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HOUSE BILL 959

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE DEPARTMENT OF INFORMATION TECHNOLOGY; PROVIDING POWERS AND DUTIES; APPROVING TRANSFERS OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS AND PROPERTY; REPEALING THE INFORMATION TECHNOLOGY MANAGEMENT ACT.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Department of Information Technology Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the Department of Information Technology Act is to create a single, unified executive branch department to administer all laws and exercise all functions formerly administered by the office of the chief information officer, the information technology commission, pursuant to the Information Technology Management

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1 Act, and the communications division, information systems
2 division, radio communications bureau and telecommunications
3 bureau of the general services department to consolidate
4 enterprise information technology services duplicated within
5 executive agencies and provide additional information
6 technology services and functionality to improve and streamline
7 the executive branch's information technology systems.

8 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Department of Information Technology Act:

10 A. "department" means the department of information
11 technology;

12 B. "information technology" means computer hardware
13 and software and ancillary products and services, including:

- 14 (1) systems design and analysis;
- 15 (2) acquisition, storage and conversion of
16 data;
- 17 (3) computer programming;
- 18 (4) information storage and retrieval;
- 19 (5) voice, radio, video and data
20 communications;
- 21 (6) requisite systems;
- 22 (7) simulation and testing; and
- 23 (8) related interactions between users and
24 information systems;

25 C. "information technology project" means the

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1 purchase, replacement, development or modification of a
2 hardware or software system;

3 D. "secretary" means the secretary of information
4 technology;

5 E. "state information architecture" means a
6 logically consistent set of principles, policies and standards
7 that guides the engineering of state government's information
8 technology systems and infrastructure in a way that ensures
9 alignment with state government's business needs; and

10 F. "state information technology strategic plan"
11 means the information technology planning document for the
12 state that spans a three-year period.

13 Section 4. [NEW MATERIAL] DEPARTMENT CREATED--
14 DIVISIONS.--

15 A. The "department of information technology" is
16 created. The department is a cabinet department and includes
17 the following divisions:

- 18 (1) program support division;
19 (2) compliance and project management
20 division; and
21 (3) enterprise services division.

22 B. The secretary may organize the department and
23 the divisions specified in Subsection A of this section and may
24 transfer or merge functions between divisions in the interest
25 of efficiency and economy.

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1 Section 5. [NEW MATERIAL] SECRETARY OF INFORMATION
2 TECHNOLOGY--APPOINTMENT.--

3 A. The chief executive and administrative officer
4 of the department is the "secretary of information technology".
5 The secretary shall serve as the state's chief information
6 officer. The secretary shall be appointed by the governor with
7 the consent of the senate. The secretary shall hold that
8 office at the pleasure of the governor and shall serve in the
9 executive cabinet.

10 B. An appointed secretary shall serve and have all
11 of the duties, responsibilities and authority of that office
12 during the period of time prior to final action by the senate
13 confirming or rejecting the secretary-designate's appointment.

14 Section 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
15 POWERS.--

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

21 B. To perform the secretary's duties, the secretary
22 has every power expressly enumerated in the laws, whether
23 granted to the secretary or the department or any division of
24 the department, except where authority conferred upon any
25 division is explicitly exempted from the secretary's authority

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1 by statute. In accordance with these provisions, the secretary
2 shall:

3 (1) exercise general supervisory and
4 appointing authority over all department employees, subject to
5 any applicable personnel laws and regulations;

6 (2) delegate authority to subordinates as the
7 secretary deems necessary and appropriate, clearly delineating
8 such delegated authority and the limitations thereto;

9 (3) organize the department into those
10 organizational units the secretary deems will enable it to
11 function most efficiently, subject to provisions of law
12 requiring or establishing specific organizational units;

13 (4) within the limitations of available
14 appropriations and applicable laws, employ and fix the
15 compensation of those persons necessary to discharge the
16 secretary's duties;

17 (5) take administrative action by issuing
18 orders and instructions, not inconsistent with the law, to
19 ensure implementation of and compliance with the provisions of
20 law for whose administration or execution the secretary is
21 responsible and to enforce those orders and instructions by
22 appropriate administrative action in the courts;

23 (6) conduct research and studies that will
24 improve the operations of the department and the provision of
25 services to executive agencies and the residents of the state;

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1 (7) provide courses of instruction and
2 practical training for employees of the department and other
3 persons involved in the administration of programs with the
4 objective of improving the operations and efficiency of
5 administration;

6 (8) prepare an annual budget of the
7 department;

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

10 (a) minimize or eliminate duplication of
11 services and jurisdictional conflicts;

12 (b) coordinate activities and resolve
13 problems of mutual concern; and

14 (c) resolve by agreement the manner and
15 extent to which the department shall provide budgeting,
16 record-keeping and related clerical assistance to
17 administratively attached agencies; and

18 (10) appoint, with the governor's consent, for
19 each division a "director". These appointed positions are
20 exempt from the provisions of the Personnel Act. Persons
21 appointed to these positions shall serve at the pleasure of the
22 secretary.

