

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

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:

15
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

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 purposes of this part and for the purposes of the law that the agency cites in the proposal notice as the
2 authority for the proposed action.

3 (c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall
4 pay or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

5 (i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and

6 (ii) the number of persons affected.

7 (2) (a) The proposal notice must be filed with the secretary of state for publication in the register,
8 as provided in 2-4-312. When the agency files the proposal notice with the secretary of state to prepare it for
9 publication in the register, the agency shall concurrently send an electronic copy of the proposal notice to the
10 appropriate administrative rule review committee. If the secretary of state requires formatting changes to the
11 proposal notice before it may be published, the agency is not required to send another copy of the proposal
12 notice to the committee. The requirement to concurrently send a copy of the proposal notice to the committee is
13 fulfilled if the agency sends an electronic copy to each member of the staff of the appropriate rule review
14 committee on the same day that the notice is filed with the secretary of state.

15 (b) (i) Except as provided in subsection (2)(b)(ii), within 3 days of publication, a copy of the
16 published proposal notice must be sent to interested persons who have made timely requests to the agency to
17 be informed of its rulemaking proceedings, and to the office of any professional, trade, or industrial society or
18 organization or member of those entities who has filed a request with the appropriate administrative rule review
19 committee when the request has been forwarded to the agency as provided in subsection (2)(c).

20 (ii) In lieu of sending a copy of the published proposal notice to an interested person who has
21 requested the notice, the agency may, with the consent of that person, send that person an electronic
22 notification that the proposal notice is available on the agency's website and an electronic link to the part of the
23 agency's website or a description of the means of locating that part of the agency's website where the notice is
24 available.

25 (iii) Each agency shall create and maintain a list of interested persons and the subject or subjects
26 in which each person on the list is interested. A person who submits a written comment or attends a hearing in
27 regard to proposed agency action under this part must be informed of the list by the agency. An agency

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 complies with this subsection (2)(b)(iii) if it includes in the proposal notice an advisement explaining how
2 persons may be placed on the list of interested persons and if it complies with subsection (7).

3 (c) The appropriate administrative rule review committee shall forward a list of all organizations or
4 persons who have submitted a request to be informed of agency actions to the agencies that the committee
5 oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request
6 of any person requesting to be added to or deleted from the list.

7 (d) The proposal notice required by subsection (1) must be published at least 30 days in advance
8 of the agency's proposed action. The agency shall post the proposal notice on a state electronic-digital access
9 system or other electronic communications system available to the public.

10 (e) (i) When an agency begins to work on the substantive content and the wording of a proposal
11 notice for a rule that initially implements legislation, the agency shall contact, as provided in subsection (8), the
12 legislator who was the primary sponsor of the legislation to:

13 (A) obtain the legislator's comments;

14 (B) inform the legislator of the known dates by which each step of the rulemaking process must be
15 completed; and

16 (C) provide the legislator with information about the time periods during which the legislator may
17 comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative
18 rule review committee.

19 (ii) If the legislation affected more than one program, the primary sponsor must be contacted
20 pursuant to this subsection (2)(e) each time that a rule is being proposed to initially implement the legislation for
21 a program.

22 (iii) Within 3 days after a proposal notice covered under subsection (2)(e)(i) has been published as
23 required in subsection (2)(a), a copy of the published notice must be sent to the primary sponsor contacted
24 under this subsection (2)(e).

25 (3) If a statute provides for a method of publication different from that provided in subsection (2),
26 the affected agency shall comply with the statute in addition to the requirements contained in this section.

27 However, the notice period may not be less than 30 days or more than 6 months.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested
2 persons at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit
3 data, views, or arguments, orally or in writing. If an amended or supplemental notice is filed, additional time may
4 be allowed for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking
5 must state that opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less,
6 of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by
7 the appropriate administrative rule review committee, or by an association having not less than 25 members
8 who will be directly affected. If the proposed rulemaking involves matters of significant interest to the public, the
9 agency shall schedule an oral hearing.

10 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested
11 case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise
12 required by statute, nothing in this section alters that requirement.

13 (6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the
14 agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a
15 new proposal for purposes of compliance with this chapter.

16 (7) At the commencement of a hearing on the intended action, the person designated by the
17 agency to preside at the hearing shall:

18 (a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the
19 register; and

20 (b) inform the persons at the hearing of the provisions of subsection (2)(b) and provide them an
21 opportunity to place their names on the list.

22 (8) (a) For purposes of contacting primary sponsors under subsection (2)(e), a current or former
23 legislator who wishes to receive notice shall keep the current or former legislator's name, address, e-mail
24 address, and telephone number on file with the secretary of state. The secretary of state may also use
25 legislator contact information provided by the legislative services division for the purposes of the register. The
26 secretary of state shall update the contact information whenever the secretary of state receives corrected
27 information from the legislator or the legislative services division. An agency proposing rules shall consult the

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 register when providing sponsor contact.

2 (b) An agency has complied with the primary bill sponsor contact requirements of this section
3 when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address,
4 and telephone number on file with the secretary of state pursuant to subsection (8)(a). If the agency is able to
5 contact the primary sponsor by using less than all of these three methods of contact, the other methods need
6 not be used.

7 (9) This section applies to the department of labor and industry adopting a rule relating to a
8 commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of
9 department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."

10

11 **Section 2.** Section 2-6-1102, MCA, is amended to read:

12 **"2-6-1102. Department of administration -- powers and duties.** (1) To ensure compatibility with the
13 information technology systems of state government and to promote adherence to records management
14 principles and best practices, the department of administration, in consultation with the secretary of state, shall
15 establish standards for technological compatibility for state agencies for records management equipment or
16 systems used to electronically capture, store, or retrieve public records through computerized, optical, or other
17 electronic methods.

18 (2) The department of administration, in consultation with the secretary of state, shall approve all
19 acquisitions of executive branch agency records management equipment or systems used to electronically
20 capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure
21 compatibility with the standards developed under subsection (1).

22 (3) The department of administration is responsible for the management and operation of
23 equipment, systems, facilities, and processes integral to ~~the department's central computer center and~~
24 ~~statewide telecommunications system~~ information technology resources and the state telecommunications
25 network."

