

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER No. 3-2018**

**EXECUTIVE ORDER PROVIDING FOR
INTERNET NEUTRALITY PRINCIPLES IN STATE PROCUREMENT**

WHEREAS, the free and open exchange of information, secured by a free and open internet, has never been more essential to modern social, commercial, and civic life;

WHEREAS, Montanans expect and rely on the traditional principle that internet service providers will not pick and choose what content they can see—rather, Montanans expect that their internet service providers will be “neutral” and abide by principles commonly referred to as “internet neutrality”;

WHEREAS, guided by principles of internet neutrality, the information society and Montana’s economy have flourished;

WHEREAS, Montana citizens rely on a free and open internet to meet the world—to learn, to entertain, to make informed personal choices about their families and to make public choices about our society;

WHEREAS, Montana businesses rely on a free and open internet to enter new markets, to gain new insights, to recruit, to compete, and to grow—few changes in human communications have revolutionized commerce so quickly;

WHEREAS, educational institutions in Montana rely on a free and open internet to provide Montanans with world-class educational opportunities;

WHEREAS, as federal regulators recently illustrated, a free and open internet is not guaranteed—it is susceptible to corporate and political degradation, and its protection requires constant vigilance by consumers, market participants, and governments alike;

WHEREAS, the loss of internet neutrality principles threatens to increase the costs of accessing and sharing information for people and for businesses alike;

WHEREAS, the Federal Communications Commission (FCC) has argued that violations of internet neutrality principles may violate state competition and fair trade practices laws, which requires the vigilance and attention of state governments;

WHEREAS, many internet service providers, including significant broadband and mobile internet services providers in Montana, have made public pledges to adhere to certain internet neutrality principles in the wake of changes by federal regulators;

WHEREAS, the State of Montana is a significant purchaser of internet services;

WHEREAS, the purpose of this Executive Order is to ensure the efficient procurement of goods and services for the State of Montana; the uniform application of internet neutrality principles in Montana is closely related to the delivery of predictable, stable, high quality internet service for the State, and this Executive Order is an essential response for state procurement policy and local economic needs;

WHEREAS, the State of Montana has a distributed data storage model and thousands of employees across the state—paid prioritization and throttling could fundamentally impact state employees’ ability to conduct business; and

WHEREAS, many State of Montana government services are exclusively online; throttling and paid prioritization could limit Montana citizens’ ability to receive government services and dramatically deepen the “digital divide” as well as exacerbate challenges our poorest citizens have in accessing government help.

NOW, THEREFORE, I, STEVE BULLOCK, Governor of the State of Montana, pursuant to the authority vested in me as Governor under the Constitution and the laws of the State of Montana, do hereby order and direct the Department of Administration to incorporate into the state procurement process for internet, data, and telecommunications services (collectively, “telecommunications services”) criteria requiring that successful recipients of state contracts adhere to internet neutrality principles.

After July 1, 2018, to receive a contract from the State of Montana for the provision of telecommunications services, a service provider must publicly disclose to all of its customers in the State of Montana (including but not limited to the State itself): accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport), performance and commercial terms of its broadband internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain internet offerings.

After July 1, 2018, to receive a contract from the State of Montana for the provision of telecommunications services, a service provider must not, with respect to any consumer in the State of Montana (including but not limited to the State itself):

1. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to the consumer;
2. Throttle, impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a nonharmful device, subject to reasonable network management that is disclosed to the consumer;
3. Engage in paid prioritization; or

4. Unreasonably interfere with or unreasonably disadvantage:
 - a. End users' ability to select, access, and use broadband internet access service or the lawful internet content, applications, services, or devices of their choice; or
 - b. Edge providers' ability to make lawful content, applications, services, or devices available to end users.

By March 1, 2018, the Department of Administration shall prepare such policies and other guidance, and issue such orders as are deemed necessary and appropriate to carry out this Executive Order and to monitor its enforcement. The Department shall resolve any dispute over the definition of terminology used in this Executive Order.

Each contracting department or agency that procures telecommunications services shall cooperate with the Department of Administration in implementing this Executive Order and provide such information and assistance as the Department of Administration may require in the performance of its functions under this Executive Order. Agencies must receive approval from the Department of Administration before procuring internet services, including cellular data and/or wireless broadband internet services.

This Order is effective immediately.