23 C. As the chief information officer, the secretary
24 shall:

25 (1) review executive agency plans regarding

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1 prudent allocation of information technology resources;
2 reduction of data, hardware and software redundancy; and
3 improvement of system interoperability and data accessibility
4 among agencies;

5 (2) approve executive agency information
6 technology requests for proposals and contract vendor requests
7 that are subject to the Procurement Code, prior to final
8 approval;

9 (3) promulgate rules for oversight of
10 information technology procurement;

11 (4) approve executive agency information
12 technology contracts and amendments to those contracts,
13 including emergency procurements, sole source contracts and
14 price agreements, prior to approval by the department of
15 finance and administration;

16 (5) develop and implement procedures to
17 standardize data elements, determine data ownership and ensure
18 data sharing among executive agencies;

19 (6) verify compliance with state information
20 architecture and the state information technology strategic
21 plan before approving documents referred to in Paragraphs (2)
22 and (4) of this subsection;

23 (7) monitor executive agency compliance with
24 its agency plan, the state information technology strategic
25 plan and state information architecture and report to the

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1 governor, executive agency management and the legislative
2 finance committee on noncompliance;

3 (8) develop information technology cost
4 recovery mechanisms and information systems rate and fee
5 structures of executive agencies and other public or private
6 sector providers and make recommendations to the information
7 technology rate committee;

8 (9) provide technical support to executive
9 agencies in the development of their agency plans;

10 (10) ensure the use of existing public or
11 private information technology or telecommunications resources
12 when the use is practical, efficient, effective and financially
13 prudent;

14 (11) review appropriation requests related to
15 executive agency information technology requests to ensure
16 compliance with agency plans and the state information
17 technology strategic plan and make written recommendations to
18 the department of finance and administration, the legislative
19 finance committee, the appropriate interim legislative
20 committee and the information technology commission;

21 (12) establish rules to ensure that
22 information technology projects satisfy criteria established by
23 the secretary and are phased in with funding released in phases
24 contingent upon successful completion of the prior phase;

25 (13) provide oversight of information

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1 technology projects, including ensuring adequate risk
2 management, disaster recovery and business continuity practices
3 and monitoring compliance with strategies recommended by the
4 information technology commission for information technology
5 projects that impact multiple agencies; and

6 (14) perform any other information technology
7 function assigned by the governor.

8 D. Each executive agency shall submit an agency
9 information technology plan to the secretary in the form and
10 detail required by the secretary.

11 E. The secretary, as chief information officer,
12 shall prepare a state information technology strategic plan for
13 the executive branch. The plan shall comply with the
14 provisions of the Department of Information Technology Act and
15 provide for the:

16 (1) interchange of information related to
17 information technology among executive agencies;

18 (2) coordination among executive agencies in
19 the development and maintenance of information technology
20 systems; and

21 (3) protection of the privacy and security of
22 individual information as well as of individuals using the
23 state's information technology systems.

24 F. The secretary may apply for and receive, with
25 the governor's approval, in the name of the department, any

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1 public or private funds, including United States government
2 funds, available to the department to carry out its programs,
3 duties or services.

4 G. Where information technology functions of
5 executive agencies overlap or a function assigned to one agency
6 could better be performed by another agency, the secretary may
7 recommend appropriate legislation to the next session of the
8 legislature for its approval.

9 H. The secretary may make and adopt such reasonable
10 procedural rules as may be necessary to carry out the duties of
11 the department and its divisions and requirements and standards
12 for the executive branch's information technology needs,
13 functions, systems and resources, including:

- 14 (1) information technology security;
- 15 (2) approval for procurement of information
16 technology that exceeds an amount set by rule;
- 17 (3) detail and format for the agency
18 information technology plan;
- 19 (4) acquisition, licensing and sale of
20 information technology; and
- 21 (5) requirements for agency information
22 technology projects and related plan, analysis, oversight,
23 assessment and specifications.

24 I. Unless otherwise provided by statute, no rule
25 affecting any person or agency outside the department shall be

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1 adopted, amended or repealed without a public hearing on the
2 proposed action before the secretary or a hearing officer
3 designated by the secretary. The public hearing shall be held
4 in Santa Fe unless otherwise permitted by statute. Notice of
5 the subject matter of the rule, the action proposed to be
6 taken, the time and place of the hearing, the manner in which
7 interested persons may present their views and the method by
8 which copies of the proposed rule, proposed amendment or repeal
9 of an existing rule may be obtained shall be published once at
10 least thirty days prior to the hearing date in a newspaper of
11 general circulation and mailed at least thirty days prior to
12 the hearing date to all persons who have made a written request
13 for an advance notice of hearing. Rules shall be filed in
14 accordance with the State Rules Act.

15 Section 7. [NEW MATERIAL] INFORMATION TECHNOLOGY RATE
16 COMMITTEE--MEMBERSHIP--DUTIES.--

17 A. The "information technology rate committee" is
18 created. The committee consists of seven members as follows:

19 (1) five members appointed by the governor
20 from executive agencies that use information technology
21 services and pay rates to an internal service fund;

22 (2) the secretary of finance and
23 administration, who shall serve as chair of the committee; and

24 (3) the secretary of information technology.

