

1 SENATE BILL 269

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO INFORMATION TECHNOLOGY; AMENDING, REPEALING AND  
12 ENACTING SECTIONS OF THE DEPARTMENT OF INFORMATION TECHNOLOGY  
13 ACT.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-27-3 NMSA 1978 (being Laws 2007,  
17 Chapter 290, Section 3, as amended) is amended to read:

18 "9-27-3. DEFINITIONS.--As used in the Department of  
19 Information Technology Act:

20 A. "agency", unless otherwise specified, means an  
21 agency within the executive branch of state government;

22 B. "customer" means an agency, an educational  
23 institution, a political subdivision of the state, an  
24 instrumentality of the state or of a political subdivision of  
25 the state or an agency of an Indian nation, tribe or pueblo

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1 that receives information technology, goods or services from  
2 the department;

3 C. "cybersecurity" means acts, practices or systems  
4 that eliminate or reduce the risk of loss of critical assets,  
5 sensitive information or reputational harm as a result of a  
6 cyberattack or breach within an organization's network;

7 ~~[A.]~~ D. "department" means the department of  
8 information technology;

9 E. "information architecture" means a logically  
10 consistent set of principles, policies and standards that guide  
11 the engineering of information technology systems and  
12 infrastructure in a way that ensures alignment with operational  
13 needs;

14 F. "information security" means acts, practices or  
15 systems that eliminate or reduce the risk that legally  
16 protected information or information that could be used to  
17 facilitate criminal activity is accessed or compromised through  
18 physical or electronic means;

19 ~~[B.]~~ G. "information technology" means computer  
20 hardware, ~~[and]~~ storage media, networking equipment, physical  
21 devices, infrastructure, processes, software, firmware, code  
22 and ancillary products and services, including:

23 (1) systems design and analysis;

24 (2) acquisition, storage and conversion of  
25 hardware or solutions used to create, process, store, secure or

1 exchange electronic data;

2 [~~(3)~~] ~~computer programming;~~

3 [~~(4)~~] (3) information storage and retrieval;

4 [~~(5)~~] (4) voice, radio, video and data  
5 communications;

6 [~~(6)~~] (5) requisite systems, including network  
7 and hosting, including cloud-based systems;

8 [~~(7)~~] (6) simulation and testing; and

9 [~~(8)~~] (7) related interactions between users  
10 and information systems;

11 [~~(G)~~] H. "information technology project" means [the  
12 purchase, replacement, development or modification] a time- and  
13 scope-limited effort related to augmentation, development,  
14 modification, purchase, replacement or retirement of a hardware  
15 or software system, but does not include normal operation and  
16 maintenance of information technology;

17 I. "infrastructure security" means acts, practices  
18 or systems that eliminate or reduce the risk that privately or  
19 publicly owned infrastructure or controls are compromised,  
20 damaged, destroyed or disrupted through physical or electronic  
21 means;

22 [~~(D)~~] J. "secretary" means the secretary of  
23 information technology;

24 [~~(E)~~] ~~"state information architecture" means a~~  
25 ~~logically consistent set of principles, policies and standards~~

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1 ~~that guides the engineering of state government's information~~  
2 ~~technology systems and infrastructure in a way that ensures~~  
3 ~~alignment with state government's business needs;~~

4 F.] K. "state information technology strategic  
5 plan" means the information technology planning document for  
6 the state that spans a three-year period; and

7 [G.] L. "telecommunication network" means the  
8 physical and logical components and all associated  
9 infrastructure used in transporting, routing, aggregating and  
10 delivering voice and data information from computer and  
11 telecommunications systems in one location to peer systems in  
12 another."

13 SECTION 2. Section 9-27-4 NMSA 1978 (being Laws 2007,  
14 Chapter 290, Section 4) is amended to read:

15 "9-27-4. DEPARTMENT CREATED--DIVISIONS.--

16 A. The "department of information technology" is  
17 created in the executive branch. The department is a cabinet  
18 level department and includes the following divisions:

- 19 [~~(1) program support division;~~  
20 ~~(2)] (1) compliance and project management;  
21 [~~division; and~~  
22 ~~(3)] (2) enterprise services [division];  
23 (3) program support;  
24 (4) project management; and  
25 (5) public safety radio.~~~~

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1           B. The secretary may [~~organize the department and~~  
2 ~~the divisions specified in Subsection A of this section~~]  
3 establish divisions and may transfer or merge functions between  
4 divisions in the interest of efficiency and economy."

