SENATE BILL 129

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Michael Padilla and Debra M. Sariñana

AN ACT

RELATING TO CYBERSECURITY; AMENDING THE CYBERSECURITY ACT; PROVIDING FOR RULEMAKING; ESTABLISHING REPORTING REQUIREMENTS FOR PUBLIC ENTITIES RECEIVING STATE APPROPRIATIONS IN CERTAIN SITUATIONS; CHANGING THE MEMBERSHIP OF THE CYBERSECURITY ADVISORY COMMITTEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 9-27A-1 NMSA 1978 (being Laws 2023, Chapter 115, Section 1) is amended to read:

"9-27A-1. SHORT TITLE.--[~~This act~~] Chapter 9, Article 27A NMSA 1978 may be cited as the "Cybersecurity Act"."

**SECTION 2.** Section 9-27A-3 NMSA 1978 (being Laws 2023, Chapter 115, Section 3) is amended to read:

"9-27A-3. CYBERSECURITY OFFICE CREATED--SECURITY OFFICER--DUTIES AND POWERS.--

underscored material = new
[~~bracketed material~~] = delete

A. The "cybersecurity office" is created and is administratively attached to the department of information technology. The office shall be managed by the security officer.

B. Except as required by federal law, the cybersecurity office shall oversee, in a fiscally responsible manner, cybersecurity- and information security-related functions for agencies and may:

(1) adopt and implement rules establishing minimum security standards and policies applicable to entities receiving general fund appropriations and persons or entities transacting business with the state to protect [~~agency~~] state information technology systems and infrastructure and provide appropriate governance and application of the standards and policies across state information technology resources [~~used by agencies~~] to promote the availability, security and integrity of the information processed, transacted or stored by agencies in the state's information technology infrastructure and systems. The rules shall include a requirement that entities receiving general fund appropriations from the legislature shall report to the cybersecurity office all information technology and cybersecurity expenditures in a form and manner established by the cybersecurity office;

(2) [~~develop~~] adopt and implement rules establishing minimum cybersecurity controls for managing and

underscored material = new
[~~bracketed material~~] = delete

protecting information technology assets and infrastructure for all entities that are connected to an agency-operated or -owned telecommunications network;

(3) consistent with information security standards, monitor agency information technology networks and conduct information technology and security audits to detect security incidents and support mitigation efforts as necessary and within capabilities;

(4) as reasonably necessary to perform its monitoring and detection duties, obtain agency system [~~event~~] logs to support monitoring and detection pursuant to Paragraph (3) of this subsection;

(5) in coordination with state and federal cybersecurity emergency management agencies as appropriate, create a model incident-response plan for public bodies to adopt with the cybersecurity office as the incident-response coordinator for incidents that:

(a) impact multiple public bodies;

(b) impact more than ten thousand residents of the state;

(c) involve a nation-state actor; or

(d) involve the marketing or transfer of confidential data derived from a breach of cybersecurity;

(6) serve as a cybersecurity resource for local governments;

underscored material = new
[~~bracketed material~~] = delete

(7) develop a service catalog of cybersecurity services to be offered to agencies and to political subdivisions of the state;

(8) collaborate with agencies in developing standards, functions and services in order to ensure the agency regulatory environments are understood and considered as part of a cybersecurity incident response;

(9) establish core services to support minimum security standards and policies;

(10) adopt and implement rules to establish minimum data classification policies and standards and design controls to support compliance with classifications and report on exceptions;

(11) adopt and implement rules to develop and issue cybersecurity awareness policies and training standards and develop and offer cybersecurity training services; [~~and~~]

(12) adopt and implement rules to establish a centralized cybersecurity and data breach reporting process for agencies and political subdivisions of the state;

(13) approve agency information technology requests for proposals and other agency requests that are subject to the Procurement Code, prior to final approval;

(14) approve agency cybersecurity and information security contracts and amendments to those contracts, including emergency procurement, sole source

underscored material = new
[~~bracketed material~~] = delete

contracts and price agreements, prior to final approval; and

(15) review and approve all agency, public school, higher education institution, county and municipality legislative appropriation requests of twenty-five million dollars ($25,000,000) or more related to cybersecurity and information security prior to submission of such appropriation requests to the legislature.

C. Pursuant to the Cybersecurity Act or other statutory authority, the security officer may issue orders regarding the compliance of agencies with rules, policies, standards or controls issued by the cybersecurity office and guidelines or recommendations of the cybersecurity advisory committee. Compliance with orders, rules, policies, standards, controls, guidelines or recommendations by the cybersecurity office or the cybersecurity advisory committee shall be voluntary for county, municipal or tribal governments.