25 B. The information technology rate committee shall:

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1 (1) review the rate and fee schedule proposed
2 by the secretary;

3 (2) propose an equitable rate and fee schedule
4 based on cost recovery for executive agencies that use
5 information technology services and pay rates to an internal
6 service fund, with priority service to public safety agencies;

7 (3) present the committee's proposed rate and
8 fee schedule to the office of the governor, the department of
9 finance and administration and the legislative finance
10 committee; and

11 (4) by July 15 of each year, implement a rate
12 and fee schedule based on the committee's recommendations and
13 input from the office of the governor, the department of
14 finance and administration and the legislative finance
15 committee.

16 Section 8. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
17 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
18 INFORMATION.--Those organizational units of the department and
19 the officers of those units specified by law shall have all of
20 the powers and duties enumerated in the specific laws involved.
21 However, the carrying out of those powers and duties shall be
22 subject to the direction and supervision of the secretary, who
23 shall retain the final decision-making authority and
24 responsibility for the administration of any such laws. The
25 department shall have access to all information technology

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1 records, data and information of other executive branch
2 departments, agencies and institutions, including its own
3 organizational units, not specifically held confidential by
4 law.

5 Section 9. [NEW MATERIAL] INFORMATION TECHNOLOGY
6 COMMISSION--CREATION--POWERS AND DUTIES.--

7 A. The "information technology commission" is
8 created. The commission consists of thirteen voting members as
9 follows:

10 (1) five members appointed by the governor,
11 three of whom are from agencies whose primary funding is not
12 from internal service funds;

13 (2) one staff member with telecommunications
14 regulatory experience appointed by the chair of the public
15 regulation commission;

16 (3) two members representing education, one
17 appointed by the secretary of higher education and one
18 appointed by the secretary of public education;

19 (4) two members from the national
20 laboratories; and

21 (5) three members appointed by the governor to
22 represent the public with information technology and management
23 experience, but who are not employees of the state or a
24 political subdivision of the state and who do not have any
25 financial interest in the state information systems or state

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1 contracts. The public members shall serve for staggered
2 three-year terms.

3 B. Additionally, the following nonvoting members
4 may serve on the commission:

5 (1) two members from the judicial information
6 systems council appointed by the chair of that council;

7 (2) one member representing the office of the
8 attorney general appointed by the attorney general;

9 (3) two members representing local government,
10 one appointed by the New Mexico association of counties and one
11 appointed by the New Mexico municipal league;

12 (4) one staff member from the legislative
13 council service and one staff member from the legislative
14 finance committee, appointed by their respective directors; and

15 (5) the secretary as chief information
16 officer.

17 C. Members of the commission, except the three
18 public members appointed by the governor, may select designees
19 to represent them and vote on their behalf.

20 D. The members of the commission who are not
21 supported by public money, or their designees, may receive per
22 diem and mileage pursuant to the Per Diem and Mileage Act, but
23 shall receive no other compensation, perquisite or allowance.

24 E. The commission shall elect a chair and vice
25 chair from the active voting membership of the commission for

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1 two-year terms.

2 F. The department shall provide staff to the
3 commission.

4 G. The commission shall meet at least quarterly to
5 review and approve:

6 (1) the development and implementation of the
7 state information technology strategic plan;

8 (2) critical information technology
9 initiatives for the state;

10 (3) identification of information technology
11 needs of state agencies;

12 (4) strategies for identifying information
13 technology projects that impact multiple agencies;

14 (5) the state information architecture and the
15 state information technology strategic plan for updates and
16 compliance by executive agencies;

17 (6) proposed rules by the secretary; and

18 (7) guidelines for mediation of disputes
19 between an executive agency and the secretary as chief
20 information officer.

21 Section 10. Section 9-17-3 NMSA 1978 (being Laws 1983,
22 Chapter 301, Section 3, as amended) is amended to read:

23 "9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER
24 AND MERGER OF DIVISION FUNCTIONS--MERGER AND CREATION OF
25 DIVISIONS.--

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1 A. The "general services department" is created.
2 The department shall consist of those divisions created by law
3 or executive order, as modified by executive order pursuant to
4 Subsection C of this section, including:

- 5 (1) the administrative services division;
6 (2) the building services division;
7 [~~(3)~~] ~~the information systems division;~~
8 ~~(4)~~] (3) the property control division;
9 [~~(5)~~] (4) the purchasing division;
10 [~~(6)~~] (5) the risk management division; and
11 [~~(7)~~] (6) the transportation services
12 division.

13 B. The secretary of general services is empowered
14 to organize the department and the divisions specified in
15 Subsection A of this section and may transfer or merge
16 functions between divisions in the interest of efficiency and
17 economy.

18 C. The governor is empowered to merge divisions of
19 the department or to create additional divisions by executive
20 order in the interest of efficiency or economy."

21 Section 11. Section 12-12-21 NMSA 1978 (being Laws 1983,
22 Chapter 80, Section 5, as amended) is amended to read:

23 "12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--
24 PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES
25 AND LOCAL GOVERNMENTS.--

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1 A. The secretary, in addition to having final
2 authority to administer the provisions of the Emergency
3 Management Act, shall be responsible for central coordination
4 and communication in the event of an accident.

