

## MITA REVIEW

### INTRODUCTION

This report is prepared for the information technology (IT) working group of the Legislative Finance Committee (LFC) to help it evaluate recommended legislative changes proposed by the state chief information officer (CIO) to clarify duties of his department. The recommended changes may help ease the administration of duties assigned to the Department of Administration for IT governance.

The following provides an analysis of the eleven items the CIO recommended to the LFC at its December 2009 meeting to pursue in addressing CIO identified concerns with the Montana Information Technology Act (MITA). The LFC voted to refer the matter to the IT working group to provide recommendations for committee consideration. Generally, MITA is codified in Title 2, Chapter 17, part 5 of the Montana Code Annotated (MCA). This analysis lists for each of the eleven CIO concerns the following:

- Background
  - Item number of the concern listed on the CIO's list of 60 items of concern presented at the September and December 2009 committee meetings (Appendix B)
  - Statutory reference of the item (Appendix A)
  - The page on the CIO's list of 60 items (Appendix A)
  - The CIO's concern with the statutory language (Appendix B)
  - The CIO's recommended corrective action (Appendix B)
- Legislative Fiscal Division (LFD) analysis of the concern, including:
  - The policy question raised in the CIO concern
  - An analysis of the CIO concern as it applies to statute
  - Options for workgroup consideration in addressing the CIO concern

This report includes two appendices that provide the following supporting information:

- Appendix A - a crosswalk between the items in Appendix B and the eleven items the CIO recommended at the December 2009 meeting for further consideration by the LFC
- Appendix B - the list of 60 items of concern raised by the CIO and presented by the CIO at the December 2009 LFC meeting

### ANALYSIS OF CIO CONCERNS

#### CIO Concerns - MITA Requirements of DOA - Range of Authority

Several items the CIO raised as concerns with MITA share a common theme - is there clear statutory direction as to the range of authority the Department of Administration (DOA) has with the various governmental entities for carrying out the responsibilities assigned the department under MITA? The following CIO concerns are addressed in this section:

- Item 14 - Definition of state agency (2-17-506(8), MCA)
- Item 17 - Powers and duties of the Department of Administration (2-1-512(1), MCA)
- Item 37 - Exemptions for university system, Office of Public Instruction, and National Guard (2-17-516, MCA)
- Item 48 - Exemption for law enforcement telecommunications system (2-17-546, MCA)

## ***Definition of State Agency (Item 14)***

### CIO Concern – State Agency Definition

The CIO raised a concern that the definition of state agency in 2-17-506(8), MCA, is not clear whether agencies with elected officials as department heads or the university system are under the MITA authority of DOA and the CIO. The CIO recommends that the relationships between MCA sections 2-17-506, 2-17-512, 2-17-516, and 2-17-546 be clearer.

### Analysis - State Agency Definition

#### *Policy Question*

Does the definition for state agency in 2-17-506(8), MCA, clearly define what constitutes a state agency for purposes of identifying the state entities subject to the requirements of MITA that fall under the governance responsibilities of DOA?

#### *Analysis*

The term "state agency" is defined in 2-17-506(8), MCA. It defines which state government entities are subject to the IT planning and programming responsibilities assigned to DOA and subsequently the CIO as assigned by the department director.

In 2-17-506(8), MCA, a state agency is defined to mean any entity of the Executive Branch, including the university system. The Constitution of Montana specifies three branches of state government: legislative, judicial, and executive. As such the responsibilities assigned to DOA are not exercised over the Legislative Branch and Judicial Branch and, as the definitions states, apply only to the Executive Branch. The constitution includes within the Executive Branch the following constitutional officers: Governor, Lieutenant Governor, Secretary of State, Attorney General, Superintendent of Public Instruction, and Auditor.

Montana law, in 2-15-104, MCA, defines the structure of the Executive Branch to which all executive and administrative offices, boards, commissions, agencies, and instrumentalities of the Executive Branch of state government are assigned. The constitution allows law to bestow duties upon the constitutional officers. Title 2, Chapter 17, part 5, MCA, bestow the IT policies and planning duties upon the constitutional officers. The definition of state agency specifically identifies that the university system is included in the Executive Branch for the purposes of MITA.

From this discussion, it is clear that the MITA requirements apply to the constitutional officers and the university system by imposing the jurisdiction, through the definition of state agency, for IT policies and planning upon the Executive Branch, including the university system.

## ***Powers and Duties of the Department (Item 17)***

### CIO Concern – Powers and Duties of the Department

The CIO raised a concern that the term state government is very broad and exceeds the boundaries outlined in the definition of state agency in 2-17-506, MCA.

### Analysis – Powers and Duties of the Department

#### *Policy Question*

Does the use of the term “state government” in 2-17-512(1), MCA, exceed the legitimate boundaries of the department’s authority?

#### *Analysis*

The MITA powers and duties of DOA for IT planning and program responsibilities are listed in 2-17-512, MCA. Within this part of law is the statement that the "department is responsible for carrying out the planning and program responsibilities for information technology for state government, except the National Guard." This section is followed by a list of specific duties and responsibilities, some of which direct governance over other state entities through the application of the requirements to state government. For other requirements the entities over which the department imposes its responsibilities are state agencies (defined earlier as the Executive Branch and the university system). When the term "state government" is used, it applies more broadly to all entities of state government, which includes all three branches of government.

Whenever the term "state government" is used to identify the subject of department action under its MITA responsibilities, the department is working as a facilitator or service provider. But, whenever the term "state agency" is used to identify the subject of department actions the department is exercising MITA enforcement or approval authority. These usages are consistent with the Separation of Powers clause of the state constitution because when the department is responsible for approving a state agency's IT plan, contract, specification, etc. it is limited to the Executive Branch approving an item on another Executive Branch entity.

#### Legislative Consideration - Powers and Duties of the Department

The legislature may want to consider among others the following options for this CIO concern:

- Option SG1: Investigate if a different term should be used in place of "state government"
- Option SG2: Do nothing

Alternative terms used in place of "state government" would have various ramifications depending upon the term used. For example, if "state government" were replaced with "state agency" the department would no longer be involved in IT for the legislative and judicial branches and MITA would focus solely on Executive Branch governance and planning. Current statute has the department responsible for fostering a statewide approach to IT planning and programming involving all three branches.

### ***Exemptions to MITA (Items 37 and 48)***

#### CIO Concern – Exemptions

The CIO raised a concern that the exemptions in 2-17-516, MCA, for the university system, Office of Public Instruction, and National Guard differ from the scope of MITA outlined in 2-17-512, MCA (department responsibilities), and the exception granted in 2-17-546, MCA (exemption of law enforcement telecommunications system).

#### Analysis – Exemptions

##### *Policy Question*

Is there a conflict between the exemptions granted in 2-17-516 and 2-17-546, MCA, and the scope of department authority in 2-17-512, MCA?