26

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

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

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

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

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

10 ~~(4) It is the policy of the state that commercial off-the-shelf information technology resources be~~
11 ~~used whenever feasible, rather than the commissioning of custom solutions.~~

12 ~~(4)~~(5) The following principles must guide the development of state-information technology resources:

13 (a) There are statewide information technology ~~policies, standards, procedures, and guidelines~~
14 policies, framework, controls, standards, procedures, and guidelines applicable to all state agencies and other
15 entities using the ~~state network~~ an information technology resource.

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

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

22 (d) Third-party providers of data, such as citizens, businesses, and other government entities, are
23 responsible for the accuracy and integrity of the data provided to government entities.

24 ~~(e) Third-party providers of information technology resources, such as infrastructure as a service,~~
25 platform as a service, and software as a service, shall comply with state security and information technology
26 policies, risk management framework, controls, standards, procedures, and guidelines when providing
27 information technology resources to government entities.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (e)(f) Government entities are required to conduct business through open, transparent processes to
2 ensure accountability to the citizenry, and information technology provides access to information through simple
3 and expeditious procedures.

4 (f)(g) In order to minimize ~~unwarranted~~ duplication, shared or similar information technology systems
5 resources and data management applications are must be implemented and managed in a coordinated
6 manner.

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

9 (h)(i) Information technology systems ~~resources~~ are deployed aggressively whenever it can be
10 shown that it will provide improved services to Montana citizens.

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

13 (j)(k) ~~State information technology systems~~ Information technology resources are developed in
14 cooperation with the federal government and local governments with the objective of providing seamless
15 access to information and services to the greatest degree possible.

16 (k)(l) ~~State information technology systems~~ Information technology resources are able to
17 accommodate electronic-digital transmissions between the state and its citizens, businesses, and other
18 government entities, including providing ~~financial~~ incentives for citizens and businesses to use electronic-digital
19 government services.

20 (l)(m) ~~State information technology systems~~ Information technology resources are able to embrace
21 the economics of digitized records to avoid duplication and transport costs.

22 (m)(n) Electronic-Digital record creation, management, storage, and retrieval processes and
23 procedures are used to create and deliver professional records management experiences for the citizens of
24 Montana.

25 (n)(o) ~~State information technology systems~~ Information technology resources are able to embrace
26 continuous process improvement initiatives in order to keep pace with new and emerging technologies and
27 delivery channels in order to allow citizens to determine when, where, and how they interact with government

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 agencies.

2 ~~(5)(6)~~ It is the policy of the state that the department must be accountable to the governor, the
3 legislature, and the citizens of Montana."
4

5 **Section 4.** Section 2-17-506, MCA, is amended to read:

6 "**2-17-506. Definitions.** In this part, unless the context requires otherwise, the following definitions
7 apply:

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

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

11 ~~(3)(2)~~ "Chief information officer" means a person appointed by the director of the department to carry
12 out the duties and responsibilities of the department relating to information technology.

13 (3) "Commercial off-the-shelf information technology resources" means commercially available
14 information technology resources that are ready-made, are primarily configurable, and can be adapted after
15 purchase to meet the needs of the state.

16 ~~(4)(3)(4)~~ "Data" means any information stored on information technology resources.

17 ~~(5)(4)(5)~~ "Department" means the department of administration established in 2-15-1001.

18 ~~(5)(6)~~ "Digital" means electronic data and the information technology resources used to store,
19 retrieve, and send data.

20 ~~(6)(7)~~ "Electronic-Digital access system" means a system capable of making data accessible by
21 means of an information technology facility in a voice, video, or electronic data form, ~~including but not limited to~~
22 ~~the internet resource.~~

23 ~~(7)(8)~~ "Information technology resource" means any hardware, software, and associated services,
24 and infrastructure including state and third-party platforms, networks, systems, or facilities, used to store or
25 transmit information in any form, ~~including voice, video, and electronic data.~~

26 ~~(8)(9)~~ "Long-range information technology capital project" means a discrete long-range information
27 technology system or application, including the replacement or upgrade to existing systems.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 ~~(9)(10)~~ "Private safety agency" has the same meaning as provided in 10-4-101.
2 ~~(10)(11)~~ "Public safety agency" has the same meaning as provided in 10-4-101.
3 ~~(11)(12)~~ "State agency" means any entity of the executive branch, including the university system.
4 ~~(12)(13)~~ "Statewide State telecommunications network" means ~~any telecommunications facilities,~~
5 ~~circuits, equipment, software, and associated contracted services~~ information technology resources
6 administered by the department for the transmission of voice, video, or electronic data from one device to
7 another."

8
9 **Section 5.** Section 2-17-512, MCA, is amended to read:

10 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
11 planning and program responsibilities for information technology for state government, except the national
12 guard. The department shall:

- 13 (a) encourage and foster the ~~development use~~ of new and innovative information technology within
14 state government;
- 15 (b) promote, coordinate, and approve the procurement or development and sharing of shared
16 information technology application software, management systems, and information that provide similar
17 functions for multiple state agencies;
- 18 (c) cooperate with the office of economic development to promote economic development
19 initiatives based on information technology;
- 20 (d) establish and enforce a state strategic information technology plan as provided for in 2-17-521;
- 21 (e) establish and enforce statewide information technology policies, framework, controls, and
22 standards, procedures, and guidelines;
- 23 (f) review and approve state agency information technology plans provided for in 2-17-523;
- 24 (g) coordinate with the office of budget and program planning to evaluate budget requests that
25 include information technology resources. The department shall make recommendations to the office of budget
26 and program planning for the approval or disapproval of information technology budget requests, including an
27 estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 capitalized, based on state accounting policy established by the department. An unfavorable recommendation
2 must be based on a determination that the request is not provided for in the approved agency information
3 technology plan provided for in 2-17-523.
- 4 (h) staff the information technology board provided for in 2-15-1021;
5 (i) fund the administrative costs of the information technology board provided for in 2-15-1021;
6 (j) review the use of information technology resources for all state agencies;
7 (k) review and approve state agency specifications and procurement methods for the acquisition of
8 information technology resources;
- 9 (l) review, approve, and sign all state agency contracts and shall review and approve other formal
10 agreements for information technology resources provided by the private sector and other government entities;
- 11 (m) ~~broker, operate, and maintain a central computer center~~ information technology resources for
12 the use of state government, political subdivisions, and other participating entities under terms and conditions
13 established by the department;
- 14 (n) operate and maintain a ~~statewide-state~~ telecommunications network for the use of state
15 government, political subdivisions, and other participating entities under terms and conditions established by
16 the department;
- 17 (o) ensure that the ~~statewide-state~~ telecommunications network is properly maintained. The
18 department may establish a centralized maintenance program for the ~~statewide-state~~ telecommunications
19 network.
- 20 (p) coordinate public safety communications on behalf of public and private safety agencies as
21 provided for in 2-17-543 through 2-17-545;
- 22 (q) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
23 (r) provide ~~electronic~~-access to digital information and services of the state as provided for in 2-17-
24 532;
- 25 (s) provide assistance to the legislature, the judiciary, the governor, and state agencies relative to
26 state and interstate information technology matters;
- 27 (t) establish rates and other charges for services provided by the department;

