

1 HOUSE BILL NO. 47  
2 INTRODUCED BY J. DOOLING  
3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA INFORMATION  
6 TECHNOLOGY ACT; REVISING TERMINOLOGY; REVISING RULEMAKING AUTHORITY; PROVIDING THE  
7 DEPARTMENT OF ADMINISTRATION SOLE AUTHORITY TO TERMINATE AN AGENCY'S INFORMATION  
8 TECHNOLOGY RESOURCE AND REQUIRING THE USE OF AN ALTERNATIVE INFORMATION  
9 TECHNOLOGY RESOURCE; AND AMENDING SECTIONS 2-4-302, 2-6-1102, 2-17-505, 2-17-506, 2-17-512,  
10 2-17-513, 2-17-514, 2-17-515, 2-17-516, 2-17-518, 2-17-521, 2-17-523, 2-17-524, 2-17-526, 2-17-532, 2-17-  
11 533, 2-17-534, 2-17-546, 2-17-551, 2-17-552, 2-17-1101, 2-17-1102, 2-17-1103, 2-18-101, 7-22-2151, 10-3-  
12 106, 61-3-346, 61-3-347, 61-11-105, 75-10-805, AND 87-1-272, MCA."

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

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

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

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

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

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

9

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

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

18

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

20 **"2-17-516. Exemptions -- department of justice -- secretary of state -- university system -- state**  
21 **auditor -- office of public instruction -- national guard.** (1) Unless the proposed activities would  
22 detrimentally affect the operation of ~~the central computer center or the statewide~~ state any information  
23 technology resource or the state telecommunications network, the office of public instruction, the office of the  
24 state auditor, and the secretary of state are exempt from 2-17-512(1)(k) and (1)(l).

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

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

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

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

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

4 (3) ~~The department, upon notification of proposed activities by the~~ The department of justice, the  
5 secretary of state, the university system, ~~or the office of the state auditor, and~~ the office of public instruction,  
6 shall notify the department of proposed activities by submitting an information technology procurement request  
7 and the department shall determine if ~~the central computer center or the statewide~~ any information technology  
8 resource or the state telecommunications network would be detrimentally affected by the proposed activity.

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

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

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

28 (7) When reviewing proposed activities of the department of justice or the office of the state

1 auditor, the department shall consider and make reasonable allowances for the unique safety and security  
2 needs and characteristics of the department of justice or the office of the state auditor to communicate and  
3 share data with federal, state, and local law enforcement entities.

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

6 (9) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."  
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8 **Section 10.** Section 2-17-518, MCA, is amended to read:

9 **"2-17-518. Rulemaking authority.** (1) The department shall may adopt rules to implement this part,  
10 including the following:

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

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

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

- 18 (i) agency submissions to gain approval for acquiring information technology resources;
- 19 (ii) approving specifications for information technology resources; and
- 20 (iii) approving contracts for information technology resources; and
- 21 (c) rules for granting exceptions from the requirements of this part, which must include but are not

22 limited to:

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

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

- 27 (a) agency plan review procedures;
- 28 (b) agency plan content requirements;