

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>SB280/SRCS/SFCS</u>	Sponsor	<u>SFC</u>
Tracking Number	<u>.225620.2</u>	Committee Referrals	<u>SRC/SFC</u>
Short Title	<u>Cybersecurity Act</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>3/2/23</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

The Senate Finance Committee Substitute for the Senate Rules Committee Substitute for Senate Bill 280 (SB280/SRCS/SFCS) enacts the “Cybersecurity Act.” The bill would create the Cybersecurity Office administratively attached to the Department of Information Technology (DoIT). The Cybersecurity Office would be responsible for overseeing cybersecurity operations for all executive cabinet agencies and their administratively attached agencies, offices, boards, and commissions.

The Cybersecurity Office would be required to accomplish the following:

- Establish security standards and policies for all state agencies’ IT infrastructure;
- Develop cybersecurity protocols for agency-operated or -owned IT infrastructure;
- Detect, mitigate, and monitor security incidents;
- Access agency IT systems as reasonably necessary to detect and monitor threats;
- Create a model incident-response plan for public bodies (including school districts), listing the Cybersecurity Office as the incident response coordinator, provided that the incidents meet the following criteria:
 - impact multiple public bodies;
 - impact more than ten thousand residents of the state;
 - involve a nation-state actor; or
 - involve the marketing or transfer of confidential data;
- Serve as a cybersecurity resource for local governments;
- Develop a service catalog of services to be offered to agencies and to political subdivisions of the state (including school districts);
- Ensure state agencies’ regulatory environments are understood and considered
- Establish core services to support minimum security standards and policies;
- Establish data classification policies and standards;
- Develop cybersecurity awareness policies and training standards and provide trainings; and
- Establish a centralized cybersecurity and data breach notification process for state agencies and political subdivisions of the state (including school districts).

SB280/SRCS also creates a Cybersecurity Advisory Committee, responsible for overseeing the Cybersecurity Office's development of a statewide cybersecurity plan, guidelines for cybersecurity best practices for state agencies, and recommendations on how to respond to a cybersecurity threat or attack. The advisory committee shall consist of the DoIT secretary, the principal IT staff for Administrative Office of the Courts, the director of the Legislative Council Service, a member appointed by the Secretary of Indian Affairs, a representative from the Navajo Nation, a representative from the Apache tribal governments, a representative of Indian pueblo tribal governments, three county government IT professionals, three municipal government IT professionals, and three representatives from other state agencies appointed by the governor.

The Cybersecurity Office would be under direction of the state Chief Information Security Officer (CISO). The CISO shall be a classified position in accordance with rules promulgated pursuant to the Personnel Act.

This analysis focuses on the bill's impact on New Mexico's public education system.

FISCAL IMPACT

The bill appropriates \$300 thousand from the general fund to the Cybersecurity Office for expenditure in FY24. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

Financial resources dedicated to cybersecurity housed in the DoIT budget would be transferred to the Cybersecurity Office. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) includes three appropriations to DoIT for cybersecurity statewide, including \$10 million for general cybersecurity, \$3 million for cybersecurity at institutions of higher education, and \$2.5 million public schools and school districts. If SB280/SRCS/SFCS is enacted, these funds would be transferred to the Cybersecurity Office for the same purpose.

SUBSTANTIVE ISSUES

A statewide Cybersecurity Office could have several direct benefits for New Mexico's public schools. Schools often collect and store sensitive information about students, staff, and faculty, such as personal details, grades, and financial information. Cybersecurity measures help protect information from being accessed, stolen, or misused by unauthorized individuals. SB280/SRCS/SFCS would require the Cybersecurity Office to offer a "catalog of services" which political subdivisions of the state, including school districts, would be able to access at a rate set by the Cybersecurity Office.

Cybersecurity has been a challenge for many New Mexico school districts, which have become the targets of cyber-attacks in recent years. Hackers have attempted to extort schools for money, stall school operations, and steal sensitive student information. Under current law, PED provides some cybersecurity technical assistance to New Mexico schools, but school districts are primarily responsible for their own network security. Many small, rural New Mexico school districts do not have the resources, manpower, or expertise to fully manage their cybersecurity needs, and may need to rely on outside help to ensure their networks and systems are secure. By providing optional centralized services and resources for school districts, SB280/SRCS/SFCS could help prevent interruptions in education caused by cyber-attacks.

As written, SB280/SRCS/SFCS reduces but does not completely eliminate cybersecurity responsibilities among New Mexico’s public schools. Simple amendments could be made to the bill to better represent the interests of public schools. For example, the criteria under which the Cybersecurity Office would be the “incident response coordinator” requires a threshold of ten thousand residents, which would only apply to New Mexico’s largest school districts. Additionally, SB280/SRCS/SFCS does not guarantee the Public Education Department (PED) or school districts direct representation on the Cybersecurity Advisory Committee.

ADMINISTRATIVE IMPLICATIONS

The Cybersecurity Office would become responsible for providing cybersecurity services for cabinet-level state agencies and their administratively attached offices, including the Public Education Department (PED). Cabinet-level state agencies would still require cybersecurity staff to oversee their specific purview and mission, but would be able to procure services from the cybersecurity office when appropriate. PED would be required to give the Cybersecurity Office access to information systems reasonably necessary to ensure the Office’s mission, which may include access to the Student Teacher Accountability Reporting System (STARS) and the Operating Budget Management System (OBMS).

The definition of “state agency” in SB280/SRCS/SFCS appears to exclude independent executive agencies, like the Public School Facilities Authority (PSFA). This means PSFA and other independent executive agencies will not be under the direct oversight of the cybersecurity office, but may still be able to access cybersecurity services via the “catalog of services” the Cybersecurity Office would be required to develop.

RELATED BILLS

Related to HB262/HGEICS, Transfer Connect NM Grant Program, which would transfer the Connect New Mexico grant program from DoIT to the Office of Broadband Access and Expansion.

Related to HB388/HGEICS, Cybersecurity Fund, which creates a cybersecurity fund administered by the Cybersecurity Office if SB280/SRCS/SFCS is enacted.

Related to HB401, Rename Technology for Education Act, which creates the “Digital Equity in Education Act” and provides for distributions to school districts from an educational technology fund.

SOURCES OF INFORMATION

- LESC Files
- Administrative Office of the Courts (AOC)
- Attorney General’s Office (NMAG)
- Department of Finance and Administration (DFA)

TB/cf/msb