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (u) accept federal funds granted by congress or by executive order and gifts, grants, and
2 donations for any purpose of this section;
- 3 (v) dispose of personal property owned by it in a manner provided by law when, in the judgment of
4 the department, the disposal best promotes the purposes for which the department is established;
- 5 (w) implement this part and all other laws for the use of information technology in state
6 government;
- 7 (x) provide a biennial report to the state administration and veterans' affairs interim committee and
8 to the legislature as provided in 5-11-210 on the information technology activities of the department; ~~and~~
9 (y) represent the state with public and private entities on matters of information technology; ~~and~~
10 (z) provide full oversight authority over all custom-developed code for all state agencies.
- 11 (2) If it is in the state's best interest, the department may contract with qualified private
12 organizations, foundations, or individuals to carry out the purposes of this section.
- 13 (3) The director of the department shall appoint the chief information officer to assist in carrying out
14 the department's information technology duties."

15
16 **Section 6.** Section 2-17-513, MCA, is amended to read:

17 **"2-17-513. Duties of board.** The board shall:

- 18 (1) provide a forum to:
- 19 (a) guide state agencies, the legislative branch, the judicial branch, and local governments in the
20 development and deployment of intergovernmental information technology resources;
- 21 (b) share information among state agencies, local governments, and federal agencies regarding
22 the development of information technology resources;
- 23 (2) advise the department:
- 24 (a) in the development of cooperative contracts for the purchase of information technology
25 resources;
- 26 (b) regarding the creation, management, and administration of ~~electronic-digital~~ government
27 services and information on the internet;

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (c) regarding the administration of electronic digital government services contracts;
- 2 (d) on the priority of government services to be provided electronically digitally;
- 3 (e) on convenience fees prescribed in 2-17-1102 and 2-17-1103, if needed, for electronic digital
- 4 government services; and
- 5 (f) on any other aspect of providing electronic digital government services;
- 6 (3) review and advise the department on:
- 7 (a) statewide information technology standards and policies policies, framework, controls,
- 8 standards, procedures, and guidelines;
- 9 (b) the state strategic information technology plan;
- 10 (c) major information technology budget requests;
- 11 (d) rates and other charges for services established by the department as provided in 2-17-
- 12 512(1)(t);
- 13 (e) requests for exceptions as provided for in 2-17-515;
- 14 (f) notification of proposed exemptions by the university system and office of public instruction as
- 15 provided for in 2-17-516;
- 16 (g) action taken by the department as provided in 2-17-514(1) for any activity that is not in
- 17 compliance with this part;
- 18 (h) the implementation of major information technology projects and advise the respective
- 19 governing authority of any issue of concern to the board relating to implementation of the project; and
- 20 (i) financial reports, management reports, and other data as requested by the department;
- 21 (4) study state government's present and future information technology needs and advise the
- 22 department on the use of emerging technology in state government;
- 23 (5) request information and reports that it considers necessary from any entity using or having
- 24 access to the statewide state telecommunications network or central computer center information technology
- 25 resources;
- 26 (6) assist in identifying, evaluating, and prioritizing potential departmental and interagency
- 27 electronic digital government services;

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (7) serve as a central coordination point for electronic digital government services provided by the
2 department and other state agencies;

3 (8) study, propose, develop, or coordinate any other activity in furtherance of electronic-digital
4 government services as requested by the governor or the legislature; and

5 (9) prepare and submit to the state administration and veterans' affairs interim committee in
6 accordance with 5-11-210 a report including but not necessarily limited to a summary of the board's activities, a
7 review of the electronic government program established under part 11 of this chapter, and any key findings
8 and recommendations that the board presented to the department."
9

10 **Section 7.** Section 2-17-514, MCA, is amended to read:

11 **"2-17-514. Department -- enforcement responsibilities.** (1) If the department determines that an
12 agency is not in compliance with the state strategic information technology plan provided for in 2-17-521, the
13 agency information technology plan provided for in 2-17-523, or the statewide information technology policies,
14 framework, controls, and standards, procedures, and guidelines provided for in 2-17-505 and 2-17-512, the
15 department may cancel or modify any contract, project, or activity that is not in compliance.

16 ~~(2) Prior to taking action provided for in subsection (1), the department shall review with the board any~~
17 ~~activities that are not in compliance.~~

18 (2) If the department determines that an agency is not in compliance with the state security
19 policies, framework, controls, standards, procedures, and guidelines provided for in 2-17-534, the department
20 may take appropriate action, in its sole discretion, up to and including terminating the information technology
21 resource and requiring the use of an alternative information technology resource.

22 (3) Any contract entered into by an agency that includes information technology resources must
23 include language developed by the department that references the department's enforcement responsibilities
24 provided for in subsection (1). A contract that does not contain the required language is considered to be in
25 violation of state law and is voidable pursuant to subsection (1). The language developed by the department
26 may not be varied pursuant to 18-4-224."
27

Commented [SH1]: JOE: this added "or" feels more to me as if it should be an "and"? Unless there's some reason an agency needs to be in compliance with only one of the two. FWIW, it's an "and" where newly added on page 17.

Commented [JC2R1]: Let's go with "and"

Commented [SH3R1]: ✓

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

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

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

9

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

11 **"2-17-516. Exemptions -- department of justice -- secretary of state -- university system -- STATE**
12 **AUDITOR -- office of public instruction -- national guard.** (1) Unless the proposed activities would
13 detrimentally affect the operation of ~~the central computer center or the statewide state~~ ANY INFORMATION
14 TECHNOLOGY RESOURCE OR THE STATE telecommunications network, the office of public instruction, THE OFFICE
15 OF THE STATE AUDITOR, and the secretary of state are exempt from 2-17-512(1)(k) and (1)(l).