##### *Analysis*

Title 2, Chapter 17, part 5 exempts certain entities of the Executive Branch from all or selected MITA requirements. Discussions of the exemptions to the MITA requirements for the constitutional officers, the university system, and the National Guard follow.

#### Constitutional Officers

Above, it was shown that the policymaking authority and administrative powers contained in the MITA requirements that are specifically assigned to DOA apply to the constitutional officers. However, specific exceptions to the MITA requirements exist for the Office of Public Instruction (headed by the Superintendent of Public Instruction) and the Department of Justice (headed by the Attorney General). These specific exemptions are:

- Unless a proposed activity would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the Office of Public Instruction is exempt from the:
  - Requirement that DOA review and approve agency specifications and procurement methods for the acquisition of IT resources (2-17-512(1)(k), MCA)
  - Requirement that DOA review, approve, and sign all state agency contracts and other formal agreements for IT resources provided by the private sector and other government entities (2-17-512(1)(l), MCA)
- The law enforcement telecommunications system or its successor in the Department of Justice is exempt from Title 2, Chapter 17, part 5, MCA, except for the provisions of MITA that deal with the purchase, maintenance, and allocation of telecommunication facilities (2-17-512(1)(k) and 2-17-512(1)(l), MCA)

### University System

As stated above, the definition of state agency states that the university system falls within the term. However, 2-17-516, MCA, provides an exemption for the university system from all requirements in MITA where DOA exercised governance over the university system in the form of enforcement or approval. This exemption effectively negates any impacts MITA has on the governance of the university system IT resources. The only sections of MITA that remain applicable to the university system is the requirement to develop and maintain an agency information technology plan (no DOA approval is required) and to notify DOA when a proposed activity would detrimentally affect the operation of the central computer center or statewide telecommunications network. Statute provides guidance to determining when such an impact would exist and require notification.

### National Guard

The Montana National Guard falls within the Department of Military Affairs, an Executive Branch agency, and would normally fall under the purview of DOA for MITA. However, 2-17-512 and 2-17-516, MCA, exempt the National Guard from the MITA IT planning and programming responsibilities assigned to DOA.

### Exemptions Existed Prior to MITA

The exemptions provided for the constitutional officers, the university system, and the National Guard continue policies contained in law prior to MITA enactment. When MITA was enacted by the 2001 Legislature, it consolidated various sections of law relating to IT governance into the MITA section. The specific exemptions listed above address specific business environments or federal requirements imposed upon the entity or system receiving the exemptions in law.

### Legislative Consideration - Exemptions

The legislature may want to consider among others the following options for this CIO concern:

- Option E1: Investigate if a different approach could be taken to provide exemptions from MITA requirements
- Option E2: Do nothing

## **CIO Concern - Agency IT Strategic Plan Content (Item 41)**

The CIO raised a concern with the requirement in 2-17-524(2), MCA, that agencies project activities and costs over a six-year time period. The CIO stated that agencies are unable to project meaningful fiscal data six years out and that successful accomplishment of the plan is often driven by available resources. The CIO suggests that the six-year period be reduced to a two-year period.

### ***Policy Question***

Does the legislature want to be informed of potential future operational cost impacts when it is making budget decisions for IT resources?

## ***Linking Planning with Budgets***

MITA requirements for IT strategic planning were intended to link the planning for IT resources with budgeting for their implementation and operations. IT strategic-planning requirements coordinate with the budget cycle in that the statutory deadlines for a statewide plan coincide with the beginning of the executive budget planning process (EPP). Agency plans are required to be based on the statewide plan and completed no later than the end of the fiscal year that coordinates with the base year used to budget for the next biennium. The statewide plan sets the direction for the state in the use and development of IT resources and the agency plans identify how the agencies plan to address issues and manage their IT assets to support agency business processes in compliance with the statewide IT strategic direction.

## ***Analysis - Basis for CIO Concern***

As stated, the CIO indicates that agencies are unable to project meaningful fiscal data six years out and that successful accomplishment of the plan is often driven by available resources. In reality, the cost estimating requirement extends only two years beyond what the budgeting statutes require as far as projecting costs.

The legislative purpose for the six-year activity and cost planning requirement came about because agencies were often requesting funds to develop a system but were failing to identify the maintenance or operational costs for the system once it was implemented. The six-year period covers three biennia: the current biennium, in which a budget has been approved and is being implemented; the biennium the agency is developing a budget for; and the succeeding biennium that follows the budget biennium. The intent was to provide information on what the agency is currently spending to support its IT resources (current operations); what changes to the current operations are being planned and what these changes are projected to cost (budget planning); and projected costs for the next biennium. Major IT budget items outside the base are often requests for funding to develop a computer system. The requirement for projections of future costs was intended to identify the ongoing operational costs for the computer systems once they have been implemented.

## ***Legislative Consideration - Six-Year Cost Requirement in IT Planning***

To address the concern of the CIO for the six-year cost requirement in agency IT plans the legislature may want to consider among others the following options:

- Option SYC1: Reduce the six-year cost requirement to a four-year cost requirement by eliminating the costs for the biennium after the biennium for which the budget is being developed
- Option SYC2: Reduce the six-year cost requirement to a two-year cost requirement by eliminating the costs for the biennium for which the budget is being developed and for the following biennium
- Option SYC3: Investigate other options
- Option SYC4: Do nothing

### Reduce Cost Requirement to Four Years

The legislature could eliminate the requirement to estimate costs for the biennium that follows the biennium for which the budget is being developed when the agency IT plans are being prepared. This two-year reduction in cost estimates would eliminate estimates of future costs associated with development of new, replacement, or enhanced IT resources, which was a primary factor for establishing the requirement in MITA.

### Reduce Cost Requirement to Two Years

The legislature could eliminate the requirement to project costs for the biennium the budget is being developed when the agency IT plans are being prepared and for biennium that follows. Costs associated with past decisions of the legislature would be known, but costs in agency IT plans would not reflect the costs of future planning for development and maintaining the IT resources. In essence, the fiscal component of IT planning would be eliminated and exist only in budget requests.

### Investigate Other Options

The legislature could investigate other options to provide the information of future operational costs for new systems as well as address agencies' concerns about projecting costs an extra biennium out. Other options to consider could include providing a range of estimates along with factors that would influence the range or conditions that would dictate an estimate.

### Do Nothing

The legislature could keep statute as it is and continue to require agencies to estimate the IT costs over a six-year period. This would provide the legislature with an estimate of costs to support IT assets if planned budgets were approved by the legislature.

### **CIO Concern - Resources for IT Security (Items 47 and 55)**

State law places the responsibility for management and coordination of state policies for security of data and IT resources with DOA. The CIO raised a concern that the security responsibilities of 2-17-534, MCA, are significant and adequate resources, such as program funding and a chief information security officer (CISO) and related staff have not been provided. The CIO recommends that the requirement for a CISO and related staff be added to the MITA requirements.

