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HOUSE BILL 291

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO INFORMATION TECHNOLOGY; ENACTING THE ELECTRONIC
GOVERNMENT ACT; CREATING THE ELECTRONIC GOVERNMENT COMMISSION
AND ESTABLISHING MEMBERSHIP; GRANTING DUTIES AND POWERS;
CREATING THE ELECTRONIC GOVERNMENT FUND; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Electronic Government Act".

Section 2. PURPOSE.--The purpose of the Electronic
Government Act is to:

- A. establish an electronic government and
management structure to provide oversight, review, fiscal
monitoring, strategic planning and policy development for the
state's electronic government initiatives;

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1 B. establish an electronic government commission
2 and define its powers and duties;

3 C. establish an electronic government lead agency
4 and define its powers and duties;

5 D. establish a basis for the allocation of revenues
6 generated by electronic government initiatives; and

7 E. promote the digital provision of state
8 information, services and business and financial transactions
9 to constituents, businesses and other governmental entities.

10 Section 3. DEFINITIONS.--As used in the Electronic
11 Government Act:

12 A. "commission" means the electronic government
13 commission;

14 B. "contract portal developers or operators" means
15 companies that offer portal development, maintenance and
16 ongoing operations under contract with the state;

17 C. "convenience fee" means a fee charged to a
18 consumer to purchase a data record electronically when that
19 purchase is optional and for the convenience of the consumer;

20 D. "data record" means an electronic record owned
21 by the state and generally stored in a digital database;

22 E. "electronic business" means the conduct of
23 digital business transactions, usually nongovernmental, over
24 the internet;

25 F. "electronic government" means the provision of

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1 state government information and services, including financial
2 transactions, via the internet or intranet;

3 G. "enterprise" means the state government of New
4 Mexico and all of its political subdivisions;

5 H. "external electronic transactions" means digital
6 electronic government transactions between state agencies and
7 entities that are not state agencies;

8 I. "guideline" means a recommendation issued by the
9 commission that does not require compliance by state agencies;

10 J. "internal electronic transactions" means digital
11 electronic government transactions between two or more state
12 agencies;

13 K. "internet" means the worldwide, external digital
14 networks that provide access to state resources to individuals,
15 businesses and other government entities;

16 L. "intranet" means the state's internal digital
17 networks that do not generally provide access to the public;

18 M. "lead agency" means the state agency designated
19 by the governor to supervise and coordinate the day-to-day
20 operations of the state's portal and electronic government
21 initiatives;

22 N. "portal" means a virtual, digital, single port-
23 of-entry to provide access to state information, services and
24 business and financial transactions;

25 O. "state agency" means any unit of state

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1 government or any of its political subdivisions;

2 P. "statutory fee" means a fee that the state
3 charges to a consumer to purchase certain data records
4 electronically, or to complete certain business transactions
5 with the state, such as a license renewal;

6 Q. "subscription fee" means a fee charged to a
7 consumer for specific, recurring electronic government services
8 and information provided electronically to the consumer at the
9 consumer's request;

10 R. "tier pricing" means a pricing structure for the
11 sale of a commodity that sets different prices for consumers
12 based on the their membership in specific categories; and

13 S. "transaction fee" means a fee charged to a
14 consumer upon the purchase of certain data records to help
15 defray the costs of providing the record electronically.

16 Section 4. COMMISSION CREATED--MEMBERSHIP.--

17 A. The "electronic government commission" is
18 created. The commission shall consist of eleven voting members
19 as follows:

20 (1) four members, appointed by the governor,
21 two of whom work for state agencies that participate in the
22 state's portal initiative. The four members shall serve for
23 staggered two-year terms and may be reappointed to the
24 commission by the governor at the end of their terms;

25 (2) the secretary or director of the lead

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1 agency or his designee;

2 (3) the chief information officer or his
3 designee;

4 (4) one member representing higher education,
5 appointed by the commission on higher education;

6 (5) one member representing municipalities,
7 appointed by the New Mexico municipal league;

8 (6) one member representing counties,
9 appointed by the New Mexico association of counties; and

10 (7) two members, appointed by the governor, to
11 represent the public, who have electronic government or
12 electronic business experience and management experience, but
13 who are not employees of a state agency and who do not have any
14 financial interest in the state information systems or state
15 contracts. The two public members shall serve for staggered
16 two-year terms and may be reappointed to the commission by the
17 governor at the end of their terms.

18 B. Voting members not appointed by the governor are
19 appointed to two-year terms and may be reappointed to the
20 commission by their respective appointing authorities at the
21 conclusion of their terms.