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

- 19 (a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;
20 (b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;
21 (c) the budget approval provisions of 2-17-512(1)(g); and
22 (d) the provisions of 2-17-512(1)(k) and (1)(l).

23 (3) ~~The department, upon notification of proposed activities by the~~ THE department of justice, the
24 secretary of state, the university system, or THE OFFICE OF THE STATE AUDITOR, AND the office of public
25 instruction; SHALL NOTIFY THE DEPARTMENT OF PROPOSED ACTIVITIES BY SUBMITTING AN INFORMATION TECHNOLOGY
26 PROCUREMENT REQUEST AND THE DEPARTMENT using the department's approved process, and the department
27 shall determine if ~~the central computer center or the statewide~~ any information technology resource or the state

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 telecommunications network would be detrimentally affected by the proposed activity.

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

8 (b) Potential loss of revenue from fees paid by the department of justice, the secretary of state, the
9 university system, ~~THE OFFICE OF THE STATE AUDITOR~~, or the office of public instruction for not utilizing services
10 offered by the department are not considered a detrimental effect to ~~the statewide telecommunications network~~
11 ~~or central computer center~~ any information technology resource or the state telecommunications network. If the
12 department of justice, the secretary of state, the university system, ~~THE OFFICE OF THE STATE AUDITOR~~, or the
13 office of public instruction does not utilize a service program after the department's rate was set for the
14 biennium, the agency shall continue to pay any fees associated with the service or program for the remainder of
15 the biennium.

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

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

22 (7) When reviewing proposed activities of the department of justice ~~OR THE OFFICE OF THE STATE~~
23 ~~AUDITOR~~, the department shall consider and make reasonable allowances for the unique safety and security
24 needs and characteristics of the department of justice ~~OR THE OFFICE OF THE STATE AUDITOR~~ to communicate and
25 share data with federal, state, and local law enforcement entities.

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

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

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

2

3 **Section 10.** Section 2-17-518, MCA, is amended to read:

4 **"2-17-518. Rulemaking authority.** (1) The department shall ~~shall~~ may adopt rules to implement this part,
5 including the following:

6 (a) rules to guide the review and approval process for state agency software and management
7 systems that provide similar functions for multiple state agencies, which must include 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 for state agency acquisition of information
12 technology resources, which must include but are not limited to processes and requirements for:

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

17 limited to:

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

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

- 22 (a) agency plan review procedures;
- 23 (b) agency plan content requirements;
- 24 (c) guidelines for the department's approval decision; and
- 25 (d) dispute resolution processes and procedures.

26 (3) Adequate rules for the use of any information technology resources must be adopted by the
27 supreme court for judicial branch agencies.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (4) The legislative council shall adopt enterprise principles and technical standards within an
2 enterprise architecture program as a part of the legislative branch information technology plan, as provided for
3 in 5-11-405, that will fulfill the intent of adequate rules for use of information technology resources for the
4 consolidated legislative branch, as provided for in 5-2-504."

5

6 **Section 11.** Section 2-17-521, MCA, is amended to read:

7 **"2-17-521. State strategic information technology plan -- biennial report.** (1) The department
8 shall prepare a state strategic information technology plan. The department shall seek the advice of the board
9 in the development of the plan.

10 (2) The plan must:

11 (a) reflect the policies as set forth in 2-17-505 and 2-17-512 and be in accordance with statewide
12 standards and policies, framework, controls, standards, procedures, and guidelines established by the
13 department;

14 (b) establish the statewide mission, goals, and objectives for the use of information technology,
15 including goals for electronic access to government records, information, and services; and

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

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

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

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

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

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

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (d) an inventory of state information services, equipment, and proprietary software information
2 technology resources;
- 3 (e) agency budget requests for major projects; and
- 4 (f) other information as determined by the department or requested by the governor or the
5 legislature."

6

7 **Section 12.** Section 2-17-523, MCA, is amended to read:

8 **"2-17-523. Agency information technology plans -- policy.** (1) Each state agency is required to
9 develop and maintain an agency information technology plan. The agency information technology plans must
10 reflect the content and format requirements specified in 2-17-524.

11 (2) An agency information technology plan must be submitted to and approved by the department
12 as described in 2-17-527.

13 (3) New investments in information technology resources can be included in the governor's budget
14 only if the ~~project is contained in the approved technology is in the~~ agency information technology plan and is in
15 support of the state information technology strategic plan."

16

17 **Section 13.** Section 2-17-524, MCA, is amended to read:

18 **"2-17-524. Agency information technology plans -- form and content -- performance reports.** (1)
19 Each agency's information technology plan must include but is not limited to the following:

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

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

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

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

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (ii) will serve as the basis for subsequent planning and performance measures;
- 2 (d) an evaluation of the baseline profile that identifies real or potential deficiencies or obsolescence
- 3 of the agency's information technology resources and capabilities;
- 4 (e) a list of new ~~projects~~ technology strategies and resources required to meet the objectives of the
- 5 agency's information technology plan. The investment required for the new projects and resources must be
- 6 developed using life-cycle cost analysis, including the initial investment, maintenance, and replacement costs,
- 7 and must fulfill or support an agency's business requirements.
- 8 (f) when feasible, estimated schedules and funding required to implement identified projects; and
- 9 (g) any other information required by law or requested by the department, the governor, or the
- 10 legislature.
- 11 (2) Each agency's information technology plan must project activities and costs over a 6-year time
- 12 period, consisting of the biennium during which the plan is written or updated and the 2 subsequent bienniums.
- 13 (3) Each agency shall prepare and submit to the department a biennial performance report that
- 14 evaluates progress toward the objectives articulated in its information technology plan. The report must include:
- 15 (a) an evaluation of the agency's performance relating to information technology;
- 16 (b) an assessment of progress made toward implementing the agency information technology
- 17 plan; and
- 18 (c) an inventory of agency information ~~services, equipment, and proprietary software~~ technology
- 19 resources.
- 20 (4) State agencies shall prepare agency information technology plans and biennial performance
- 21 reports using standards, elements, forms, and formats specified by the department."
- 22

