1	HOUSE BILL NO. 640
2	INTRODUCED BY H. JACOBSON
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4	A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING THE USE OF IN-STATE INFORMATION
5	TECHNOLOGY BUSINESS; ENSURING THAT IN-STATE INFORMATION TECHNOLOGY BUSINESSES AND
6	WORKERS ARE USED TO PERFORM WORK ON STATE INFORMATION TECHNOLOGY CONTRACTS
7	WHEN POSSIBLE AND IN THE BEST INTEREST OF THE STATE; PROVIDING REQUIREMENTS FOR
8	STATE INFORMATION TECHNOLOGY CONTRACTS; AND PROVIDING AN APPLICABILITY DATE."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12	NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 5] is to:
13	(1) encourage information technology companies to locate and remain in Montana;
14	(2) provide growth within the information technology sector of the Montana economy;
15	(3) encourage the use of Montana information technology businesses and workers to perform part of
16	the work needed on state information technology contracts whenever possible, practical, and in the best interest
17	of the state; and
18	(4) provide accountability on state information technology projects.
19	
20	NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], unless the context requires
21	otherwise, the following definitions apply:
22	(1) A "bona fide resident of Montana" has the meaning provided in 18-2-401.
23	(2) "Department" means the department of administration provided for in 2-15-1001.
24	(3) "Existing information technology business" means an entity conducting or transacting business in
25	Montana pursuant to an effective certificate of registration under Title 35 that is in the business of providing
26	information technology systems or services, including any hardware, analysis and design, project management,
27	software, telecommunications, or related support services.
28	(4) "Information technology contract" means a contract or work order relating to information technology
29	that is subject to 2-17-512(1)(l).
30	(5) "Information technology systems development and support services" means information technology

1   systems analysis and design, project management, software development and maintenance, hardware support,

2   telecommunications services, and related support services.

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4   <u>NEW SECTION.</u>   **Section 3.   Solicitations to reference Montana information technology**

5   **businesses.** (1) The department shall establish an inventory of existing information technology businesses in

6   Montana. The inventory must be created and maintained in a manner and through procedures developed by

7   the department.

8   (2) Information technology companies may self-register on the inventory provided for in subsection (1).

9   The department may establish a fee to recover the costs associated with creating and maintaining the inventory

10   provided for in subsection (1).

11   (3) All formal solicitations for information technology systems development and support services issued

12   by state agencies must encourage businesses to consider using existing Montana information technology

13   businesses and must contain the inventory, or directions to access the inventory, provided for in subsection (1).

14

15   <u>NEW SECTION.</u> **Section 4. Information technology solicitations -- contracts -- requirements.** (1)

16   Except as provided in subsections (2) and (3), the department shall review, approve, and sign a state agency

17   information technology contract only with an entity that:

18   (a) was an existing information technology business on the date of the solicitation; or

19   (b) agrees, by affidavit, that through the term of the contract, at least 25% of the contractors' hours of

20   effort by employees and subcontracted employees performing labor on the project that is the subject of the

21   contract will be bona fide residents of Montana.

22   (2) Subsection (1) does not apply to a solicitation for an information technology contract or to an

23   information technology contract involving federal funds when inclusion of the provisions contained in subsection

24   (1) is prohibited by federal law.

25   (3) The department may waive the provisions of subsection (1) during the solicitation process in

26   consultation with the contracting agency if:

27   (a) the responsible vendor asserts, and the department agrees, that sufficient qualified existing

28   information technology businesses or sufficient qualified workers that are bona fide residents of Montana are

29   not available; or

30   (b) the department determines that it is in the best interest of the state because of:

1   (i) unique technological needs of any agency;

2   (ii) timing considerations of the work contemplated in the solicitation;

3   (iii) availability of existing solutions;

4   (iv) limitations because of the staff size required by the solicitation; or

5   (v) other unique circumstances of the solicitation.

6   (4)   The department shall report waiver decisions made under subsection (3) to the information

7   technology board established in 2-15-1021.

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9   NEW SECTION. **Section 5. Rulemaking.** The department may adopt rules to implement [sections 1

10   through 5]. The rules must provide procedures and standards for the department to use in making waiver

11   decisions under [section 4].

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13   NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be

14   codified as an integral part of Title 18, chapter 4, and the provisions of Title 18, chapter 4, apply to [sections 1

15   through 5].

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17   NEW SECTION. **Section 7. Saving clause.** [This act] does not affect rights and duties that matured,

18   penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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20   NEW SECTION. **Section 8. Applicability.** [This act] applies to all solicitations issued and contracts

21   entered into on and after [the effective date of this act].

22   - END -