5 B. The chief shall designate one or more persons to
6 be known as "state police emergency response officers". A
7 state police emergency response officer shall be trained in
8 accident evaluation and emergency response and shall be
9 available to answer an emergency response call from the first
10 responder.

11 C. In the event of an accident, if the first
12 responder is a law enforcement officer, ~~[he]~~ the officer shall
13 immediately notify the state police district emergency response
14 officer in ~~[his]~~ the officer's area, who shall in turn
15 immediately notify the state police emergency response center.
16 If the first responder is a person with radio capability tied
17 into ~~[the]~~ radio communications ~~[bureau of the information~~
18 ~~systems division of the general services]~~ protocol or reporting
19 structure with the department ~~[he]~~ of information technology,
20 the person shall immediately notify Santa Fe control, who shall
21 in turn immediately notify the state police emergency response
22 center. The state police emergency response center shall:

23 (1) evaluate and determine the scope of the
24 accident based on information provided by the first responder;

25 (2) instruct the first responder on how to

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1 proceed at the accident scene;

2 (3) immediately notify the appropriate
3 responsible state agency and advise it of the necessary
4 response;

5 (4) notify the sheriff or chief of police in
6 whose jurisdiction the accident occurred; and

7 (5) coordinate field communications and summon
8 additional resources requested by the emergency management
9 team.

10 D. The responsible state agencies shall be:

11 (1) the New Mexico state police division of
12 the department of public safety [~~department~~] for coordination,
13 law enforcement and traffic and crowd control;

14 (2) the [~~environmental improvement division of~~
15 ~~the health and environment~~] department of environment for
16 assistance with accidents involving [~~radioactive or~~] hazardous
17 materials or hazardous substances;

18 (3) the state fire marshal's office for
19 assistance with any accident involving hazardous materials;

20 (4) the injury prevention and emergency
21 medical services bureau of the public health [~~services~~]
22 division of the department of health [~~and environment~~
23 ~~department~~] for assistance with accidents involving casualties;

24 (5) the emergency planning and coordination
25 bureau of the department of public safety [~~department~~] and the

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1 ~~[military division of the]~~ department of military affairs for
2 assistance with accidents ~~[which]~~ that require the evacuation
3 of the vicinity of the accident or the use of the national
4 guard of New Mexico; and

5 (6) the ~~[state highway and]~~ department of
6 transportation ~~[department]~~ for assistance with road closures,
7 designating alternate routes and related services.

8 E. Other state agencies and local governments shall
9 assist the responsible state agencies when requested to do so.

10 F. Any driver of a vehicle carrying hazardous
11 materials involved in an accident ~~[which]~~ that may cause injury
12 to persons or property or any owner, shipper or carrier of
13 hazardous materials involved in an accident who has knowledge
14 of such accident or any owner or person in charge of any
15 building, premises or facility where such an accident occurs
16 shall immediately notify the New Mexico state police division
17 of the department of public safety ~~[department]~~ by the quickest
18 means of communication available."

19 Section 12. Section 12-12-22 NMSA 1978 (being Laws 1983,
20 Chapter 80, Section 6, as amended) is amended to read:

21 "12-12-22. EMERGENCY MANAGEMENT TASK FORCE--CREATED--
22 POWERS AND DUTIES.--

23 A. The "emergency management task force" is
24 created, composed of:

25 (1) the chief or ~~[his]~~ the chief's designee,

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1 who shall serve as vice [~~chairman~~] chair of the task force;

2 (2) the state fire marshal or [~~his~~] the fire
3 marshal's designee;

4 (3) a staff member of the [~~environmental~~
5 ~~improvement division~~] department of environment who is
6 knowledgeable about radioactive materials, to be designated by
7 the [~~director of the division~~] secretary of environment;

8 (4) a staff member of the [~~environmental~~
9 ~~improvement division~~] department of environment who is
10 knowledgeable about hazardous substances, to be designated by
11 the [~~director of the division~~] secretary of environment;

12 (5) the director of the technical and
13 emergency support division or [~~his~~] the director's designee;

14 (6) the chief of the emergency medical
15 services bureau or [~~his~~] the chief's designee;

16 (7) the secretary of [~~highway and~~
17 ~~transportation~~] or [~~his~~] the secretary's designee;

18 (8) the [~~chairman~~] chair of the [~~state~~
19 ~~corporation~~] public regulation commission or [~~his~~] the chair's
20 designee;

21 (9) a representative of the governor, to be
22 appointed by the governor, who is not an employee of any agency
23 represented on the task force and who shall serve as [~~chairman~~]
24 chair of the task force;

25 (10) the secretary of taxation and revenue or

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1 ~~[his]~~ the secretary's designee; and

2 (11) the ~~[director of the information systems~~
3 ~~division of the general services department]~~ secretary of
4 information technology or ~~[his]~~ the secretary's designee.

