

Proposed
HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 618

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CLARIFYING THE DEPARTMENT OF INFORMATION TECHNOLOGY'S ROLE IN
APPROVING INFORMATION TECHNOLOGY PROCUREMENT AND PROJECTS BY
STATE AGENCIES; AMENDING SECTION 9-27-6 NMSA 1978 (BEING LAWS
2007, CHAPTER 290, SECTION 6, AS AMENDED).

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

SECTION 1. Section 9-27-6 NMSA 1978 (being Laws 2007,
Chapter 290, Section 6, as amended) is amended to read:

"9-27-6. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for
the operation of the department. It is the secretary's duty to
manage all operations of the department and to administer and
enforce the laws with which the secretary or the department is
charged.

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underscored material = new
[bracketed material] = delete

1 B. To perform the secretary's duties, the secretary
2 has every power expressly enumerated in the laws, whether
3 granted to the secretary or the department or any division of
4 the department, except where authority conferred upon any
5 division is explicitly exempted from the secretary's authority
6 by statute. In accordance with these provisions, the secretary
7 shall:

8 (1) exercise general supervisory and
9 appointing authority over all department employees, subject to
10 any applicable personnel laws and regulations;

11 (2) delegate authority to subordinates as the
12 secretary deems necessary and appropriate, clearly delineating
13 such delegated authority and the limitations thereto;

14 (3) organize the department into those
15 organizational units the secretary deems will enable it to
16 function most efficiently, subject to provisions of law
17 requiring or establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge the
21 secretary's duties;

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 ensure implementation of and compliance with the provisions of
25 law for whose administration or execution the secretary is

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underscored material = new
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1 responsible and to enforce those orders and instructions by
2 appropriate administrative action in the courts;

3 (6) conduct research and studies that will
4 improve the operations of the department and the provision of
5 services to state agencies and the residents of the state;

6 (7) provide courses of instruction and
7 practical training for employees of the department and other
8 persons involved in the administration of programs with the
9 objective of improving the operations and efficiency of
10 administration;

11 (8) prepare an annual budget of the
12 department;

13 (9) provide cooperation, at the request of
14 heads of administratively attached agencies, in order to:

15 (a) minimize or eliminate duplication of
16 services and jurisdictional conflicts;

17 (b) coordinate activities and resolve
18 problems of mutual concern; and

19 (c) resolve by agreement the manner and
20 extent to which the department shall provide budgeting,
21 recordkeeping and related clerical assistance to
22 administratively attached agencies;

23 (10) appoint for each division a "director".
24 These appointed positions are exempt from the provisions of the
25 Personnel Act. Persons appointed to these positions shall

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1 serve at the pleasure of the secretary; and

2 (11) acquire, hold and maintain, through
3 lease, trade or purchase, any real or personal property
4 necessary to meet customer requirements or department
5 obligations, including obligations of administratively attached
6 offices or bodies.

7 C. As the chief information officer, the secretary
8 shall:

9 (1) review agency plans regarding prudent
10 allocation of information technology resources; reduction of
11 duplicate or redundant data, hardware and software; and
12 improvement of system interoperability and data accessibility
13 among agencies;

14 [~~(2)~~] ~~approve agency information technology~~
15 ~~requests for proposals and other agency requests that are~~
16 ~~subject to the Procurement Code, prior to final approval;~~

17 ~~(3)]~~ (2) promulgate rules for oversight of
18 agency information technology [procurement] projects;

19 [~~(4)]~~ (3) approve agency information
20 technology [~~contracts and amendments to those contracts,~~
21 ~~including emergency procurements, sole source contracts and~~
22 ~~price agreements, prior to approval by the department of~~
23 ~~finance and administration] projects prior to procurement;~~

24 [~~(5)]~~ (4) develop and implement procedures to
25 standardize data elements, determine data ownership and ensure

1 data sharing among executive agencies;

2 ~~[(6)]~~ (5) verify compliance with state
3 information architecture and the state information technology
4 strategic plan before approving ~~[documents referred to in~~
5 ~~Paragraphs (2) and (4) of this subsection]~~ information
6 technology projects;

7 ~~[(7)]~~ (6) monitor agency compliance with its
8 agency plan, the state information technology strategic plan
9 and state information architecture and report to the governor,
10 executive agency management and the legislative finance
11 committee on noncompliance;

12 ~~[(8)]~~ (7) develop information technology cost
13 recovery mechanisms and information systems rate and fee
14 structures of state agencies and other public or private sector
15 providers and make recommendations to the information
16 technology rate committee;

17 ~~[(9)]~~ (8) provide technical support to
18 executive agencies in the development of their agency plans;

19 ~~[(10)]~~ (9) ensure the use of existing public
20 or private information technology or telecommunications
21 resources when the use is practical, efficient, effective and
22 financially prudent and is in compliance with the Procurement
23 Code;

24 ~~[(11)]~~ (10) review appropriation requests
25 related to agency information technology requests to ensure

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1 compliance with agency plans and the state information
2 technology strategic plan and make written recommendations by
3 November 14 of each year to the department of finance and
4 administration and by November 21 of each year to the
5 legislative finance committee and the appropriate interim
6 legislative committee; provided, however, that the
7 recommendations to the legislative committees have been agreed
8 to by the department of information technology and the
9 department of finance and administration;

10 [~~(12)~~] (11) promulgate rules to ensure that
11 information technology projects satisfy criteria established by
12 the secretary and are phased in with funding released in phases
13 contingent upon successful completion of the prior phase;

14 [~~(13)~~] (12) provide oversight of information
15 technology projects, including ensuring adequate risk
16 management, disaster recovery and business continuity practices
17 and monitoring compliance with strategies for information
18 technology projects that affect multiple agencies;

19 [~~(14)~~] (13) conduct reviews of information
20 technology projects and provide written reports to the
21 appropriate legislative oversight bodies;

22 [~~(15)~~] (14) conduct background checks on
23 department employees and prospective department employees that
24 have or will have administrative access or authority to
25 sensitive, confidential or private information or the ability

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1 to alter systems, networks or other information technology
2 hardware or software; and

3 [~~(16)~~] (15) perform any other information
4 technology function assigned by the governor.