### ***Policy Question***

Does the legislature want to specifically include a provision for a chief information security officer and staff in law?

### ***Analysis - Resources for IT Security***

A permanent position currently exists and is funded in the Information Technology Services Division of DOA for state information security. The position was created by reassigning duties of an existing position in the department. Additionally, the organizational chart for the Information Technology Services Division (ITSD) of DOA includes a bureau for enterprise information security. Statewide policies, standards, and guidelines have been established and are in force to fulfill the security responsibilities assigned to DOA in MITA. In establishing the position the director of DOA used the powers provided in 2-15-112, MCA, to supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by state law. Given these same powers, the director could establish a broader organization to support the MITA security functions of the department and if funding is insufficient request the funding through the Governor's budget office and the legislature via existing law. MITA laws specify what responsibilities the department has, but law does not specify how the department is to organize to implement the responsibilities. Under current MITA laws, the DOA director is ultimately responsible for carrying out the information security duties assigned to the department. MITA laws also direct the director to appoint the CIO to assist in carrying out the department's IT duties.

### ***National Trend in State Governments for CISO Positions***

A 2006 national survey of states identified that 34 out of the 41 states that responded to the survey by the National Association of State Chief Information Officers (NASCIO) had a position designated as a state chief information security officer or its equivalent, but by a different title. Of the states with CISO positions, about 54 percent report to the state CIO, 20 percent to an administrative department head, 18 percent to some other individual, and 8 percent to an official in the Governor's office. What is not provided in the survey is whether the positions are specifically required in state law or if they exist under the same type of authority the current position in DOA was created.

### ***CIO Reason for Identifying a CISO in Law***

The CIO recommends including a statutory requirement for the CISO position to provide consistency in the governance of IT security between administration changes. The rationale is that if the position is in law, a new administration would not eliminate the position and consistency could be maintained.

## ***Legislative Consideration - Resources for IT Security***

To address the concern of the CIO for the IT security the legislature may want to consider among others the following options:

- Option SEC1: Add permissive language to statute that specifically allows the creation of a CISO
- Option SEC2: Add language to statute that requires creation of a CISO
- Option SEC3: Do nothing

### Add Permissive Language to Law for a CISO

The legislature could amend statute to provide permissive language that would allow the CISO position and associated staff, and the delegation of statewide IT security responsibilities to the CISO, while leaving the organizational issues for the function within the Executive Branch.

### Add Language to Law Requiring a CISO

The legislature could amend statute to require a CISO and allow for associated staff for the position. Including language in statute that requires a CISO and allows for associated staff would elevate the importance of IT security compared to current statute.

### Do Nothing

The legislature could keep statute as it is and continue to specify the requirements for IT security without dictating how the Executive Branch organizes to fulfill the requirements.

## **CIO Concern - Requirement for IT Project Management (Item 50)**

The CIO raised a concern that MITA laws fail to include requirements for project management in the development of state IT projects. The MITA policy states that the development of IT resources must be conducted in an organized, deliberative, and cost-effective manner. The CIO refers to this policy statement and the fact that using project management is a best industry practice in the development of IT resources to justify requiring the use of project management in the development of state IT resources.

## ***Policy Question - IT Project Management***

Does the legislature want to specify in statute requirements for the use of project management methodologies in the development of IT projects?

## ***Analysis - IT Project Management***

ITSD has established a state project management office comprised of six positions (5.50 FTE) by redefining roles of existing positions functioning in other areas of the division. The office is funded under the current legislatively approved rate structure for the division. An interim policy is in effect to guide state agencies in:

- Managing IT Projects in a consistent way
- Delivering IT Projects in a deliberate and standardized fashion
- Establishing metrics to measure the delivery of commissioned IT Projects
- Utilizing best practices in project management to deliver IT projects that are on time, on budget, and meet users' needs

As with the CISO, the project management office was established under authority of the department director through the powers provided for in 2-15-112, MCA, to supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by state law. Roles for existing positions were redefined to accomplish the functions of the office.

## ***Legislative Consideration - IT Project Management***

To address the concern of the CIO for IT project management the legislature may want to consider among others the following options:

- Option PM1: Add permissive language to statute that specifically allows the department to specify the use of project management on state agency IT projects
- Option PM2: Add language to statute that requires the use of project management practices on state agency IT projects, including duties and authority for the department to establish project management requirements in policy or rule
- Option PM3: Do nothing

### Add Permissive Language for Project Management

The legislature could add language to the MITA statutes that specifically allows the department to use project management as an approach to achieving the MITA policy goals (develop IT resources in an organized, deliberative, and cost-effective manner). Adding permissive language specific to the use of project management for IT projects would provide DOA with more credibility to motivate state agency compliance without specifically requiring in statute how the department fulfills its responsibilities.

### Add Language to Statute Requiring the Use of Project Management for IT Projects

The legislature could add language to the MITA statutes that specifically requires use of project management by state agencies when developing IT projects. Adding language that specifically requires its use for IT projects and responsibilities for DOA to develop and enforce statewide policies, standards, and practices would provide DOA statutory authority to require state agency compliance with policies and directives established for project management. Because the project management office and a policy are currently established, minimal short-term fiscal impacts would result. Texas law, for example, requires project management practices to be used on all information resources projects, but does not specify how the department is to organize to fulfill the requirements.

### Do Nothing

The legislature could keep statute as it is and continue to allow the department the flexibility to determine how to fulfill the responsibilities assigned to it in implementing the MITA policies.

## **CIO Concern - CIO Duties (Item 53)**

The CIO raised a concern that some of the duties of the department (5-17-512) need to be moved to the duties of the CIO (5-17-511) and the status of the CIO as a cabinet member needs to be addressed.

### ***Policy Question – CIO Duties***

Does the legislature want to specify certain duties and organization of the CIO for IT governance?

### ***Analysis – CIO Duties***

In statute, the ultimate authority rests with the DOA director to fulfill the MITA responsibilities of the department for statewide IT governance. However, the legislature in establishing MITA intended that the CIO be the voice and face for state agency IT to the legislature and the citizens of the state. Under current statute the department's responsibilities for MITA that are delegated from the DOA director to the CIO are at the discretion of the director. Statute states that a CIO shall be appointed to assist in carrying out the department's IT duties, but does not specify that any duties must be assigned. As such, a CIO in the future could be appointed, but carry little perceived authority and as a result be ineffective at enforcing IT governance as intended in MITA.

The practice of the current Executive Branch administration to appoint the CIO to the cabinet has elevated the significance of the position as viewed by state agencies. Future administrations could choose not to appoint the CIO to the cabinet and the authority of the position would rely on the DOA director to influence authority over other state agencies in regard to IT resource governance.