22 C. Not more than ten nonvoting advisory members
23 may, with the concurrence of the commission, serve on the
24 commission. They are appointed to indefinite terms and
25 continue to serve at the pleasure of the commission as follows:

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1 (1) one member from the judicial information
2 systems council, appointed by the chair of that council;

3 (2) one staff member from the legislative
4 council service and one staff member from the legislative
5 finance committee, appointed by their respective directors;

6 (3) one member from Sandia national
7 laboratories and one member from Los Alamos national
8 laboratory, appointed by the laboratory directors;

9 (4) one member from the attorney general's
10 office, appointed by the attorney general; and

11 (5) up to four additional advisory members,
12 appointed by the chair of the commission and ratified by the
13 commission by majority vote.

14 D. Members of the commission who are not salaried
15 state officers or employees may receive per diem and mileage
16 pursuant to the Per Diem and Mileage Act, but shall receive no
17 other compensation, perquisite or allowance.

18 E. The commission shall elect a chair and vice
19 chair from the voting membership of the commission for two-year
20 terms.

21 F. The commission shall meet at least monthly and
22 may meet at the call of the chair or a majority of the
23 members.

24 Section 5. COMMISSION--POWERS AND DUTIES.--The commission
25 shall:

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1 A. adopt and promulgate rules necessary for the
2 administration of the Electronic Government Act, including
3 operational procedures for the commission;

4 B. adopt and promulgate enterprise-level rules for
5 state agencies to conduct business by electronic means over the
6 internet or intranet, including financial transactions;

7 C. adopt and promulgate rules governing external
8 electronic transactions;

9 D. adopt and promulgate rules governing internal
10 electronic transactions;

11 E. adopt and promulgate rules or guidelines for
12 determining which types of public data records may be released
13 over the internet, including which types of public data records
14 may be sold to governments, businesses or individuals;

15 F. adopt and promulgate rules authorizing the
16 collection of fees, including statutory, transaction,
17 subscription and convenience fees pursuant to the provisions of
18 the Public Records Act;

19 G. establish pricing structures for data records
20 sold over the internet, including tier pricing when
21 appropriate, for data records that are covered under the
22 provisions of the Public Records Act;

23 H. adopt and promulgate enterprise-level rules
24 necessary to protect the privacy of nonpublic personal
25 information and the security of data records that may be

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1 released to the public over the internet and to ensure
2 compliance with state and federal security and privacy laws and
3 rules;

4 I. provide oversight and review of the state's
5 electronic government activities, including the state's
6 electronic government portal and any contract portal developers
7 or operators that may be retained by the state;

8 J. perform a monthly financial review, as well as
9 review of the annual independent fiscal audit of the electronic
10 government fund and of the revenue generated by the state's
11 electronic government portal through any contract portal
12 developers or operators that may be retained by the state, to
13 ensure that the portal is generating appropriate revenues and
14 that the contract portal developers or operators are fulfilling
15 the terms of their contracts with the state;

16 K. provide oversight and direction to the lead
17 agency regarding the management of any contract portal
18 developers or operators retained by the state and, with the
19 chief information officer, grant approval for the lead agency's
20 and contract portal developers' or operators' plans or
21 implementations for the portal;

22 L. develop and update annually by September 1 an
23 electronic government strategic plan for the state that is in
24 conformance with the state's information technology strategic
25 plan;

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1 M. provide regular oversight and review of state
2 agency electronic government initiatives that are not conducted
3 through the state's portal to ensure that such initiatives are
4 in compliance with the state's electronic government strategic
5 plan and the state's information technology strategic plan;

6 N. designate committees and subcommittees as
7 appropriate to assist in the conduct of commission business;

8 O. provide oversight and review of the lead
9 agency's performance as the portal operations and contract
10 manager for the state and deliver semiannual reports of the
11 findings to the information technology commission, the
12 information technology oversight committee, the department of
13 finance and administration and the legislative finance
14 committee;

15 P. review monthly the financial situation and the
16 operational status of the state's electronic government portal
17 and other non-portal electronic government activities of state
18 agencies and deliver semiannual reports of the findings to the
19 information technology commission, the information technology
20 oversight committee, the department of finance and
21 administration and the legislative finance committee;

22 Q. establish criteria for determining whether
23 specific portal management expenses are reimbursable to state
24 agencies and review and approve or reject state agency requests
25 for reimbursement from the electronic government fund for

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1 legitimate portal management expenses incurred by state
2 agencies that actively participate in the executive management
3 of the state's portal initiatives; and

4 R. submit proposed rules to the information
5 technology commission and the information technology oversight
6 committee for review and comment prior to adoption.