5 B. The attorney general's office shall serve as
6 attorney for the task force.

7 C. The task force shall, at the direction of the
8 ~~[state emergency response]~~ commission, develop and monitor a
9 comprehensive plan, to include:

10 (1) procedures for initially assessing the
11 scope and nature of an accident;

12 (2) procedures for notifying and assembling
13 the proper emergency management team from the responsible state
14 agencies;

15 (3) procedures for siting and operating an on-
16 scene command post;

17 (4) an inventory and assessment of manpower,
18 equipment and training within each responsible state agency as
19 well as other state agencies and local governments and federal
20 and private sources;

21 (5) an assessment of the adequacy and
22 availability of training materials and facilities to train and
23 cross-train emergency response teams and other persons involved
24 in responding to an accident and an identification of training
25 requirements to ~~[assure]~~ ensure that such persons are

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1 adequately trained;

2 (6) the development of training programs for
3 emergency response teams and other persons involved in
4 responding to an accident;

5 (7) procedures for decontamination of
6 emergency management personnel and equipment as well as medical
7 and other facilities [~~which~~] that may be used in the management
8 of the accident;

9 (8) identification of the medical resources in
10 the state and the location of specialized medical facilities
11 for use in medical emergencies;

12 (9) information and training programs for
13 hospital emergency room personnel and doctors;

14 (10) procedures for accident assessment and
15 record keeping;

16 (11) procedures for periodic emergency
17 management preparedness exercises and testing of the plan;

18 (12) a designation of areas of responsibility
19 in the emergency management plan, including but not limited to:

20 (a) command and control of the accident
21 scene and overall responsibility and authority for all
22 emergency response activity;

23 (b) public health and safety, including
24 rescue operations, emergency medical services, evacuation and
25 containment of the accident scene;

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- 1 (c) sanitation and decontamination
2 services at the accident scene;
- 3 (d) communications, including statewide
4 and on-scene communications;
- 5 (e) public works and engineering;
- 6 (f) transportation;
- 7 (g) social services;
- 8 (h) accident assessment, investigation
9 and record keeping;
- 10 (i) protective response, including
11 hazardous materials exposure control;
- 12 (j) environmental monitoring, control
13 and cleanup; and
- 14 (k) public information;
- 15 (13) criteria for determining when an accident
16 may be handled by a local government;
- 17 (14) procedures for entering into cooperative
18 agreements between the state and local governments and between
19 the state and the federal government, Indian tribes and pueblos
20 and bordering states pursuant to Section [~~74-4B-4~~] 12-12-20
21 NMSA 1978; and
- 22 (15) identification of information management
23 resources necessary for effective emergency response activity.
- 24 D. The task force shall develop liaison with the
25 trucking industry, the railroads and other areas of the private

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1 sector in the formulation of the plan."

2 Section 13. Section 15-2-1 NMSA 1978 (being Laws 1980,
3 Chapter 151, Section 9, as amended) is amended to read:

4 "15-2-1. [~~COMMUNICATIONS DIVISION--CREATION--~~
5 ~~COMMUNICATIONS ENGINEER--QUALIFICATIONS~~] TELECOMMUNICATIONS
6 SERVICES.--

7 A. The [~~"communications division" is created within~~
8 ~~the general services department. B. The director of the~~
9 ~~communications divison, with the approval of the]~~ secretary of
10 [~~general services~~] information technology may hire a
11 communications engineer to oversee the engineering
12 responsibilities of the [~~division. C.~~] department of
13 information technology. The communications engineer shall have
14 a degree in either electrical engineering with an electrical
15 communications specialty or in electronics engineering.

16 B. In providing telecommunications services
17 pursuant to Chapter 15 NMSA 1978, the department of information
18 technology shall not provide telecommunications services,
19 including telephone, data and broadband services, to an entity
20 other than those authorized pursuant to Section 15-5-1 NMSA
21 1978, except as is necessary to facilitate a state-mandated
22 program, including distance education, telehealth or school-
23 based health center programs."

24 Section 14. Section 15-2-2 NMSA 1978 (being Laws 1977,
25 Chapter 247, Section 24, as amended) is amended to read:

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1 "15-2-2. RADIO COMMUNICATIONS [~~BUREAU--DUTIES~~].--The
2 [~~"radio communications bureau", hereby created, of the~~
3 ~~communications division of the general services~~] department of information technology shall have supervisory control over all
4 mobile or fixed radio equipment now owned or subsequently
5 acquired by the [~~state~~] executive branch or any state officer,
6 department, other agency, board, [~~or~~] commission, [~~or~~] division
7 or bureau of any executive state department or [~~other~~] agency.
8 This supervisory control shall include but not be limited to
9 the determination of the need for, purchase, repair,
10 maintenance, combination or disposition of radio equipment."

