department may grant exceptions to any policy, standard, or other requirement of  
21 this part if it is in the best interests of the state of Montana. The department shall inform the board, the office of  
22 budget and program planning, and the legislative finance committee of all exceptions that are granted and of the  
23 rationale for granting the exceptions. The department shall maintain written documentation that identifies the  
24 terms and conditions of the exception and the rationale for the exception."

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26 **Section 7.** Section 2-17-516, MCA, is amended to read:

27 **"2-17-516. Exemptions -- university system -- office of public instruction -- national guard.** (1)  
28 Unless the proposed activities would detrimentally affect the operation of the central computer center or the  
29 statewide telecommunications network, the office of public instruction is exempt from 2-17-512(1)(k) and (1)(l).

30 (2) Unless the proposed activities would detrimentally affect the operation of the central computer center

1 or the statewide telecommunications network, the university system is exempt from:

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

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

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

5 (d) the provisions of 2-17-512(1)(k) and (1)(l); ~~and~~

6 (e) the transfer provisions of 2-17-531; and

7 (f) [sections 1 and 2].

8 (3) (a) The university system is discouraged from providing, selling, reselling, or otherwise transferring,  
 9 assigning, or authorizing through leases, contracts, memorandums of understanding, service agreements, or  
 10 similar delegations of operation or management a statewide telecommunications network, a broadband network,  
 11 or a portion of a statewide telecommunications network or broadband network to a private entity or to any other  
 12 entity, other than the university system.

13 (b) The university system is encouraged to maximize the use of private providers in offering or deploying  
 14 telecommunications network or broadband network services and facilities.

15 ~~(3)(4)~~ The department, upon notification of proposed activities by the university system or the office of  
 16 public instruction, shall determine if the central computer center or the statewide telecommunications network  
 17 would be detrimentally affected by the proposed activity.

18 ~~(4)(5)~~ For purposes of this section, a proposed activity affects the operation of the central computer  
 19 center or the statewide telecommunications network if it detrimentally affects the processing workload, reliability,  
 20 cost of providing service, or support service requirements of the central computer center or the statewide  
 21 telecommunications network.

22 ~~(5)(6)~~ When reviewing proposed activities of the university system, the department shall consider and  
 23 make reasonable allowances for the unique educational needs and characteristics and the welfare of the  
 24 university system as determined by the board of regents.

25 ~~(6)(7)~~ When reviewing proposed activities of the office of public instruction, the department shall consider  
 26 and make reasonable allowances for the unique educational needs and characteristics of the office of public  
 27 instruction to communicate and share data with school districts.

28 ~~(7)(8)~~ Section 2-17-512(1)(u) may not be construed to prohibit the university system from accepting  
 29 federal funds or gifts, grants, or donations related to information technology or telecommunications.

30 ~~(8)(9)~~ The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."

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2           **Section 8.** Section 2-17-518, MCA, is amended to read:

3           **"2-17-518. Rulemaking authority.** (1) The department shall adopt rules to implement this part, including

4 the following:

5           (a) rules to guide the review and approval process in accordance with [sections 1 and 2] for state agency

6 software and management systems that provide similar functions for multiple state agencies, which must include

7 but are not limited to:

8           (i) identifying the software and management systems that must be approved;

9           (ii) establishing the information that state agencies are required to provide to the department; and

10           (iii) establishing guidelines for the department's approval decision;

11           (b) rules to guide the review and approval process in accordance with [sections 1 and 2] for state agency

12 acquisition of information technology resources, which must include but are not limited to processes and

13 requirements for:

14           (i) agency submissions to gain approval for acquiring information technology resources;

15           (ii) approving specifications for information technology resources; and

16           (iii) approving contracts for information technology resources; and

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

18 to:

19           (i) a process for applying for an exception; and

20           (ii) guidelines for determining the department's approval decision.

21           (2) The department may adopt rules to guide the development of state agency information technology

22 plans. The rules may include:

23           (a) agency plan review procedures;

24           (b) agency plan content requirements;

25           (c) guidelines for the department's approval decision; and

26           (d) dispute resolution processes and procedures.

27           (3) Adequate rules for the use of any information technology resources must be adopted by the:

28           (a) supreme court for judicial branch agencies; and

29           (b) legislative council as a part of the legislative branch computer system plan, as provided for in

30 5-11-405, for the consolidated legislative branch, as provided for in 5-2-504."