7 Section 6. ELECTRONIC GOVERNMENT LEAD AGENCY--POWERS AND
8 DUTIES.--

9 A. The governor shall designate a state agency as
10 the lead agency for state electronic government activities.

11 B. The lead agency shall:

12 (1) provide day-to-day operational supervision
13 and control of the state's electronic government portal and any
14 contract portal developers or operators that may be retained by
15 the state;

16 (2) accept direction from the commission
17 regarding the management of the portal and contracts with
18 contract portal developers or operators;

19 (3) provide necessary staff to supervise and
20 manage the state's relationship and contract with any contract
21 portal developers or operators that may be retained by the
22 state;

23 (4) review the annual independent fiscal
24 audits of the state's electronic government portal and present
25 the results to the commission;

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1 (5) provide any required staffing to the
2 commission;

3 (6) recommend procedures and rules to the
4 commission for improved oversight of the state's electronic
5 government initiatives;

6 (7) provide monthly reports to the commission
7 detailing the financial situation and the operational status of
8 the state's electronic government portal and other such
9 information as may be requested by the commission;

10 (8) provide semiannual reports to the
11 commission for transmittal to the department of finance and
12 administration, the information technology commission, the
13 information technology oversight committee and the legislative
14 finance committee detailing the financial situation and the
15 operational status of the state's electronic government portal
16 and other non-portal electronic government activities of state
17 agencies; and

18 (9) perform any other function assigned by the
19 commission.

20 C. The lead agency may:

21 (1) obtain information, documents and records
22 that are not confidential by law from any state agency as
23 necessary to carry out the provisions of the Electronic
24 Government Act;

25 (2) enter into contracts;

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1 (3) perform reviews of state agency electronic
2 government projects or electronic government management
3 processes;

4 (4) hire staff as necessary to carry out the
5 provisions of the Electronic Government Act. Staff are subject
6 to the provisions of the Personnel Act; and

7 (5) when requested, offer assistance or
8 expertise on electronic government to the judiciary,
9 legislature, institutions of higher education, counties,
10 municipalities, public school districts and other political
11 subdivisions of the state.

12 Section 7. ELECTRONIC GOVERNMENT FUND--REIMBURSEMENT.--

13 A. The "electronic government fund" is created in
14 the state treasury. Money collected from providing electronic
15 services shall be deposited in the fund. The fund shall be
16 administered by the commission, and money in the fund is
17 appropriated to the commission to carry out the administrative
18 purposes of the Electronic Government Act. Expenditures from
19 the fund shall be by warrant of the secretary of finance and
20 administration upon vouchers signed by the chairman of the
21 commission or his authorized representative. Any unexpended or
22 unencumbered balance remaining at the end of a fiscal year
23 shall revert to the general fund.

24 B. State agencies that actively participate in the
25 executive management of the state's electronic government

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1 portal initiatives may request reimbursement of their portal-
2 related management expenses from electronic government revenues
3 generated through the portal under the following circumstances:

4 (1) detailed requests for reimbursement of
5 legitimate portal management expenses shall be presented in a
6 timely manner to the commission;

7 (2) the commission must approve by majority
8 vote the reimbursement of claimed expenses; and

9 (3) the state must have collected enough
10 electronic government revenues through the portal to cover the
11 cost of the reimbursement.

12 Section 8. INTERIM ELECTRONIC GOVERNMENT GOVERNANCE
13 AUTHORITY.--

14 A. The commission shall be established no later
15 than July 1, 2004.

16 B. Until the commission is established, governance
17 authority for state electronic government shall reside with the
18 information technology commission, with the powers and duties
19 described in Section 5 of this 2004 act.

20 Section 9. ENFORCEMENT.--The commission may adopt and
21 promulgate reasonable rules to enforce the Electronic
22 Government Act.

23 Section 10. ELECTRONIC GOVERNMENT PLANS AND PROJECTS.--

24 A. The commission on higher education, the judicial
25 branch of government, the legislative branch of government and

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1 municipalities and counties are encouraged to submit their
2 electronic government plans and projects to the commission and
3 the lead agency, the legislative finance committee and the
4 information technology oversight committee for review and
5 comment by those entities.

6 B. The commission on higher education, the judicial
7 branch of government, the legislative branch of government and
8 municipalities and counties are encouraged to coordinate their
9 electronic government plans and projects with the executive
10 branch and each other whenever possible in order to leverage
11 resources and optimize services to constituents.

12 Section 11. APPROPRIATION.--Fifty thousand dollars
13 (\$50,000) is appropriated from the general fund to the
14 electronic government fund for expenditure in fiscal years 2004
15 and 2005 to cover portal start-up expenses, including the
16 development of a request for proposals that will result in the
17 selection of one or more contract portal developers or
18 operators. Any unexpended or unencumbered balance remaining at
19 the end of fiscal year 2005 shall revert to the general fund.

20 Section 12. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.