12 Section 15. Section 15-2-2.1 NMSA 1978 (being Laws 1997,
13 Chapter 263, Section 1) is amended to read:

14 "15-2-2.1. LEASE OF RADIO COMMUNICATIONS NETWORK--
15 CONDITIONS AND REQUIREMENTS.--In exercising supervisory control
16 pursuant to Section 15-2-2 NMSA 1978, the [~~radio communications~~
17 ~~bureau of the communications division of the general services~~]
18 department of information technology may lease to a private
19 entity excess capacity on its radio communications property,
20 including buildings, towers or antennas, provided that:

21 A. the lease conforms with competitive procurement
22 requirements of the Procurement Code;

23 B. the lease is for an equal value exchange of
24 money or property;

25 C. the secretary of [~~general services~~] information

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1 technology certifies that the excess capacity will be available
2 for at least the duration of the lease;

3 D. if the lease exceeds ten years, the lease is
4 first approved by the state board of finance;

5 E. the [~~radio communications bureau~~] department of
6 information technology has submitted to the legislative finance
7 committee a detailed plan for the use of excess capacity being
8 leased and an assessment of how the lease will affect public
9 sector uses and local telecommunication service providers; and

10 F. income from the leases shall be deposited to the
11 credit of the [~~radio communications bureau~~] department of
12 information technology and used to carry out the duties of the
13 [~~bureau~~] department."

14 Section 16. Section 15-2-3 NMSA 1978 (being Laws 1970,
15 Chapter 71, Section 1, as amended) is amended to read:

16 "15-2-3. SERVICE CHARGE.--

17 A. The [~~radio communications bureau of the~~
18 ~~communications division of the general services~~] department of
19 information technology shall charge a fee to the state or any
20 officer, agency, department, division, board or commission of
21 the state for any services rendered in the exercise of [~~the~~
22 ~~radio communications bureau's~~] its supervisory control.

23 B. Fees shall be fixed by the secretary of [~~general~~
24 ~~services~~] information technology.

25 C. Income from fees collected shall be deposited to

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1 the credit of the [~~radio communications bureau~~] department of
2 information technology and used to carry out the duties of the
3 [~~bureau~~] department.

4 D. The [~~radio communications bureau~~] department of
5 information technology may provide service to counties and
6 municipalities at the same rates charged state agencies."

7 Section 17. Section 15-2-4 NMSA 1978 (being Laws 1966,
8 Chapter 32, Section 3, as amended) is amended to read:

9 "15-2-4. EXCLUSION FROM JURISDICTION.--The [~~radio~~
10 ~~communications bureau of the communications division of the~~
11 ~~general services~~] department of information technology shall
12 not have supervisory control over:

13 A. the use of [~~such~~] radio equipment, except as to
14 the technical requirements of the equipment or unless the
15 equipment is used by one or more agencies, and the [~~radio~~
16 ~~communications bureau~~] department of information technology
17 must determine priority of use;

18 B. the radio equipment of the [~~office~~] department
19 of military affairs, except the [~~radio communications bureau~~]
20 department of information technology may maintain all radio
21 equipment owned by the [~~office~~] department of military affairs
22 [~~which~~] that interfaces with state-owned radio equipment; or

23 C. unless otherwise directed by the secretary of
24 [~~general services~~] information technology, radio equipment that
25 is incidental to a system [~~which~~] that is primarily a telephone

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1 system."

2 Section 18. Section 15-2-5 NMSA 1978 (being Laws 1971,
3 Chapter 115, Section 2, as amended) is amended to read:

4 "15-2-5. PROPERTY TRANSFER.--Ownership of all radio
5 communication property at mountaintop or remote sites,
6 including buildings, towers, antennas, emergency power plants
7 and radio equipment owned by the New Mexico state police,
8 [~~state highway~~] department of transportation, department of
9 game and fish and [~~the state~~] forestry division of the energy,
10 minerals and natural resources department, is transferred to
11 [~~the communications division of~~] the [~~general services~~]
12 department of information technology."

13 Section 19. Section 15-2-8 NMSA 1978 (being Laws 1975,
14 Chapter 214, Section 4, as amended) is amended to read:

15 "15-2-8. TRANSFER OF PROPERTY--CUSTODY AND CONTROL.--The
16 radio equipment purchased in accordance with Laws 1972, Chapter
17 74 by the property control division of the [~~department of~~
18 ~~finance and administration~~] general services department is
19 transferred to the [~~radio communications bureau of the general~~
20 ~~services~~] department of information technology. The [~~radio~~
21 ~~communications bureau~~] department has the custody and control
22 of the transferred radio equipment."

23 Section 20. Section 15-5-1 NMSA 1978 (being Laws 1978,
24 Chapter 124, Section 11, as amended) is amended to read:

25 "15-5-1. TELECOMMUNICATIONS [~~BUREAU CREATED~~]--DUTIES.--
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1 ~~[A. The "telecommunications bureau" is created~~
2 ~~within the communications division of the general services~~
3 ~~department. B.]~~ The ~~[telecommunications bureau]~~ department of
4 information technology shall enter into necessary agreements to
5 provide, where feasible, a central telephone system, including
6 wide-area telephone service, and related facilities to all
7 executive, legislative and judicial ~~[institutional and other~~
8 ~~state governmental offices located in the state of New Mexico]~~
9 branches. Nothing in this section shall be constructed to
10 apply to the provision of a central telephone system and
11 related facilities to political subdivisions of the state."