5 D. As the chief information officer, the secretary
6 may:

7 (1) upon the advice and recommendation of the
8 director of the office of broadband access and expansion
9 pursuant to the provisions of the Broadband Access and
10 Expansion Act, make available by lease or sale at the
11 department's established rates on a competitively neutral basis
12 such state-owned broadband network infrastructure or internet
13 service that would connect underserved and unserved populations
14 of New Mexico and otherwise support objectives of the state
15 broadband plan;

16 (2) offer cybersecurity risk prevention and
17 information technology mitigation and response solutions,
18 including application and equipment selection, intrusion
19 response, system monitoring or system testing for all users of
20 agency-operated or -owned information technology, to include
21 compliance standards for broadband infrastructure projects
22 within the oversight or administration of the department; and

23 (3) establish an administrative hearing and
24 enforcement process internal to the department or in
25 coordination with the administrative hearings office to support

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1 the department's private sector regulatory activities or any
2 administratively attached office or body.

3 E. Each agency shall submit an agency information
4 technology plan to the secretary in the form and detail
5 required by the secretary. Each agency shall conduct
6 background checks on agency or prospective agency employees
7 that have or will have administrative access or authority to
8 alter systems, networks or other information technology
9 hardware or software.

10 F. An agency that receives an invoice from the
11 department for services rendered to the agency shall have
12 thirty days from receipt of the invoice to pay the department
13 or to notify the department if the amount of the invoice is in
14 dispute. The agency shall have fifteen days from its
15 notification of dispute to the department to present its
16 reasons in writing and request an adjustment. The department
17 shall have fifteen days from its receipt of the reasons for
18 dispute to notify the agency of its decision. If the
19 department and the agency do not agree on a resolution, the
20 secretary of finance and administration shall make a
21 determination on the amount owed by the agency to the
22 department. If the agency has not paid the department or
23 notified the department of a dispute within thirty days of
24 receipt of the invoice, the department shall notify the
25 department of finance and administration and request that the

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1 department of finance and administration transfer funds from
2 the agency to the department of information technology to
3 satisfy the agency's obligation.

4 G. The secretary, as chief information officer,
5 shall prepare a state information technology strategic plan for
6 the executive branch and update it at least once every three
7 years, which plan shall be available to agencies by July 31 of
8 each year. The plan shall comply with the provisions of the
9 Department of Information Technology Act and provide for the:

10 (1) interchange of information related to
11 information technology among executive agencies;

12 (2) coordination among executive agencies in
13 the development and maintenance of information technology
14 systems;

15 (3) protection of the privacy and security of
16 individual information as well as of individuals using the
17 state's information technology systems;

18 (4) development of a statewide broadband
19 network plan in conjunction with the public education
20 department, the higher education department, state
21 universities, other educational institutions, the public school
22 capital outlay council, political subdivisions of the state,
23 Indian nations, tribes and pueblos, the public regulation
24 commission and telecommunication network service providers; and

25 (5) coordination and aggregation of services

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1 where feasible for entities as provided for in Section 9-27-20
2 NMSA 1978 and other publicly funded entities.

3 H. The secretary may apply for and receive, with
4 the governor's approval, in the name of the department, any
5 public or private funds, including United States government
6 funds, available to the department to carry out its programs,
7 duties or services or those of an administratively attached
8 office or public body.

9 I. Where information technology functions of
10 executive agencies overlap or a function assigned to one agency
11 could better be performed by another agency, the secretary may
12 recommend appropriate legislation to the next session of the
13 legislature for its approval.

14 J. Pursuant to the State Rules Act and rules
15 promulgated pursuant to that act, the secretary may make and
16 adopt such reasonable procedural rules as may be necessary to
17 carry out the duties, or relating to any matter within the
18 oversight, of the department and its administratively attached
19 offices or public bodies, divisions and requirements and
20 standards for the executive branch's information technology
21 needs, functions, systems and resources, including:

22 (1) information technology security;

23 (2) approval for procurement of information
24 technology not in conflict with the Procurement Code that
25 exceeds an amount set by rule;

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1 (3) detail and format for the agency
2 information technology plan;

3 (4) acquisition, licensing and sale of
4 information technology; and

5 (5) requirements for agency information
6 technology projects and related plan, analysis, oversight,
7 assessment and specifications.

8 K. Unless otherwise provided by statute, no rule
9 affecting any person or agency outside the department shall be
10 adopted, amended or repealed without a public hearing on the
11 proposed action before the secretary or a hearing officer
12 designated by the secretary. The public hearing shall be held
13 in Santa Fe unless otherwise permitted by statute. Notice of
14 the subject matter of the rule, the action proposed to be
15 taken, the time and place of the hearing, the manner in which
16 interested persons may present their views and the method by
17 which copies of the proposed rule, proposed amendment or repeal
18 of an existing rule may be obtained shall be published once at
19 least thirty days prior to the hearing date in a newspaper of
20 general circulation and mailed at least thirty days prior to
21 the hearing date to all persons who have made a written request
22 for an advance notice of hearing. Rules shall be filed in
23 accordance with the State Rules Act."