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*** Bill No. ***

Introduced By *****

By Request of the Department of Administration

A Bill for an Act entitled: "An Act clarifying provisions of the Montana Information Technology Act; amending sections 2-17-505, 2-17-506, 2-17-511, 2-17-512, 2-17-516, 2-17-521, 2-17-524, and 2-17-546, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-505, MCA, is amended to read:

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

(2) It is the policy of the state that the development of information technology ~~resources in~~ for the state must be conducted in an organized, deliberative, and cost-effective manner.

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

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

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

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

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

(d) Third-party providers of data, such as citizens, businesses, and other government entities, are responsible

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for the accuracy and integrity of the data provided to government entities.

(e) Government entities are required to conduct business through open, transparent processes to ensure:

(i) accountability to the citizenry, Montana citizens; and

(ii) information technology provides access to information through simple and expeditious procedures.

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

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

(h) Information technology systems are deployed ~~aggressively whenever it can be shown that it will provide improved services to Montana citizens~~ in an effective and efficient manner.

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

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

(k) State information technology systems are able to accommodate electronic transmissions between the state and its citizens, businesses, and other government entities, including providing financial incentives for citizens and businesses to use electronic government services.

(l) State information technology systems are able to ~~embrace the economies~~ maximize the use of digitized records to avoid duplication and transport costs.

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

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

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

{Internal References to 2-17-505:
2-17-521X }

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

"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~~ state data center facility administered by the department ~~for use by state agencies.~~

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

(4) "Data" means any ~~information stored on information technology resources~~ asset information stored on information technology resources, and may refer to any

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electronic file regardless of the format including, but not limited to, databases, text, images, audio, and video.

(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~~ telecommunications network that allows information technology to exchange data 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, for purposes of this part, any entity of the executive branch listed in 2-15-104 and includes, including the university system and the office of public information.

(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.~~

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{*Internal References to 2-17-506:*

17-5-807X 90-1-405X }

Section 3. Section 2-17-511, MCA, is amended to read:

"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;~~ provided in 2-17-512 and 2-17-534 and assigned by the department director;

(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~~ carrying out the enforcement responsibilities provided in 2-17-514; ~~and~~

(4) advising the governor and the cabinet on matters concerning information technology and information security."

{*Internal References to 2-17-511:*

2-6-503X 2-15-1021X }

Section 4. Section 2-17-512, MCA, is amended to read:

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"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, except the national guard as defined in 10-1-101. The department shall:

(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 office of economic development 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

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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, including an estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or capitalized, based on state accounting policy established by the department. 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;

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(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;

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

(u) ~~must~~shall 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.

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

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

{*Internal References to 2-17-512:*

2-15-404X 2-17-513X 2-17-514X 2-17-516X

2-17-516X 2-17-516X 2-17-516X 2-17-516X

2-17-516X 2-17-516X 2-17-531X 17-5-807X }

Section 5. Section 2-17-516, MCA, is amended to read:

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

(2) Unless the proposed activities would detrimentally affect the operation of ~~the~~ a central computer center or the statewide telecommunications network, the university system is exempt from:

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

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

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

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

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(e) the transfer provisions of 2-17-531.

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

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

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

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

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and characteristics of the office of public instruction to communicate and share data with school districts.

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

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

{*Internal References to 2-17-516:*
2-17-513A 2-17-515X }

Section 6. Section 2-17-521, MCA, is amended to read:

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

(2) The plan must:

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

(b) establish the statewide mission, goals, and objectives for the use of information technology, including

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goals for electronic access to government records, information, and services; and

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

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

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

(a) an analysis of the state's information technology infrastructure, including its replacement value, condition, and capacity;

(b) an evaluation of performance relating to information technology;

(c) an assessment of progress made toward implementing the state strategic information technology plan;

(d) an inventory of state information services, equipment, and proprietary software;

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(e) state agency budget requests for major projects;

and

(f) other information as determined by the department or requested by the governor or the legislature."

{*Internal References to 2-17-521:*

2-17-512X 2-17-514X 2-17-524 X 2-17-527X

3-1-702X }

Section 7. Section 2-17-524, MCA, is amended to read:

"2-17-524. State agency information technology

plans -- form and content -- performance reports. (1) Each state agency's information technology plan must include but is not limited to the following:

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

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

(c) a baseline profile of the state agency's current information technology resources and capabilities that:

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(i) includes sufficient information to fully support state-level review and approval activities; and

(ii) will serve as the basis for subsequent planning and performance measures;

(d) an evaluation of the baseline profile that identifies real or potential deficiencies or obsolescence of the agency's information technology resources and capabilities;

(e) a list of new projects and resources required to meet the objectives of the agency's information technology plan. The investment required for the new projects and resources must be developed using life-cycle cost analysis, including the initial investment, maintenance, and replacement costs, and must fulfill or support ~~an~~ a state agency's business requirements.

(f) when feasible, estimated schedules and funding required to implement identified projects; and

(g) any other information required by law or requested by the department, the governor, or the legislature.

(2) Each state agency's information technology plan must project activities and costs over a ~~6-year~~ 4-year time

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period, consisting of the biennium during which the plan is written or updated and the ~~2~~ subsequent ~~bienniums~~ biennium.

(3) Each state agency shall prepare and submit to the department a biennial performance report that evaluates progress toward the objectives articulated in its information technology plan. The report must include:

(a) an evaluation of the state agency's performance relating to information technology;

(b) an assessment of progress made toward implementing the agency information technology plan; and

(c) an inventory of agency information services, equipment, and proprietary software.

(4) State agencies shall prepare agency information technology plans and biennial performance reports using standards, elements, forms, and formats specified by the department."

{*Internal References to 2-17-524:*

2-17-521X 2-17-523X 2-17-527X }

Section 8. Section 2-17-546, MCA, is amended to read:

"2-17-546. Exemption of law enforcement

telecommunications system -- exception. The provisions of this part do not apply to the law enforcement telecommunications system or its successor except for the

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provisions dealing with the purchase, maintenance, and allocation of telecommunication facilities and information technology using the statewide telecommunications network.

~~However, the~~ The department of justice shall cooperate with the department to coordinate the telecommunications networks of the state."

{*Internal References to 2-17-546: None* }

-END-