23 **Section 14.** Section 2-17-526, MCA, is amended to read:

24 **"2-17-526. Information technology project budget summary.** (1) (a) The office of budget and

25 program planning, in cooperation with the department, shall prepare a statewide summary of:

- 26 (i) proposed major new information technology ~~projects~~ strategic objectives contained in the state
- 27 budget; and

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (ii) proposed major information technology projects purchases or implementation impacting
2 another state agency or branch of government to be funded within the current operating budgets, including
3 replacement of or upgrade to existing systems.
- 4 (b) The office of budget and program planning and the department shall jointly determine the
5 criteria for classifying a project as a major information technology project.
- 6 (2) The information technology ~~project~~ strategic objective summary must include:
- 7 (a) a listing by institution, agency, or branch of all proposed major information technology ~~projects~~
8 purchases or implementations described in subsection (1). Each proposed ~~project~~ purchase or implementation
9 included on the list must include:
- 10 (i) a description of what would be accomplished by completing the ~~project~~ purchase or
11 implementation;
- 12 (ii) a list of the existing information technology applications for all branches of government that
13 may be impacted by the ~~project~~ purchase or implementation;
- 14 (iii) an estimate, prepared in consultation with the impacted agencies, of the costs and resource
15 impacts on existing information technology applications;
- 16 (iv) the estimated cost of the ~~project~~ purchase or implementation;
- 17 (v) the source for funding the ~~project~~ purchase or implementation, including funds within an
18 existing operating budget or a new budget request; and
- 19 (vi) the estimated cost of operating information technology systems resources.
- 20 (b) a listing of internal service rates proposed for providing information technology services. Each
21 internal service rate included on the list must include:
- 22 (i) a description of the services provided; and
23 (ii) a breakdown, aggregated by fund type, of requests included in the state budget to support the
24 rate.
- 25 (c) any other information as determined by the budget director or the department or as requested
26 by the governor or the legislature.
- 27 (3) The information technology project summary must be presented to the legislative fiscal analyst

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 in accordance with 17-7-111(4)."

2

3 **Section 15.** Section 2-17-532, MCA, is amended to read:

4 **"2-17-532. Establishment.** (1) The department shall establish and maintain appropriate ~~electronic~~
5 ~~access systems~~ information technology resources for state agencies to ~~use to provide direct electronic for use~~
6 in access to information and services by citizens, businesses, and other government entities. State agencies
7 shall establish electronic-digital access systems that meet minimum technical standards established by the
8 department. Agencies involved in communicating information or providing services to the public shall use these
9 systems to provide appropriate information to the public, including but not limited to:

- 10 (a) descriptions of agency functions, including contact information;
- 11 (b) agency program services provided to citizens, businesses, and other government entities;
- 12 (c) environmental assessments;
- 13 (d) rulemaking notices;
- 14 (e) board vacancy notices as required by 2-15-201;
- 15 (f) agency reports mandated by statute;
- 16 (g) parks reports required by 23-1-110;
- 17 (h) requests for bids or proposals; and
- 18 (i) public meeting notices and agendas.
- 19 (2) The purpose of electronic-digital access systems is to encourage the practice of providing for
20 direct citizen, business, and other government entity access to state ~~computerized information and services~~
21 information technology resources."

22

23 **Section 16.** Section 2-17-533, MCA, is amended to read:

24 **"2-17-533. Responsibilities.** (1) The department shall:

- 25 (a) establish policies, framework, controls, standards, and procedures, and guidelines for the
26 electronic-digital access systems;
- 27 (b) establish appropriate services to support state agencies' use of the electronic-digital access

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 systems; and

2 (c) develop user-friendly systems for entities regularly interacting with state government, including
3 but not limited to citizens, businesses, and other government entities, and promote the systems' use to reduce
4 ~~copying and mailing~~ costs for state government and as a means to obtain information and services faster and in
5 a more cost-effective manner.

6 (2) The department shall provide security to protect the integrity of its electronic-digital access
7 systems.

8 (3) Each department is responsible for ensuring the integrity and appropriateness of the
9 information that it places in the electronic-digital access systems.

10 (4) The department shall provide for an equitable method for recovering the cost of operating the
11 electronic-digital access systems that the department provides."
12

13 **Section 17.** Section 2-17-534, MCA, is amended to read:

14 **"2-17-534. Security responsibilities of department.** The department is responsible for providing
15 centralized management and coordination of state policies for security of data and information technology
16 resources and shall:

17 (1) establish and maintain the minimum ~~security standards and policies, framework, controls,~~
18 standards, procedures, and guidelines to implement 2-15-114, including the physical security of ~~the central~~
19 ~~computer center, statewide telecommunications network, and backup facilities consistent with these standards~~
20 information technology resources and the state telecommunications network;

21 (2) establish guidelines to assist agencies in identifying information technology personnel
22 occupying positions of special trust or responsibility or sensitive locations;

23 (3) establish standards and policies for the exchange of data between any agency information
24 technology resource and any other state agency, private entity, or public entity to ensure that exchanges do not
25 jeopardize data security and confidentiality;

26 (4) coordinate and provide for a training program regarding security of data and information
27 technology resources to serve governmental technical and managerial needs;

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (5) include appropriate security requirements in the specifications for solicitation of state contracts
2 for procuring data and information technology resources; and

3 (6) ~~upon~~on request, provide technical and managerial assistance relating to information
4 technology security."
5

6 **Section 18.** Section 2-17-546, MCA, is amended to read:

7 "**2-17-546. Exemption of criminal justice information network -- exception.** The provisions of this
8 part do not apply to the criminal justice information network or its successor except for the provisions dealing
9 with the purchase, maintenance, and allocation of telecommunication ~~facilities~~ service delivery. However, the
10 department of justice shall cooperate with the department to coordinate the telecommunications networks
11 services of the state."
12

13 **Section 19.** Section 2-17-551, MCA, is amended to read:

14 "**2-17-551. Definitions.** As used in 2-17-550 through 2-17-553, the following definitions apply:

15 (1) "Collect" means the gathering of personally identifiable information about a user of an internet
16 service, online service, or website by or on behalf of the provider or operator of that service or website by any
17 means, direct or indirect, active or passive, including:

18 (a) an online request for the information by the provider or operator, regardless of how the
19 information is transmitted to the provider or operator;

20 (b) the use of an online service to gather the information; or

21 (c) tracking or use of any identifying code linked to a user of a service or website, including the use
22 of cookies.

