

HOUSE BILL NO. 231

INTRODUCED BY P. NOONAN

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROVISIONS OF THE MONTANA INFORMATION TECHNOLOGY ACT; REVISING DEFINITIONS; REVISING DUTIES OF THE CHIEF INFORMATION OFFICER; REVISING THE TIME PERIOD OVER WHICH A STATE AGENCY IS REQUIRED TO REPORT INFORMATION TECHNOLOGY PROJECT COSTS AND ACTIVITIES; AND AMENDING SECTIONS 2-17-505, 2-17-506, 2-17-511, 2-17-512, 2-17-516, 2-17-521, 2-17-524, AND 2-17-546, MCA."

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

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

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

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

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

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

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

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

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

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

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

3 ~~(i) accountability~~ government entities are accountable to the citizenry, Montana citizens; and

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

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

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

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

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

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

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

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

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

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

27 (5) It is the policy of the state that the department must be accountable to the governor, the legislature,
28 and the citizens of Montana."
29

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

1 **2-17-506. Definitions.** In this part, unless the context requires otherwise, the following definitions apply:

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

3 (2) "Central computer center" means ~~any stand-alone or shared computer and associated equipment,~~
4 ~~software, facilities, and services administered by the department for use by state agencies~~ a state data center
5 facility administered by the department.

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

8 (4) "Data" means any ~~information stored on information technology resources~~ asset information stored
9 on information technology resources and may refer to any electronic file regardless of the format, including but
10 not limited to databases, text, images, audio, and video.

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

12 (6) "Electronic access system" means a ~~system capable of making data accessible by means of an~~
13 ~~information technology facility~~ telecommunications network that allows information technology to exchange data
14 in a voice, video, or electronic ~~data~~ form, including but not limited to the internet.

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

17 (8) "State agency" means any entity of the executive branch, ~~including~~ listed in 2-15-104, the university
18 system, and the office of public instruction.

19 (9) "Statewide telecommunications network" means any telecommunications facilities, circuits,
20 equipment, software, and associated contracted services administered by the department for the transmission
21 of voice, video, or ~~electronic~~ data from one device to another."
22

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

24 **"2-17-511. Chief information officer -- duties.** The duties of the chief information officer include but
25 are not limited to:

26 (1) carrying out all powers and duties of the department ~~as assigned by the director of the department~~
27 that are provided in 2-17-512 and 2-17-534 and assigned by the department director;

28 (2) serving as the chief policy advisor to the director ~~of the department~~ on statewide information
29 technology issues; ~~and~~

30 (3) ~~assisting and advising the director of the department on~~ carrying out the enforcement responsibilities

1 provided in 2-17-514; and

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

4

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

6 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
7 planning and program responsibilities for information technology for state government, except the national guard
8 as defined in 10-1-101. The department:

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

11 (b) shall promote, coordinate, and approve the development and sharing of shared information
12 technology application software, management systems, and information that provide similar functions for multiple
13 state agencies;

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

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

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

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

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

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

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

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

29 (k) shall review and approve state agency specifications and procurement methods for the acquisition
30 of information technology resources;

- 1 (l) shall review, approve, and sign all state agency contracts and shall review and approve other formal
2 agreements for information technology resources provided by the private sector and other government entities;
- 3 (m) shall operate and maintain a central computer center for the use of state government, political
4 subdivisions, and other participating entities under terms and conditions established by the department;
- 5 (n) shall operate and maintain a statewide telecommunications network for the use of state government,
6 political subdivisions, and other participating entities under terms and conditions established by the department;
- 7 (o) shall ensure that the statewide telecommunications network is properly maintained. The department
8 may establish a centralized maintenance program for the statewide telecommunications network.
- 9 (p) shall coordinate public safety communications on behalf of all state agencies as provided for in
10 2-17-541 through 2-17-543;
- 11 (q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
- 12 (r) shall provide electronic access to information and services of the state as provided for in 2-17-532;
- 13 (s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to
14 state and interstate information technology matters;
- 15 (t) shall establish rates and other charges for services provided by the department;
- 16 (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations
17 for any purpose of this section;
- 18 (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment
19 of the department, the disposal best promotes the purposes for which the department is established;
- 20 (w) shall implement this part and all other laws for the use of information technology in state government;
- 21 (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided
22 in 5-11-210 on the information technology activities of the department; and
- 23 (y) shall represent the state with public and private entities on matters of information technology.
- 24 (2) If it is in the state's best interest, the department may contract with qualified private organizations,
25 foundations, or individuals to carry out the purposes of this section.
- 26 (3) The ~~director of the department~~ director shall appoint the chief information officer to ~~assist in carrying~~
27 carry out the department's information technology duties."

28

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

30 **"2-17-516. Exemptions -- university system -- office of public instruction -- national guard. (1)**

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

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

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

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

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

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

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

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

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

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

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

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

25 (8) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."
 26

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

28 **"2-17-521. State strategic information technology plan -- biennial report.** (1) The department shall
 29 prepare a state strategic information technology plan. The department shall seek the advice of the board in the
 30 development of the plan.

1 (2) The plan must:

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

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

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

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

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

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

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

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

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

19 (e) state agency budget requests for major projects; and

20 (f) other information as determined by the department or requested by the governor or the legislature."
21

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

23 **"2-17-524. Agency information technology plans -- form and content -- performance reports. (1)**

24 Each state agency's information technology plan must include but is not limited to the following:

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

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

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

- 1 (i) includes sufficient information to fully support state-level review and approval activities; and
 2 (ii) will serve as the basis for subsequent planning and performance measures;
 3 (d) an evaluation of the baseline profile that identifies real or potential deficiencies or obsolescence of
 4 the state agency's information technology resources and capabilities;
 5 (e) a list of new projects and resources required to meet the objectives of the state agency's information
 6 technology plan. The investment required for the new projects and resources must be developed using life-cycle
 7 cost analysis, including the initial investment, maintenance, and replacement costs, and must fulfill or support ~~an~~
 8 a state agency's business requirements.
 9 (f) when feasible, estimated schedules and funding required to implement identified projects; and
 10 (g) any other information required by law or requested by the department, the governor, or the
 11 legislature.
 12 (2) Each state agency's information technology plan must project activities and costs over a ~~6-year~~
 13 4-year time period, consisting of the biennium during which the plan is written or updated and the ~~2~~ subsequent
 14 ~~bienniums~~ biennium.
 15 (3) Each state agency shall prepare and submit to the department a biennial performance report that
 16 evaluates progress toward the objectives articulated in its information technology plan. The report must include:
 17 (a) an evaluation of the state agency's performance relating to information technology;
 18 (b) an assessment of progress made toward implementing the ~~agency~~ state agency's information
 19 technology plan; and
 20 (c) an inventory of ~~agency~~ the state agency's information services, equipment, and proprietary software.
 21 (4) State agencies shall prepare agency information technology plans and biennial performance reports
 22 using standards, elements, forms, and formats specified by the department."
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 24

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

25 **"2-17-546. Exemption of law enforcement telecommunications system -- exception.** The provisions
 26 of this part do not apply to the law enforcement telecommunications system or its successor except for the
 27 provisions dealing with the purchase, maintenance, and allocation of telecommunication facilities and information
 28 technology using the statewide telecommunications network. However, the department of justice shall cooperate
 29 with the department to coordinate the telecommunications networks of the state."
 30

- END -