## ***Legislative Consideration - CIO Duties***

To address the concern of the CIO for the duties of the CIO the legislature may want to consider among others the following options:

- Option CIO1: Specifically assign duties to the CIO in statute instead of specify that the department director may assign certain duties
- Option CIO2: Specify in statute the CIO as statewide IT policy advisor to Governor instead of the director of the department
- Option CIO3: Make it a duty of department heads to comply with DOA IT governance
- Option CIO4: Do nothing

### Assign in Statute the IT Governance Duties to the CIO

The legislature could amend statute to assign the IT governance duties of DOA to the CIO and eliminate the discretion of the department director to assign the duties. Specifically assigning the DOA duties for IT governance to the CIO would maintain consistency for the role of the CIO across Executive Branch administration changes and enhance the perception of authority the CIO has for IT governance.

### CIO as Statewide IT Policy Advisor to Governor

The legislature could amend statute to specify that the CIO is statewide IT policy advisor to the Governor instead of to the DOA director. Shifting the advisory role to the Governor would enhance the perception of authority the CIO has for IT governance.

### Duty of Department Heads to Comply with DOA IT Governance

The legislature could amend statute to make it a duty of department heads to comply with DOA IT governance. Adding this requirement would enhance the ability of DOA in enforcing IT governance policies, standards, and requirements.

### Do Nothing

The legislature could keep statute as it is and continue to allow the Executive Branch administration to determine what duties for IT governance it assigns to the CIO and maintain the current governance role through the DOA director for IT duties of the department.

## **CIO Concern - Scope and Function of ITSD (Item 54)**

The CIO raised a concern that MITA statutes do not define the scope and functions of the Information Technology Services Division (ITSD) of DOA. The CIO recommends that statute be amended to delineate the authority of ITSD to issue and enforce policy for IT.

### ***Policy Question – Scope and Function of ITSD***

Does the legislature want to specify in statute the authority specific to ITSD to issue and enforce policy for IT as opposed to the current authority of the department?

### ***Analysis – Scope and Function of ITSD***

MITA statutes assign the responsibility and authority for statewide IT compliance with the director of DOA. Other state laws provide authority to the director to organize the department in such a way to fulfill the functions vested in it by law. Law or administrative action can create an internal subdivision of an agency. Specifying in statute how the Executive Branch must organize to administer state laws would limit the policymaking authority and administrative powers of the Governor with regard to fulfilling the Executive Branch assigned statewide IT governance responsibilities.

## ***Legislative Consideration - Scope and Functions of ITSD***

To address the concern of the CIO for the scope and functions of ITSD for issues and enforcement of IT policies the legislature may want to consider among others the following options:

- Option ITSD1: Amend statute to specify scope and authority for ITSD for enforcing IT policies
- Option ITSD2: Do nothing

### Specify in Statute the Scope and Authority for ITSD for Enforcing IT Policies

The legislature could amend statute to specify the scope and authority the Information Technology Services Division of DOA has in developing and enforcing IT governance policies. Current statute assigns the responsibility to the department but does not specify how the department is to organize to fulfill the requirement. Enforcement authority is vested in the department.

### Do Nothing

The legislature could keep statute as it is and continue to allow the Executive Branch administration to determine how it will organize to fulfill the requirements assigned to DOA for IT governance.

## **CIO Concern - Chief Technology Officer (Item 56)**

The CIO raised a concern that MITA statutes do not include a provision for a chief technology officer (CTO) and recommends that provisions should be made in statute for a CTO.

## ***Policy Question - Chief Technology Officer***

Does the legislature want to specifically include a provision for a chief technology officer in law?

## ***Analysis - Chief Technology Officer***

The Center for Technology in Government published a document that provided an in-depth review of thirteen states: California, Florida, Georgia, Kansas, Kentucky, Maine, Michigan, Minnesota, New York, North Carolina, Pennsylvania, Texas, and Virginia. The center selected these states "to create a diverse set of examples and to gain a broad picture of state enterprise IT governance efforts in the United States"<sup>1</sup>. The profile indicates that there is no consistency across states in how they organize their enterprise IT governance frameworks. Furthermore, the positions assigned to head the IT governance organizations go by many titles. The most common is the CIO. In some states a separate title exists for a chief technology officer (CTO). However, often the CTO is just another title for the equivalent of the CIO or a second title carried by the CIO (e.g. Texas). In some instances both a CIO and CTO exist in separate positions.

The CTO is the subject matter expert for technology who assesses the latest and most innovative technologies and makes decisions on how the technology can help the organization. The CTO creates technical standards, organizes technology, and manages workers that deal with the everyday information technology issues of the organization.

In Kansas both a chief information technology architect (CTA) and CTO exist separately in statute, but the CTO reports to the CTA and the CTA performs a similar role as the CIO in other states. So, in Kansas, the CTA is an example of another name provided for the CIO in other states. When both a CIO and CTO are present in an organization, the CIO is generally responsible for processes and practices supporting the flow of information, whereas the CTO is generally responsible for technology infrastructure. The CIO relies on subject matter experts to analyze how technologies can benefit the enterprise or improve an existing business process and will then facilitate the integration of a system to realize that benefit or improvement. There is no consistency across states in establishment of the CTO when it exists. Some states specify the position in law and others establish the position administratively.

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<sup>1</sup> Enterprise IT Governance in State Government: State Profiles, 2009, Center for Technology in Government, [www.ctg.albany.edu](http://www.ctg.albany.edu)

## ***CIO Reason for Identifying a CTO in Law***

The CIO recommends including a statutory requirement for the CTO position to provide consistency in the state's approach to technology between administration changes. The rationale is that if the position is in law, a new administration would not eliminate the position and consistency could be maintained.

## ***Legislative Consideration - Chief Technology Officer***

To address the concern of the CIO that Montana needs a chief technology officer the legislature may want to consider among others the following options:

- Option CTO1: Amend statute to specifically allow, but not require, a CTO and assignment of duties and responsibilities by the director or CIO
- Option CTO2: Amend statute to specifically require a CTO and assignment of duties and responsibilities
- Option CTO3: Do nothing

### Do Nothing

The legislature could keep statute as it is and continue to allow the Executive Branch administration to determine how it will organize to fulfill the requirements assigned to DOA for IT governance. The department could do as it has done for IT security and project management and organize existing staff to accomplish the duties the CIO considers those of a CTO, including provide the title of CTO in IT policies. If additional resources are needed to provide for these duties, the department can request funding.

### Add Permissive Language in Statute for a CTO and Duties

The legislature could amend statute to specifically allow the department to establish a CTO and assign duties. Although current statute allows the department to organize as it determines to fulfill statutory duties, citing the function in statute would elevate the perception of authority for the functions and the associated policies and standards developed to implement them. The department could assign existing staff to the function or request funding in the executive planning process for the function.

### Require in Statute a CTO and Specify Duties

The legislature could amend statute to specifically require a CTO and specify duties for the position. Although the department could establish the position and functions under current statute, adding the requirement for the position would add credibility to the position as it develops and enforces statewide policies and standards for technology.