23 (2) "Governmental entity" means the state and political subdivisions of the state.

24 (3) "Government ~~website-operator~~" or "operator" means a governmental entity that operates a
25 website ~~located on the internet or an online service and~~ or social media presence or uses any digital means of
26 providing digital services that collects or maintains personal information from or about the users of or visitors to
27 the website or online service or on whose behalf information is collected or maintained.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (4) "Internet" means, collectively, the myriad of computer and telecommunications facilities,
2 including equipment and operating software, that comprise the interconnected worldwide network of networks
3 that use the transmission control protocol/internet protocol or any predecessor or successor protocols to
4 communicate information of all kinds by wire or radio.

5 (5) "Online" means any activity regulated by 2-17-550 through 2-17-553 that is effected by active
6 or passive use of an internet connection, regardless of the medium by or through which the connection is
7 established.

8 (6) "Personally identifiable information" means individually identifiable information about an
9 individual collected online, including:

- 10 (a) a first and last name;
- 11 (b) a residence or other physical address, including a street name and name of a city or town;
- 12 (c) an e-mail address;
- 13 (d) a telephone number;
- 14 (e) a social security number; or
- 15 (f) unique identifying information that an internet service provider or a government website
16 operator collects and combines with any information described in subsections (6)(a) through (6)(e).

17 (7) "Political subdivision" means any county, city, municipal corporation, school district, or other
18 political subdivision or public corporation.

19 (8) "State" means the state of Montana or any office, department, agency, authority, commission,
20 board, institution, hospital, college, university, or other instrumentality of the state."

21

22 **Section 20.** Section 2-17-552, MCA, is amended to read:

23 **"2-17-552. Collection of personally identifiable information -- requirements.** (1) A government
24 website-operator may not collect personally identifiable information online from a website-user unless the
25 operator complies with the provisions of this section.

26 (2) (a) A government website-operator shall ensure that the website the information delivery
27 system or platform:

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 (a)(i) identifies who operates the website system;
- 2 (b)(ii) provides ~~the address and telephone number at which the operator may be contacted as well as~~
3 ~~an electronic both physical and electronic~~ means for contacting the operator; and
- 4 (c)(iii) generally describes the operator's information practices, including policies to protect the privacy
5 of the user and the steps taken to protect the security of the collected information; and
- 6 (b) If the department determines that an agency is not in compliance with the state security
7 policies, framework, controls, standards, procedures, and guidelines provided for in 2-17-534, the department
8 may take appropriate action, in its sole discretion, up to and including terminating the information technology
9 resource and requiring the use of an alternative information technology resource.
- 10 (3) In addition to the requirements of subsection (2)(a), if the personally identifiable information
11 may be used for a purpose other than the express purpose of the website for the collection or may be given or
12 sold to a third party, except as required by law, then the operator shall ensure that the website information
13 technology resource includes:
- 14 (a) a clear and conspicuous notice to the user that the information collected could be used for
15 other than the purposes of the website collection;
- 16 (b) a general description of the types of third parties that may obtain the information; and
- 17 (c) a clear, conspicuous, and easily understood online procedure requiring an affirmative
18 expression of the user's permission before the information is collected."
- 19

20 **Section 21.** Section 2-17-1101, MCA, is amended to read:

21 "**2-17-1101. Short title.** This part may be cited as the "Montana Electronic-Digital Government
22 Services Act"."

23

24 **Section 22.** Section 2-17-1102, MCA, is amended to read:

25 "**2-17-1102. Definitions.** As used in this part, unless the context requires otherwise, the following
26 definitions apply:

- 27 (1) "Convenience fee" means a fee charged to recover the costs of providing electronic-digital

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 government services.

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

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

6 (4) "Infrastructure" means the underlying technology necessary to provide electronic-digital
7 government services."

8

9 **Section 23.** Section 2-17-1103, MCA, is amended to read:

10 **"2-17-1103. Responsibilities of department for electronic-digital government.** (1) The department
11 shall:

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

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

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

18 (d) set technological standards for electronic-digital government services;

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

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

23 (g) promote transparency in information management; and

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

25 (2) To fulfill the responsibilities in subsection (1), the department may contract with private entities.

26 The department may charge convenience fees and may allow private entities to collect the convenience fees on
27 selected electronic-digital government services in order to provide funding for the support and furtherance of

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 electronic digital government services.

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

5

6 **Section 24.** Section 2-18-101, MCA, is amended to read:

7 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following
8 definitions apply:

9 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
10 government recognized in the state budget.

11 (2) "Base salary" means the base hourly pay rate annualized paid to an employee, excluding
12 overtime and longevity.

13 (3) "Benchmark" means a representative position in a specific occupation that is used to illustrate
14 the application of the job evaluation factor used to classify the occupation.

15 (4) "Blue-collar pay plan" means a strictly negotiated classification and pay plan consisting of
16 unskilled or skilled labor, trades, and crafts occupations.

17 (5) "Board" means the board of personnel appeals established in 2-15-1705.

18 (6) "Broadband classification plan" means a job evaluation method that measures the difficulty of
19 the work and the knowledge or skills required to perform the work.

20 (7) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on a
21 classification plan, including market midpoint and occupational wage ranges.

22 (8) "Compensation" means the annual or hourly wage or salary and includes the longevity
23 allowance provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

24 (9) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors
25 that contribute to success in a position.

26 (10) "Department" means the department of administration created in 2-15-1001.

27 (11) (a) Except in 2-18-306, "employee" means any state employee other than an employee

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 excepted under 2-18-103 or 2-18-104.

2 (b) The term does not include a student intern.

3 (12) "Job evaluation factor" means a measure of the complexities of the predominant duties of a
4 position.

5 (13) "Job sharing" means the sharing by two or more persons of a position.

6 (14) "Market midpoint" means the median base salary that other employers pay to employees in
7 comparable occupations as determined by the department's salary survey of the relevant labor market.

8 (15) "Occupation" means a generalized family of positions having substantially similar duties and
9 requiring similar qualifications, education, and experience.

10 (16) "Occupational wage range" means a range of pay, including a minimum, market midpoint, and
11 maximum salary, for a specific occupation that is most consistent with the pay being offered by competing
12 employers for fully competent employees within that occupation. The salary for an employee may be less than
13 the minimum salary.