D. Public bodies not subject to the jurisdiction of the security officer shall adopt and implement cybersecurity, information security and privacy policies, standards and procedures based upon frameworks and minimum standards issued by the national institute of standards and technology."

**SECTION 3.** Section 9-27A-5 NMSA 1978 (being Laws 2023, Chapter 115, Section 5) is amended to read:

"9-27A-5. CYBERSECURITY ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

underscored material = new
[~~bracketed material~~] = delete

A. The "cybersecurity advisory committee" is created within the cybersecurity office and shall:

(1) assist the office in the development of:

(a) a statewide cybersecurity plan;

(b) guidelines for best cybersecurity practices for agencies; and

(c) recommendations on how to respond to a specific cybersecurity threat or attack; and

(2) have authority over the hiring, supervision, discipline and compensation of the security officer.

B. The security officer or the security officer's designee shall chair and be [~~an advisory nonvoting~~] a voting member of the cybersecurity advisory committee; provided that the security officer shall be recused from deliberations and voting on matters concerning supervision, discipline or compensation of the security officer and the secretary of information technology or the secretary's designee shall chair those deliberations and votes. The remaining members of the advisory committee consist of:

(1) the secretary of information technology or the secretary's designee;

(2) the secretary of homeland security and emergency management or the secretary's designee;

[~~(2)~~] (3) the principal information technology

underscored material = new
[~~bracketed material~~] = delete

staff person for the administrative office of the courts or the [~~director's~~] staff person's designee;

[~~(3)~~] (4) the director of the legislative council service or the director's designee;

[~~(4)~~] (5) one member appointed by the secretary of Indian affairs, who is experienced with cybersecurity issues;

[~~(5) three~~] (6) two members appointed by the chair of the board of directors of the New Mexico association of counties who represent county governmental agencies and who are experienced with cybersecurity issues; provided that at least one member shall represent a county other than a class A or H class county;

[~~(6) three~~] (7) two members appointed by the chair of the board of directors of the New Mexico municipal league who represent municipal governmental agencies and who are experienced with cybersecurity issues; provided that only one member may represent a home rule municipality; [~~and~~

~~(7)~~] (8) three members appointed by the governor who may represent separate agencies other than the department of information technology and are experienced with cybersecurity issues;

(9) one member appointed by the security officer who has experience with cybersecurity issues for public education institutions; and

underscored material = new
[~~bracketed material~~] = delete

(10) one member appointed by the security officer who has experience with cybersecurity issues for public health institutions.

C. The cybersecurity advisory committee may invite representatives of unrepresented county, municipal or tribal agencies or other public entities to participate as advisory members of the committee as it determines that their participation would be useful to the deliberations of the committee.

D. A meeting of and material presented to or generated by the cybersecurity advisory committee are subject to the Open Meetings Act and the Inspection of Public Records Act subject to an exception for a meeting or material concerning information that could, if made public, expose a vulnerability in:

(1) an information system owned or operated by a public entity; or

(2) a cybersecurity solution implemented by a public entity.

[~~E. Pursuant to the Cybersecurity Act or other statutory authority, the security officer may issue orders regarding the compliance of agencies with guidelines or recommendations of the cybersecurity advisory committee; however, compliance with those guidelines or recommendations by non-executive agencies or county, municipal or tribal~~

underscored material = new
[~~bracketed material~~] = delete

~~governments shall be strictly voluntary.~~

~~F.~~] E. The cybersecurity advisory committee shall hold its first meeting on or before August 16, 2023 and shall meet every two months at minimum after that; provided that the security officer shall have the discretion to call for more frequent meetings as circumstances warrant. At the discretion of the security officer, the committee may issue advisory reports regarding cybersecurity issues.

[~~G.~~] F. The cybersecurity advisory committee shall present a report to the legislative finance committee and the appropriate legislative interim committee concerned with information technology at those committees' November 2023 meetings and to the governor by November 30, 2023 regarding the status of cybersecurity preparedness within agencies and elsewhere in the state. On or before October 30, 2024 and on or before October 30 of each subsequent year, the cybersecurity office shall present updated reports to the legislative committees and the governor. The reports to legislative committees shall be in executive session, and any materials connected with the report presentations are exempt from the Inspection of Public Records Act.

[~~H.~~] G. The members of the cybersecurity advisory committee shall receive no pay for their services as members of the committee, but shall be allowed per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act.

underscored material = new
[~~bracketed material~~] = delete

All per diem and contingent expenses incurred by the cybersecurity office shall be paid upon warrants of the secretary of finance and administration, supported by vouchers of the security officer."