## **APPENDIX A**

### **MITA REVIEW DOCUMENT CROSSWALK**

<b>Short Description of CIO Concern Item</b>	<b>Item Number</b>	<b>Page Reference</b>	<b>MCA Reference</b>
Definitions – state agency	14	3	2-17-506(8)
Boundaries – department powers and duties	17	4	2-17-512(1)
Exemptions – university system, OPI, and national guard	37	10	2-17-516
Content - agency information technology plans	41	14	2-17-524(2)
Security responsibilities of Department of Administration	47	18	2-17-534
Exemption - law enforcement telecommunications system	48	19	2-17-546
Project management	50	19	Not in statute
Duties and organization - CIO	53	19	2-17-512 and 2-17-511
Scope and function - ITSD	54	19	Not in statute
Chief security officer and staff	55	19	Not in statute
Chief technology officer	56	20	Not in statute

The above table provides a crosswalk from the analysis items in this report to the items and their corresponding page references submitted by the state chief information office (CIO) in the document MITA Review, dated December 2, 2009, and to the corresponding Montana Code Annotated citation.

**APPENDIX B**

**MITA REVIEW**

**A REVIEW OF THE EFFECTIVENESS OF THE MONTANA  
INFORMATION TECHNOLOGY ACT**

**DECEMBER 2, 2009**

(Provided by Chief Information Officer)

# MITA Review

## A REVIEW OF THE EFFECTIVENESS OF THE MONTANA INFORMATION TECHNOLOGY ACT

DECEMBER 2, 2009

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### PERTINENT STATUTE WITH COMMENTS