14 (17) "Pay band" means a wide salary range covering a number of different occupations. Pay bands
15 are used for reporting and analysis purposes only.

16 (18) "Pay progression" means a process by which an employee's compensation may be increased,
17 based on documented factors determined by the department, to bring the employee's compensation to a higher
18 rate within the occupational wage range of the employee.

19 (19) "Permanent employee" means an employee who is designated by an agency as permanent,
20 who was hired through a competitive selection process unless excepted from the competitive process by law,
21 and who has attained or is eligible to attain permanent status.

22 (20) "Permanent status" means the state an employee attains after satisfactorily completing an
23 appropriate probationary period.

24 (21) "Personal staff" means those positions occupied by employees appointed by the elected
25 officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as
26 a whole.

27 (22) "Position" means a collection of duties and responsibilities currently assigned or delegated by

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 competent authority, requiring the full-time, part-time, or intermittent employment of one person.
- 2 (23) "Program" means a combination of planned efforts to provide a service.
- 3 (24) "Seasonal employee" means a permanent employee who is designated by an agency as
- 4 seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights
- 5 or benefits accrued during the preceding season.
- 6 (25) "Short-term worker" means a person who:
- 7 (a) may be hired by an agency without using a competitive hiring process for an hourly wage
- 8 established by the agency;
- 9 (b) may not work for the agency for more than 90 days in a continuous 12-month period;
- 10 (c) is not eligible for permanent status;
- 11 (d) may not be hired into a permanent position by the agency without a competitive selection
- 12 process;
- 13 (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter; and
- 14 (f) may be discharged without cause.
- 15 (26) "Student intern" means a person who:
- 16 (a) has been accepted in or is currently enrolled in an accredited school, college, or university and
- 17 may be hired by an agency in a student intern position without using a competitive selection process;
- 18 (b) is not eligible for permanent status;
- 19 (c) is not eligible to become a permanent employee without a competitive selection process;
- 20 (d) must be covered by the hiring agency's workers' compensation insurance;
- 21 (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter; and
- 22 (f) may be discharged without cause.
- 23 (27) (a) "Telework" means a flexible work arrangement ~~where~~ in which a designated employee may
- 24 work from:
- 25 (i) home within the state of Montana or an alternative worksite within the state of Montana 1 or
- 26 more days a week instead of physically traveling to a central workplace; or
- 27 (ii) an alternative worksite outside the state of Montana limited to:

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (A) employees who are mental health professionals as defined in 27-1-1101 involved in
2 psychological or psychiatric evaluations and treatment;

3 (B) employees engaged in providing services related to information technology resources as
4 defined in 2-17-506;

5 (C) employees who are medical professionals involved in medical evaluations and treatment; or

6 (D) employees who are engaged in providing services related to economic development outside
7 the state and whose work duties require the employees to reside out of state.

8 (b) The office of budget and program planning must approve a designated employee's alternative
9 worksite outside the state of Montana before the employee begins work.

10 (28) "Temporary employee" means an employee who:

11 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

12 (b) performs duties on a temporary basis;

13 (c) is not eligible for permanent status;

14 (d) is terminated at the end of the employment period; and

15 (e) is not eligible to become a permanent employee without a competitive selection process."
16

17 **Section 25.** Section 7-22-2151, MCA, is amended to read:

18 **"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district, including
19 the department of transportation; the department of fish, wildlife, and parks; the department of corrections; the
20 department of natural resources and conservation; and the university system, shall enter into a written
21 agreement with the board. The agreement must specify mutual responsibilities for integrated noxious weed
22 management on state-owned or state-controlled land within the district. The agreement must include the
23 following:

24 (a) an integrated noxious weed management plan, which must be updated biennially;

25 (b) a noxious weed management goals statement;

26 (c) a specific plan of operations for the biennium, including a budget to implement the plan; and

27 (d) a provision requiring a biennial performance report by the board to the state weed coordinator

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 in the department of agriculture, on a form to be provided by the state weed coordinator, regarding the success
2 of the plan.

3 (2) The board and the governing body of each incorporated municipality within the district shall
4 enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the
5 boundaries of the municipality. The board may implement management procedures described in the plan within
6 the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality
7 remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

8 (3) A board may develop and carry out its noxious weed management program in cooperation with
9 boards of other districts, with state and federal governments and their agencies, or with any person within the
10 district. The board may enter into cooperative agreements with any of these parties.

11 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all
12 noxious weed actions that are subject to the agreement required under subsection (1) to the state weed
13 coordinator and shall post a copy of the statement or summary on a state ~~electronic~~ digital access system."
14

15 **Section 26.** Section 10-3-106, MCA, is amended to read:

16 "**10-3-106. Communications.** (1) The division shall coordinate whatever means exist for rapid and
17 efficient communications in time of emergency or disaster.

18 (2) The division shall, in cooperation with the department of administration, consider the desirability
19 of supplementing communications resources or of integrating them into a comprehensive state or state-federal
20 telecommunications or other communications system or network.

21 (3) The division shall, in cooperation with the department of administration and local political
22 subdivisions, evaluate the possibility of multipurpose use of communications systems or networks for general
23 state and local governmental purposes.

24 (4) The division shall assist political subdivisions in the orderly development of telecommunications
25 systems complementary to the statewide state telecommunications network."
26

27 **Section 27.** Section 61-3-346, MCA, is amended to read:

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 **"61-3-346. County motor vehicle computer committee.** (1) There is a county motor vehicle
2 computer committee.

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

5 (3) The committee consists of:

6 (a) an employee of the department of administration, ~~appointed by the director of the department~~
7 justice information technology division, appointed by the attorney general;

8 (b) two county treasurers, appointed by the Montana county treasurers association; and

9 (c) two employees of the department of justice, appointed by the attorney general."
10

11 **Section 28.** Section 61-3-347, MCA, is amended to read:

12 **"61-3-347. Duties of county motor vehicle computer committee.** (1) The county motor vehicle
13 computer committee shall:

14 (a) establish the requirements and specifications for the county motor vehicle computer system to
15 be used by county treasurers and the department of justice to register and renew the registration of motor
16 vehicles, boats, snowmobiles, and off-highway vehicles;

17 (b) approve the purchase of computer equipment, including peripherals, to be used for the
18 registration and renewal of the registration of motor vehicles, boats, snowmobiles, and off-highway vehicles;

19 (c) approve the procedures for the development of the county motor vehicle computer system
20 provided for in 61-3-345 and for training in the use of that system.