12 Section 21. Section 15-5-3 NMSA 1978 (being Laws 1963,
13 Chapter 181, Section 3, as amended) is amended to read:

14 "15-5-3. CHARGES FOR CENTRAL TELEPHONE SERVICES.--
15 Departments, institutions and agencies participating in the
16 central telephone system shall be charged a pro rata and
17 equitable share of the total monthly costs of the service.
18 This determination is to be made by the ~~[telecommunications~~
19 ~~bureau of the communications division of the general services]~~
20 department of information technology. Toll calls not covered
21 by the wide-area telephone service and supplemental equipment
22 shall be segregated and paid for by agencies, institutions and
23 departments making the calls or using the supplemental
24 equipment."

25 Section 22. Section 15-5-4 NMSA 1978 (being Laws 1963,

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1 Chapter 181, Section 4, as amended) is amended to read:

2 "15-5-4. DEPOSIT OF MONEY.--The [~~telecommunications~~
3 ~~bureau of the communications division of the general services]~~
4 department of information technology shall order the deposit or
5 transfer monthly to a fund known as the "central telephone
6 services fund" the amount of money owed by each department,
7 institution and agency utilizing the central telephone system.
8 State institutions and agencies shall adopt such accounting
9 procedures as are prescribed by the department of finance and
10 administration for the handling of payments with reference to
11 the central telephone system."

12 Section 23. Section 22-15A-11 NMSA 1978 (being Laws 2005,
13 Chapter 222, Section 2) is amended to read:

14 "22-15A-11. EDUCATIONAL TECHNOLOGY DEFICIENCIES--
15 CORRECTION.--

16 A. No later than September 1, 2005, the bureau,
17 with the advice of the council and the [~~office of the chief]~~
18 secretary of information [officer] technology, shall define and
19 develop minimum educational technology adequacy standards to
20 supplement the adequacy standards developed by the public
21 school capital outlay council, for school districts to use to
22 identify outstanding serious deficiencies in educational
23 technology infrastructure.

24 B. A school district shall use the standards to
25 complete a self-assessment of the outstanding educational

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1 technology deficiencies within the school district and provide
2 cost projections to correct the outstanding deficiencies.

3 C. The bureau shall develop a methodology for
4 prioritizing projects that will correct the deficiencies.

5 D. After a public hearing and to the extent that
6 money is available in the educational technology deficiency
7 correction fund, the bureau shall approve allocations from the
8 fund on the established priority basis and, working with the
9 school district and pursuant to the Procurement Code, enter
10 into contracts to correct the deficiencies.

11 E. In entering into contracts to correct
12 deficiencies pursuant to this section, the bureau shall include
13 such terms and conditions as necessary to ensure that the state
14 money is expended in the most prudent manner possible
15 consistent with the original purpose."

16 Section 24. Section 29-15A-3 NMSA 1978 (being Laws 2003,
17 Chapter 93, Section 3, as amended) is amended to read:

18 "29-15A-3. STATE POLICE--AMBER ALERT NOTIFICATION
19 PLAN--DECLARATION OF AMBER ALERT.--

20 A. The state police shall develop and implement an
21 AMBER alert notification plan for the purpose of disseminating,
22 as rapidly as possible, information about a child abduction so
23 that law enforcement agencies and citizens throughout the state
24 may be aware and vigilant. The plan shall:

25 (1) provide a procedure for notifying the lead

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1 station by the authorized requester that an AMBER alert has
2 been declared. The procedure shall include codes for use by
3 the authorized requester in communicating with the lead station
4 to prevent false alerts;

5 (2) provide a procedure in which other state
6 and private print, radio, television or other media may alert
7 the members of the public of the abduction;

8 (3) include a procedure for notifying the
9 ~~[radio communications bureau of the communications division of~~
10 ~~the general services]~~ department of information technology that
11 an AMBER alert has been declared. The ~~[bureau]~~ department of
12 information technology shall immediately transmit the
13 notification and related information to all state field
14 operations employees so that they may be aware and vigilant in
15 the course of their regular activities;

16 (4) include a procedure for notifying a
17 representative of each cellular service company and paging
18 service company operating in New Mexico so that a text message
19 may be sent to the company's customers at no additional expense
20 to the recipient or to any service that accepts the information
21 from the authorized requester and delivers it to the cellular
22 service or paging service company;

23 (5) include a procedure for notifying all
24 local and federal law enforcement agencies that an AMBER alert
25 has been declared; and

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1 (6) provide for dissemination of information
2 about a child or a child's abductor to the lead station, the
3 [~~radio communications bureau~~] department of information
4 technology and local law enforcement agencies when an AMBER
5 alert has been declared.

6 B. The state police shall distribute the AMBER
7 alert notification plan to all local law enforcement agencies
8 and provide such training and other assistance as is necessary
9 to ensure that the plan can be properly implemented.

10 C. The authorized requester may declare an AMBER
11 alert when the requester has reason to believe that:

12 (1) a child under the age of eighteen has been
13 abducted by an unrelated person;

14 (2) the child is in imminent danger of serious
15 bodily harm or death; and

16 (3) there is specific information available
17 about the child or the child's abductor that may assist in an
18 expedient and successful end to the abduction.