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
1.	<b>2-17-505. Policy.</b> (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...	<b>Minor Issue:</b> CIO has no constitutional responsibility over education at the OPI or University level  <b>Minor Issue:</b> Creating quality jobs is beyond the scope of IT since there is no capital investment strategy – we are a rate recovery organization.	
2.	<b>2-17-505. Policy.</b> (1) It is the policy of the state that information technology be used to...protecting individual privacy and the privacy of the information contained within information technology systems. (2) It is the policy of the state that the development of information technology resources in the state must be conducted in an organized, deliberative, and cost-effective manner.	<b>Working well.</b>	
3.	<b>2-17-505. Policy.</b> (2)(a) There are statewide information technology policies, standards, procedures, and guidelines applicable to all state agencies and other entities using the state network.	<b>Minor Issue:</b> Not all entities are funded or have the resources to comply i.e. Counties or small agencies	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
4.	<b>2-17-505. Policy.</b> (2)(b) Whenever feasible and cost-effective, common data is entered once and shared among agencies. (c) In order to minimize unwarranted duplication, similar information technology systems and data management applications are implemented and managed in a coordinated manner. (d) Planning and development of information technology resources are conducted in conjunction with budget development and approval.	<b>Working well:</b> The agencies are just starting to address this in the state strategic plan	
5.	<b>2-17-505. Policy.</b> (2)( e) Information technology systems are deployed aggressively whenever it can be shown that it will provide improved services to Montana citizens	<b>Minor Issue:</b> Aggressive deployment is up to four years due to the legislative budgeting process and the existing purchasing process.	
6.	<b>2-17-505. Policy.</b> (2)(f) Public-private partnerships are used to deploy information technology systems when practical and cost-effective.	<b>Working well:</b> Becoming more prevalent. <b>Minor Issue:</b> Companies have expressed an interest in partnering with ITSD in making capital investment in the state's IT infrastructure but there are no provisions in the law to allow for such private investment.	
7.	<b>2-17-505. Policy.</b> (2)(g) State information technology systems are developed in cooperation with the federal government and local governments with the objective of providing seamless access to information and services to the greatest degree possible	<b>Minor Issue:</b> To the best of our ability – many times there are conflicting objectives and lack of information or communication from the federal side.	
8.	<b>2-17-505. Policy.</b> (2)(h) State information technology systems are able to accommodate electronic transmissions between the state and its citizens, businesses, and other government entities. (3) It is the policy of the state that the department must be accountable to the governor, the legislature, and the citizens of Montana.	<b>Working well.</b>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
9.	<b>2-17-506. Definitions.</b> (1) "Board" means the information technology board established in <a href="#">2-15-1021</a> .	<b>Working well.</b>	
10.	<b>2-17-506. Definitions.</b> (2) "Central computer center" means any stand-alone or shared computer and associated equipment, software, facilities, and services administered by the department for use by state agencies.	<b>Major Problem:</b> The term "central computer center" needs to be better defined.	
11.	<b>2-17-506. Definitions.</b> (4) "Data" means any information stored on information technology resources.	<b>Major Problem:</b> The term "data" needs to be better defined.	
12.	<b>2-17-506. Definitions.</b> (6) "Electronic access system" means a system capable of making data accessible by means of an information technology facility in a voice, video or electronic data form, including but not limited to the internet.	<b>Minor Issue:</b> Need to expand to meet today's criteria	
13.	<b>2-17-506. Definitions.</b> (7) "Information technology" means hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.	<b>Minor Issue:</b> Need to expand to meet today's criteria	
14.	<b>2-17-506. Definitions.</b> (8) "State agency" means any entity of the executive branch, including the university system	<b>Major Problem:</b> Need to clarify status of agencies with elected officials. i.e. AG – DOJ/OPI/etc. University system is outside the authority of the CIO	Revise section to clarify the status of agencies with elected officials. i.e. AG – DOJ/OPI/etc.  Section needs to clarify relationship between 5-17-512, 5-17-506, 5-17-516, and 5-17-546
15.	<b>2-17-506. Definitions.</b> (9) "Statewide telecommunications network" means any telecommunications facilities, circuits, equipment, software, and associated contracted services administered by the department for the transmission of voice, video, or electronic data from one device to another.	<b>Minor Issue:</b> Need to expand to meet today's criteria	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
16.	<b>2-17-511. Chief information officer -- duties.</b> The duties of the chief information officer include but are not limited to: (1) carrying out all powers and duties of the department as assigned by the director of the department; (2) serving as the chief policy advisor to the director of the department on statewide information technology issues; and (3) assisting and advising the director of the department on the enforcement responsibilities provided in <a href="#">2-17-514</a> .	<b>Minor Issue:</b> Does not truly reflect the duties of the CIO as they are currently being executed.	
17.	<b>2-17-512. Powers and duties of department.</b> (1) The department is responsible for carrying out the planning and program responsibilities for information technology for state government, except the national guard.	<b>Major Problem:</b> The term state government is very broad and exceed the boundaries outlined in 2-17-506 i.e. agencies and 5-17-516	Section needs to clarify relationship between 5-17-512, 5-17-506, 5-17-516, and 5-17-546.
18.	<b>2-17-512. Powers and duties of department.</b> (1)(a) shall encourage and foster the development of new and innovative information technology within state government; (1)(b) shall promote, coordinate, and approve the development and sharing of shared information technology application software, management systems, and information that provide similar functions for multiple state agencies; (1)(c) shall cooperate with the office of economic development to promote economic development initiatives based on information technology;	<b>Working well.</b>	
19.	<b>2-17-512. Powers and duties of department.</b> (1)(d) shall establish and enforce a state strategic information technology plan as provided for in <a href="#">2-17-521</a> ;	<b>Major Problem:</b> Does not define and provide for enforcement activities	
20.	<b>2-17-512. Powers and duties of department.</b> (1)(e) shall establish and enforce standards statewide information technology policies...	<b>Major Problem:</b> Does not define and provide for enforcement activities	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
21.	<b>2-17-512. Powers and duties of department.</b> (1) (g) shall coordinate with the office of budget and program planning to evaluate budget requests that include information technology resources. The department shall make recommendations to the office of budget and program planning for the approval or disapproval of information technology budget requests, including an estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or capitalized, based on state accounting policy established by the department. An unfavorable recommendation must be based on a determination that the request is not provided for in the approved agency information technology plan provided for in <a href="#">2-17-523</a> .	Working well.	
22.	<b>2-17-512. Powers and duties of department.</b> (1) (j) shall review the use of information technology resources for all state agencies;	Minor Issue: Law does not define review and provide authority for corrective action. The CIO can only advise.	
23.	<b>2-17-512. Powers and duties of department.</b> (1) (k) shall review and approve state agency specifications and procurement methods for the acquisition of information technology resources;	Working well.	
24.	<b>2-17-512. Powers and duties of department.</b> (1)(l) shall review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities;	Minor Issue: CIO cannot comment on private sector and other entity agreements such as university etc.	
25.	<b>2-17-512. Powers and duties of department.</b> (1) (m) shall operate and maintain a central computer center for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;	Minor Issue: Does not define central computer center. The term the definitions section needs to be better defined.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
26.	<p><b>2-17-512. Powers and duties of department.</b>(1) (n) shall operate and maintain a statewide telecommunications network for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;</p> <p>(o) shall ensure that the statewide telecommunications network is properly maintained. The department may establish a centralized maintenance program for the statewide telecommunications network.</p> <p>(p) shall coordinate public safety communications on behalf of all state agencies as provided for in <a href="#">2-17-541</a> through <a href="#">2-17-543</a>;</p> <p>(q) shall manage the state <a href="#">9-1-1</a> program as provided for in Title 10, chapter 4, part 3;</p>	<b>Working well.</b>	
27.	<p><b>2-17-512. Powers and duties of department.</b>(1) (r) shall provide electronic access to information and services of the state as provided for in <a href="#">2-17-532</a>;</p>	<b>Minor Issue:</b> There is no defined electronic records management process in the state at this time.	
28.	<p><b>2-17-512. Powers and duties of department.</b>(1)(s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to state and interstate information technology matters;</p> <p>(1)(t) shall establish rates and other charges for services provided by the department;</p> <p>(1) (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations for any purpose of this section;</p> <p>(1) (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment of the department, the disposal best promotes the purposes for which the department is established</p>	<b>Working well.</b> There is no guarantee of budgetary authority to execute funds being granted.	
29.	<p><b>2-17-512. Powers and duties of department.</b>(1) (w) shall implement this part and all other laws for the use of information technology in state government;</p>	<b>Minor Issue:</b> The term state government need to be better defined.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
30.	<b>2-17-512. Powers and duties of department.</b> (1) (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided in <a href="#">5-11-210</a> on the information technology activities of the department; and (1)(y) shall represent the state with public and private entities on matters of information technology.	<b>Working well.</b> The term state needs to be defined	
31.	<b>2-17-512. Powers and duties of department.</b> (2) If it is in the state's best interest, the department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of this section	<b>Working well.</b>	
32.	<b>2-17-513. Duties of board.</b> The board shall: (1) provide a forum to: (a) guide state agencies, the legislative branch, the judicial branch, and local governments in the development and deployment of intergovernmental information technology resources;	<b>Minor Issue:</b> How does the board guide entities outside of the executive branch.	
33.	<b>2-17-513. Duties of board.</b> The board shall: (1) provide a forum to: (b) share information among state agencies, local governments, and federal agencies regarding the development of information technology resources;	<b>Minor Issue:</b> There is no provision for including or identifying those federal agencies.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
34.	<p><b>2-17-513. Duties of board.</b> (3) review and advise the department on:</p> <ul style="list-style-type: none"> <li>(a) statewide information technology standards and policies;</li> <li>(b) the state strategic information technology plan;</li> <li>(c) major information technology budget requests;</li> <li>(d) rates and other charges for services established by the department as provided in <a href="#">2-17-512(1)(t)</a>;</li> <li>(e) requests for exceptions as provided for in <a href="#">2-17-515</a>;</li> <li>(f) notification of proposed exemptions by the university system and office of public instruction as provided for in <a href="#">2-17-516</a>;</li> <li>(g) action taken by the department as provided in <a href="#">2-17-514(1)</a> for any activity that is not in compliance with this part;</li> <li>(h) transfer of information technology funds, resources, and employees as provided for in <a href="#">2-17-531</a>; and</li> <li>(i) the implementation of major information technology projects and advise the respective governing authority of any issue of concern to the board relating to implementation of the project;</li> </ul> <p>(4) study state government's present and future information technology needs and advise the department on the use of emerging technology in state government; and</p> <p>(5) request information and reports that it considers necessary from any entity using or having access to the statewide telecommunications network or central computer center.</p>	Working well.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