21 (2) As used in this section, "computer system" means the county motor vehicle application system
22 and does not include the ~~central computer centers~~ or imply that the department of administration is responsible
23 for establishing policy and operating and maintaining ~~central computer centers~~ the county motor vehicle
24 computer system."
25

26 **Section 29.** Section 61-11-105, MCA, is amended to read:

27 **"61-11-105. Release of information -- fees.** (1) Subject to the limitations of this section, the

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

- 1 department shall, upon request, furnish a person the individual Montana driving record of a driver or licensee,
2 containing the following data:
- 3 (a) the driver's or licensee's name, driver's license number, and date of birth;
 - 4 (b) driver's license status, including the license type and any endorsements, the license issue date,
5 license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver
6 or licensee, and the license expiration date;
 - 7 (c) convictions of the driver or licensee; and
 - 8 (d) traffic accidents in which the driver or licensee was involved.
- 9 (2) The department may not enter into any agreement to disclose or sell, in bulk, any data
10 contained in an individual Montana driving record unless the requester of the information provides the
11 department with the names, driver's license numbers, and dates of birth of the drivers or licensees from whose
12 records a change in license status or conviction activity is to be reported.
- 13 (3) (a) The department may not disclose personal information or highly restricted personal
14 information from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-
15 508, or 61-11-509.
 - 16 (b) The department may not disclose medical certification status, driver self-certification status, or
17 medical certificate information from a CDLIS driver record as part of an individual Montana driving record
18 except as expressly authorized under 49 CFR 384.225.
 - 19 (4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-
20 203, may not be released by the department unless the release is requested or approved by a party involved in
21 the accident or is required by court order or a duly executed subpoena.
 - 22 (5) (a) Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a
23 fee of \$4 must be paid for each individual Montana driving record requested. A fee of \$10 must be paid if a
24 certified Montana record, as provided in 61-11-102(7), is requested. A fee of 6 cents must be paid for each
25 individual Montana driving record that is searched by the department to report to a requester a change in
26 license status or conviction activity from one or more individual Montana driving records.
 - 27 (b) An individual Montana driving record must be provided without charge to any criminal justice

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 agency, as defined in 44-5-103, or other state or federal agency.

2 (6) In addition to the fees required in 61-11-510(3) and subsection (5) of this section, an individual
3 Montana driving record or any report compiled from one or more individual Montana driving records that are
4 ~~electronically~~ digitally transmitted to a requester by an authorized agent as provided in 61-3-116 or through a
5 point of entry for ~~electronic~~ digital government services are subject to the convenience fee provided for in 2-17-
6 1103 or 61-3-116.

7 (7) The department may require a requester, other than a federal, state, or local government
8 agency, seeking one or more individual Montana driving records or any data otherwise contained in one or
9 more individual Montana driving records in ~~electronic~~ digital format to use an authorized agent as provided in
10 61-3-116 or a point of entry for ~~electronic~~ digital government services to obtain the record or data."
11

12 **Section 30.** Section 75-10-805, MCA, is amended to read:

13 **"75-10-805. State government waste reduction and recycling program.** (1) In order to progress
14 toward achieving the waste reduction targets identified in 75-10-803, each state agency, the legislature, and the
15 university system shall:

16 (a) prepare a waste reduction and recycling plan to reduce the solid waste generated by state
17 government. This plan must be submitted to the department and must include, at a minimum, provisions for the
18 composting of yard wastes and the recycling of office and computer paper, cardboard, used motor oil, used oil
19 filters, and other materials produced by the state for which recycling markets exist or may be developed.

20 (b) establish and implement a waste reduction and recycling program; and

21 (c) apply computer technology to reduce the generation of waste paper through:

22 (i) the use of ~~electronic~~ digital access systems;

23 (ii) the transfer of information in electronic rather than paper form; and

24 (iii) other applications of computer technology.

25 (2) The plan must be evaluated every 5 years and updated as necessary."
26

27 **Section 31.** Section 87-1-272, MCA, is amended to read:

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023
68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 **"87-1-272. Future fisheries improvement program -- funding priority -- reports required.** (1) In
2 order to enhance future fisheries through natural reproduction, the department shall establish and implement a
3 statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and
4 lakes of Montana's fisheries.

5 (2) When projects are suggested by the future fisheries review panel, the department shall,
6 through a public hearing process and with the approval of the commission, prioritize projects that have been
7 recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic
8 habitat of native fish species. The department shall fund and implement the program regarding the long-term
9 enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water,
10 and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future
11 fisheries improvement program may not restrict or interfere with the exercise of any water rights or property
12 rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that
13 a program project has been completed on private property does not create any right of public access to the
14 private property unless that right is granted voluntarily by the property owner.

15 (3) The department shall work in cooperation with private landowners, conservation districts,
16 irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement
17 program. Any department employee who is employed under this section to facilitate contact with landowners
18 must have experience in commercial or irrigated agriculture. The department shall encourage the use of
19 volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The
20 department may use contracted services:

- 21 (a) for negotiations with landowners, local officials, citizens, and others;
22 (b) for coordination with other agencies that may be involved in projects conducted under this
23 section; and
24 (c) to perform and supervise project work.

25 (4) Funds expended under this section may be used only for projects for the protection of the
26 fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the
27 commission and may not be used for the acquisition of any interest in land.

Amendment - 1st Reading-white - Requested by: Julie Dooling - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Joe Carroll, 406-444-3804

HB0047.002.001

1 (5) (a) The department shall report to the commission on the progress of the future fisheries
2 improvement program every 12 months and post a copy of the report on a state electronic-digital access
3 system to ensure public access to the report.

4 (b) The department shall also present a detailed report to the legislature in accordance with 5-11-
5 210 on the progress of the future fisheries improvement program. The legislative report must include the
6 department's program activities and expenses since the last report and the project schedules and anticipated
7 expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

8 (c) In order to implement 87-1-273 and this section, the department may expend revenue from the
9 future fisheries improvement program for up to two additional full-time employees."

10

- END -

AMENDED