19 D. Once an AMBER alert has been declared, only the
20 authorized requester may terminate the AMBER alert."

21 Section 25. Section 38-5-3 NMSA 1978 (being Laws 1991,
22 Chapter 71, Section 2, as amended) is amended to read:

23 "38-5-3. SOURCE FOR JUROR SELECTION.--

24 A. Each county clerk shall make available to the
25 secretary of state a database of registered voters of the

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1 clerk's county. The secretary of state shall preserve and make
2 available to the [~~information systems division of the general~~
3 ~~services~~] department of information technology, by electronic
4 media, a database of New Mexico registered voters, by county,
5 which shall be updated monthly. The director of the motor
6 vehicle division of the taxation and revenue department shall
7 make available by electronic media to the [~~information systems~~
8 ~~division of the general services~~] department of information
9 technology a database of driver's license holders in each
10 county, which shall be updated monthly. The secretary of
11 taxation and revenue shall make available to the [~~information~~
12 ~~systems division of the general services~~] department of
13 information technology, by electronic media, a database of New
14 Mexico personal income tax filers by county, which shall be
15 updated quarterly.

16 B. The [~~information systems division of the general~~
17 ~~services~~] department of information technology shall program
18 the merger of the registered voter, driver's license and
19 personal income tax filer databases from each county to form a
20 master jury database and write a computer program so that a
21 random selection of jurors can be made. A discrimination shall
22 not be exercised except for the elimination of persons who are
23 not eligible for jury service. The administrative office of
24 the courts shall provide specifications for the merging of the
25 registered voter, driver's license and personal income tax

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1 filer databases. The merged database information shall be the
2 database that produces the random jury list for the selection
3 of petit or grand jurors for the state courts.

4 C. The court shall, by order, designate the number
5 of potential jurors to be selected and the date on which the
6 jurors are to report for empaneling. Within fifteen days after
7 receipt of a copy of the order, the administrative office of
8 the courts shall provide the random jury list to the court.
9 The ~~[information systems division of the general services]~~
10 department of information technology shall print the random
11 jury list and jury summons mailer forms within ten days after
12 receiving the request from the administrative office of the
13 courts. Upon issuance of the order, the ~~[information systems~~
14 ~~division of the general services]~~ department of information
15 technology shall draw from the most current registered voter,
16 driver's license and personal income tax filer databases to
17 create the random jury list.

18 D. The ~~[information systems division of the general~~
19 ~~services]~~ department of information technology may transfer the
20 master jury database to a court that has compatible equipment
21 to accept such a transfer. The court accepting the master jury
22 database shall transfer the information to a programmed
23 computer used for the random selection of petit or grand
24 jurors."

25 Section 26. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,

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1 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--

2 A. The transfer of functions, personnel,
3 appropriations, money, records, equipment, supplies, other
4 property and contractual obligations of the office of the chief
5 information officer, the information technology commission,
6 pursuant to the Information Technology Management Act, and the
7 communications division, information systems division, radio
8 communications bureau and telecommunications bureau of the
9 general services department is approved and transferred to the
10 department of information technology. All references in law to
11 the office of the chief information officer, the information
12 technology commission, pursuant to the Information Technology
13 Management Act, and the communications division, information
14 systems division, radio communications bureau and
15 telecommunications bureau of the general services department
16 shall be deemed to be references to the department of
17 information technology.

18 B. It is the intent of the legislature that
19 consolidation of state services and programs into the
20 department of information technology be accomplished as quickly
21 as practicable, without disruption in information technology
22 services to executive agencies.

23 C. At the time of transfer of an agency or program,
24 all personnel, money, appropriations, records, files,
25 furniture, equipment and other property related to that agency

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1 or program shall be transferred to the department of
2 information technology. The governor's office and the state
3 budget division of the department of finance and administration
4 shall assist in the identification of personnel, money,
5 appropriations and property to be transferred and shall certify
6 to the legislature that resources transferred from other
7 agencies to the department of information technology are
8 sufficient to continue the same level of services.

9 D. Contractual and other obligations of an agency
10 or program shall be obligations of the department of
11 information technology.

12 E. After the effective date of the transfers
13 provided in Subsection B of this section, references in law to
14 the programs being transferred shall be deemed to be references
15 to the department of information technology.

16 F. The secretary of information technology shall
17 provide periodic updates to the legislative finance committee
18 and other appropriate interim legislative committees on the
19 progress of the transition and integration plan and the
20 establishment of the department of information technology. By
21 November 1, 2007, the secretary shall provide the legislative
22 finance committee and other appropriate interim legislative
23 committees with a comprehensive plan to provide information
24 technology services for all executive branch agencies,
25 including recommendations, if any, for the transfer of

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1 additional information technology services or programs from
2 other agencies to the department of information technology.

3 Section 27. REPEAL.--Sections 15-1C-1 through 15-1C-12
4 NMSA 1978 (being Laws 1999, Chapter 16, Sections 1 through 11,
5 Laws 2003, Chapter 49, Section 9 and Laws 2003, Chapter 308,
6 Section 9, as amended) are repealed.

7 Section 28. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2007.

9 - 38 -