35.	<p><b>2-17-514. Department -- enforcement responsibilities.</b></p> <p>(1) If the department determines that an agency is not in compliance with the state strategic information technology plan provided for in <a href="#">2-17-521</a>, the agency information technology plan provided for in <a href="#">2-17-523</a>, or the statewide information technology policies and standards provided for in <a href="#">2-17-512</a>, the department may cancel or modify any contract, project, or activity that is not in compliance.</p> <p>(2) Prior to taking action provided for in subsection (1), the department shall review with the board any activities that are not in compliance.</p> <p>(3) Any contract entered into by an agency that includes information technology resources must include language developed by the department that references the department's enforcement responsibilities provided for in subsection (1). A contract that does not contain the required language is considered to be in violation of state law and is voidable pursuant to subsection (1). The language developed by the department may not be varied pursuant to <a href="#">18-4-224</a>.</p>	<p><b>Minor Issue:</b> All enforcement capability is contract centered – other enforcement actions are not provided for in statute.</p>	
36.	<p><b>2-17-515. Granting exceptions to state agencies.</b></p> <p>Subject to <a href="#">2-17-516</a>, the department may grant exceptions to any policy, standard, or other requirement of this part if it is in the best interests of the state of Montana. The department shall inform the board, the office of budget and program planning, and the legislative finance committee of all exceptions that are granted and of the rationale for granting the exceptions. The department shall maintain written documentation that identifies the terms and conditions of the exception and the rationale for the exception.</p>	<p><b>Working well.</b></p>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
37.	<p><b>2-17-516. Exemptions -- university system -- office of public instruction -- national guard.</b> (1) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the office of public instruction is exempt from <a href="#">2-17-512(1)(k)</a> and (1)(l). (2) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the university system is exempt from:</p> <p>(a) the enforcement provisions of <a href="#">2-17-512(1)(d)</a> and (1)(e) and <a href="#">2-17-514</a>;</p> <p>(b) the approval provisions of <a href="#">2-17-512(1)(f)</a>, <a href="#">2-17-523</a>, and <a href="#">2-17-527</a>;</p> <p>(c) the budget approval provisions of <a href="#">2-17-512(1)(g)</a>;</p> <p>(d) the provisions of <a href="#">2-17-512(1)(k)</a> and (1)(l); and</p> <p>(e) the transfer provisions of <a href="#">2-17-531</a>.</p> <p>(3) The department, upon notification of proposed activities by the university system or the office of public instruction, shall determine if the central computer center or the statewide telecommunications network would be detrimentally affected by the proposed activity.</p> <p>(4) For purposes of this section, a proposed activity affects the operation of the central computer center or the statewide telecommunications network if it detrimentally affects the processing workload, reliability, cost of providing service, or support service requirements of the central computer center or the statewide telecommunications network.</p> <p>(5) When reviewing proposed activities of the university system, the department shall consider and make reasonable allowances for the unique educational needs and characteristics and the welfare of the university system as determined by the board of regents.</p> <p>(6) When reviewing proposed activities of the office of public instruction, the department shall consider and make reasonable allowances for the unique educational needs and characteristics of the office of public instruction to communicate and share data with school districts.</p>	<p><b>Minor Issue:</b> This section in differs with the scope of MITA outline in sect 2-17-512 and differs from the blanket exception granted 2-17-546</p>	<p>Section needs to clarify relationship between 5-17-512, 5-17-506, 5-17-516, and 5-17-546.</p>
	<p>(7) Section <a href="#">2-17-512(1)(u)</a> may not be construed to prohibit the university system from accepting federal funds or gifts, grants, or donations related to information technology or telecommunications.</p>	<p>Page 24 of 34</p>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
38.	<b>2-17-517. Legislative and judicial branch information sharing.</b> The legislative branch and the judicial branch shall provide their information technology plans to the department.	Working well.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
39.	<p><b>2-17-518. Rulemaking authority.</b> (1) The department shall adopt rules to implement this part, including the following:</p> <ul style="list-style-type: none"> <li>(a) rules to guide the review and approval process for state agency software and management systems that provide similar functions for multiple state agencies, which must include but are not limited to: <ul style="list-style-type: none"> <li>(i) identifying the software and management systems that must be approved;</li> <li>(ii) establishing the information that state agencies are required to provide to the department; and</li> <li>(iii) establishing guidelines for the department's approval decision;</li> </ul> </li> <li>(b) rules to guide the review and approval process for state agency acquisition of information technology resources, which must include but are not limited to processes and requirements for: <ul style="list-style-type: none"> <li>(i) agency submissions to gain approval for acquiring information technology resources;</li> <li>(ii) approving specifications for information technology resources; and</li> <li>(iii) approving contracts for information technology resources; and</li> </ul> </li> <li>(c) rules for granting exceptions from the requirements of this part, which must include but are not limited to: <ul style="list-style-type: none"> <li>(i) a process for applying for an exception; and</li> <li>(ii) guidelines for determining the department's approval decision.</li> </ul> </li> </ul> <p>(2) The department may adopt rules to guide the development of state agency information technology plans. The rules may include:</p> <ul style="list-style-type: none"> <li>(a) agency plan review procedures;</li> <li>(b) agency plan content requirements;</li> <li>(c) guidelines for the department's approval decision; and</li> <li>(d) dispute resolution processes and procedures.</li> </ul> <p>(3) Adequate rules for the use of any information technology resources must be adopted by the:</p> <ul style="list-style-type: none"> <li>(a) supreme court for judicial branch agencies; and</li> <li>(b) legislative council as a part of the legislative branch computer system plan, as provided for in <a href="#">5-11-405</a>, for the consolidated legislative branch, as provided for in <a href="#">5-2-504</a>. </li></ul>	Working well.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
40.	<p><b>2-17-521. State strategic information technology plan -- biennial report.</b> (4) The department shall prepare a biennial report on information technology based on agency information technology plans and performance reports required under <a href="#">2-17-524</a> and other information considered appropriate by the department. The biennial report must include:</p> <p>(a) an analysis of the state's information technology infrastructure, including its value, condition, and capacity;</p>	<p><b>Minor Issue:</b> The state does not have an established accounting practice for valuing these types of assets. i.e. Purchase Value, Replacement Value, Depreciation Value, Residual Value, or Other.</p>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
41.	<p><b>2-17-524. Agency information technology plans -- form and content -- performance reports.</b> (1) Each agency's information technology plan must include but is not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) a statement of the agency's mission, goals, and objectives for information technology, including a discussion of how the agency uses or plans to use information technology to provide mission-critical services to Montana citizens and businesses;</li> <li>(b) an explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan required in <a href="#">2-17-521</a>;</li> <li>(c) a baseline profile of the agency's current information technology resources and capabilities that: <ul style="list-style-type: none"> <li>(i) includes sufficient information to fully support state-level review and approval activities; and</li> <li>(ii) will serve as the basis for subsequent planning and performance measures;</li> </ul> </li> <li>(d) an evaluation of the baseline profile that identifies real or potential deficiencies or obsolescence of the agency's information technology resources and capabilities;</li> <li>(e) a list of new projects and resources required to meet the objectives of the agency's information technology plan. The investment required for the new projects and resources must be developed using life-cycle cost analysis, including the initial investment, maintenance, and replacement costs, and must fulfill or support an agency's business requirements.</li> <li>(f) when feasible, estimated schedules and funding required to implement identified projects; and</li> <li>(g) any other information required by law or requested by the department, the governor, or the legislature.</li> </ul> <p>(2) Each agency's information technology plan must project activities and costs over a 6-year time period, consisting of the biennium during which the plan is written or updated and the 2 subsequent bienniums.</p> <p>(3) Each agency shall prepare and submit to the department a biennial performance report that evaluates progress toward the objectives articulated in its information technology plan. The report must include:</p>	<p><b>Minor Issue:</b> Successful accomplishment of the plan is often driven by availability of resources.</p> <p>Agencies are unable to project meaningful fiscal data 6 years out</p>	<p>Section (2) needs to be revised to reduce the project cost to 2 years.</p>
	<ul style="list-style-type: none"> <li>(a) an evaluation of the agency's performance relating to information technology;</li> <li>(b) an assessment of progress made toward implementing the agency information technology plan;</li> </ul>	Page 28 of 34	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
42.	<p><b>2-17-524. Agency information technology plans -- form and content -- performance reports.</b> (3)(c) an inventory of agency information services, equipment, and proprietary software.</p> <p>(4) State agencies shall prepare agency information technology plans and biennial performance reports using standards, elements, forms, and formats specified by the department.</p>	<p><b>Minor Issue:</b> Prescriptive in nature – business requirements should drive the agencies IT support plans and capital investment strategy.</p>	
43.	<p><b>2-17-526. Information technology project budget summary.</b> (1) (a) The office of budget and program planning, in cooperation with the department, shall prepare a statewide summary of:</p> <p>(i) proposed major new information technology projects contained in the state budget; and</p> <p>(ii) proposed major information technology projects impacting another state agency or branch of government to be funded within the current operating budgets, including replacement of or upgrade to existing systems.</p> <p>(b) The office of budget and program planning and the department shall jointly determine the criteria for classifying a project as a major information technology project.</p> <p>(2) The information technology project summary must include:</p> <p>(a) a listing by institution, agency, or branch of all proposed major information technology projects described in subsection (1). Each proposed project included on the list must include:</p> <p>(i) a description of what would be accomplished by completing the project;</p>	<p><b>Working well.</b></p>	
44.	<p><b>2-17-526. Information technology project budget summary.</b> (2)(a)(ii) a list of the existing information technology applications for all branches of government that may be impacted by the project;</p>	<p><b>Major Problem:</b> Establishes a legal requirement that is impossible to meet. Does not define branches of government and requires a knowledge base that does not exist.</p>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
45.	<p><b>2-17-526. Information technology project budget summary.</b> (2)(a)(iii) an estimate, prepared in consultation with the impacted agencies, of the costs and resource impacts on existing information technology applications;</p> <p>(iv) the estimated cost of the project;</p> <p>(v) the source for funding the project, including funds within an existing operating budget or a new budget request; and</p> <p>(vi) the estimated cost of operating information technology systems.</p> <p>(b) a listing of internal service rates proposed for providing information technology services. Each internal service rate included on the list must include:</p> <p>(i) a description of the services provided; and</p> <p>(ii) a breakdown, aggregated by fund type, of requests included in the state budget to support the rate.</p> <p>(c) any other information as determined by the budget director or the department or as requested by the governor or the legislature.</p> <p>(3) The information technology project summary must be presented to the legislative fiscal analyst in accordance with <a href="#">17-7-111(4)</a>.</p>	Working well.	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
46.	<p><b>2-17-531. Transfer of funds, equipment, facilities, and employees.</b> (1) The department shall provide for the cost-effective use of information technology resources. In order to ensure that needless duplication of efforts in this field do not occur, the department may order the transfer of appropriated funds, custody, and control of equipment and facilities and employees to the department as may be necessary to implement this program. Upon transfer, as authorized in this section, a credit account must be established in the name of the agency from which transfer is made in the amount of funds appropriated and the market value of equipment and facilities. A credit account must be used to defray the costs of associated charges from the department as provided in <a href="#">2-17-512</a>. (2) The provisions of this section may not affect the rights or privileges of any employee transferred to the department under the public employees' retirement system, the group insurance plan, or personnel system.</p>	<p><b>Minor Issue:</b> The political will does not exist to implement this section.</p>	

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
47.	<p><b>2-17-534. Security responsibilities of department.</b> The department is responsible for providing centralized management and coordination of state policies for security of data and information technology resources and shall:</p> <p>(1) establish and maintain the minimum security standards and policies to implement <a href="#">2-15-114</a>, including the physical security of the central computer center, statewide telecommunications network, and backup facilities consistent with these standards;</p> <p>(2) establish guidelines to assist agencies in identifying information technology personnel occupying positions of special trust or responsibility or sensitive locations;</p> <p>(3) establish standards and policies for the exchange of data between any agency information technology resource and any other state agency, private entity, or public entity to ensure that exchanges do not jeopardize data security and confidentiality;</p> <p>(4) coordinate and provide for a training program regarding security of data and information technology resources to serve governmental technical and managerial needs;</p> <p>(5) include appropriate security requirements in the specifications for solicitation of state contracts for procuring data and information technology resources; and</p> <p>(6) upon request, provide technical and managerial assistance relating to information technology security.</p>	<p><b>Major Problem:</b> This is a significant responsibility for which adequate resources have not been provided – Program funding, personnel, and SCIO</p>	<p>MITA needs to provide for a Chief Security Officer and related staff. See item 57 below.</p>

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
48.	<b>2-17-546. Exemption of law enforcement telecommunications system -- exception.</b> The provisions of this part do not apply to the law enforcement telecommunications system or its successor except for the provisions dealing with the purchase, maintenance, and allocation of telecommunication facilities. However, the department of justice shall cooperate with the department to coordinate the telecommunications networks of the state.	<b>Major Problem:</b> There is no agreement on what constitutes the Law enforcement telecommunications system and its successor. Need to define the term “telecommunication facility” and the term “shall cooperate” is too vague to enforce.	This section needs to be revised to clarify if the state is authorizing multiple networks and who has responsibility for managing those networks, including security issues, and to eliminate the conflict with 2-17-512 as it applies to responsibility for the network, and section 5-17-506(9).  Section needs to clarify relationship between 5-17-512, 5-17-506, 5-17-516, and 5-17-546.
49.	Not in Statute.	No purpose statement to provide scope and interpretation. What problem are we solving?	
50.	Not in Statute.	Project management is not addressed.	Provision needs to be added to MITA
51.	Not in Statute.	Dispute resolution is not addressed.	
52.	Not in Statute.	The lack of an information technology fund does not allow for an effective capital planning and investment strategy for economic development required by section 2-17-505 and 512.	
53.	Not in Statute.	Duties of the CIO are vague.	Some of the duties of the department (5-17-512) need to be moved to the duties of the CIO (5-17-511) and the status of the CIO as a cabinet member needs to be addressed
54.	Not in Statute.	Need to define the scope and function of ITSD as it relates to its organizational alignment.	Statute needs to delineate the authority of ITSD to issues and enforce policy for Information technology.
55.	Not in Statute.	No provision for a Chief Security Officer and related staff (requires funding).	Provision needs to be added to MITA

<u>Item</u>	<u>Statute</u>	<u>Comment</u>	<u>Corrective Action</u>
56.	Not in Statute.	Need to make provision for a Chief Technology Officer.	Provision needs to be added to MITA
57.	Not in Statute.	No provisions for a Capital Planning and Investment Committee – separate for advisory.	
58.	Not in Statute.	REF: agency IT plans do not maximize data sharing and collaboration as communities of interest.	
59.	Not in Statute.	IT responsibilities for Disaster Recovery need to be addressed.	
60.	Not in Statute.	No provision for GIO and GIS staff.	