5           **SECTION 3.** Section 9-27-6 NMSA 1978 (being Laws 2007,  
6 Chapter 290, Section 6, as amended by Laws 2017, Chapter 7,  
7 Section 2 and by Laws 2017, Chapter 45, Section 2) is amended  
8 to read:

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

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

15           B. [~~To perform the secretary's duties~~] The  
16 secretary has every power expressly enumerated in the laws,  
17 whether granted to the secretary or the department or any  
18 division of the department, except where authority conferred  
19 upon [~~any~~] a department, division or person is explicitly  
20 exempted from the secretary's authority by statute. In  
21 accordance with these provisions, the secretary shall:

22                   (1) exercise general supervisory and  
23 appointing authority over all department employees, subject to  
24 any applicable personnel laws and regulations;

25                   (2) delegate authority to subordinates as the

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1 secretary deems necessary and appropriate, clearly delineating  
2 such delegated authority and the limitations thereto;

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

7 (4) within the limitations of available  
8 appropriations and applicable laws, employ and fix the  
9 compensation of those persons necessary to discharge the  
10 secretary's duties;

11 (5) take administrative action by issuing  
12 ~~[orders and instructions]~~ guidance orders not inconsistent with  
13 the law, to ensure implementation of and compliance with the  
14 provisions of law for whose administration or execution the  
15 secretary is responsible and to enforce those ~~[orders and~~  
16 ~~instructions]~~ guidance orders by appropriate administrative  
17 action ~~[in the courts]~~ or by seeking a court order;

18 (6) conduct research and studies that will  
19 improve the operations of the department and the provision of  
20 services to ~~[state agencies and the residents of the state]~~  
21 customers;

22 (7) provide courses of instruction and  
23 practical training for employees of the department and other  
24 persons involved in the administration ~~[of programs with the~~  
25 ~~objective of improving the operations and efficiency of~~

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1 ~~administration]~~ or use of information technology;

2 (8) prepare an annual budget of the  
3 department;

4 (9) provide cooperation ~~[at the request of~~  
5 ~~heads of administratively attached agencies]~~ to customers in  
6 order to:

7 (a) minimize or eliminate duplication of  
8 services and jurisdictional conflicts;

9 (b) coordinate activities and resolve  
10 problems of mutual concern; and

11 (c) resolve by agreement the manner and  
12 extent to which the department shall provide ~~[budgeting,~~  
13 ~~recordkeeping and related clerical assistance to~~  
14 ~~administratively attached agencies; and]~~ services to a  
15 customer;

16 (10) appoint for each division a "director".  
17 These appointed positions are exempt from the provisions of the  
18 Personnel Act. Persons appointed to these positions shall  
19 serve at the pleasure of the secretary;

20 (11) contract with consultants or establish  
21 advisory committees composed of subordinates, contractors or  
22 stakeholders to conduct assessments or evaluations, make  
23 recommendations to the secretary or provide services on behalf  
24 of the department;

25 (12) establish additional bureaus within a

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1 departmental division as necessary to implement the Department  
2 of Information Technology Act and appoint bureau chiefs to  
3 serve as the administrative heads of bureaus; and

4 (13) acquire, hold and maintain, through  
5 lease, trade or purchase, any real or personal property  
6 necessary to meet customer requirements or department  
7 obligations.

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

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

15 (2) except as limited by restrictions  
16 established by the department by rule, evaluate and approve  
17 ~~[executive]~~ agency information technology ~~[requests for~~  
18 ~~proposals and other executive agency requests]~~ contracts,  
19 requests and invitations that are subject to the Procurement  
20 Code, prior to final approval;

21 (3) promulgate rules for oversight of  
22 information technology procurement;

23 ~~[(4) approve executive agency information~~  
24 ~~technology contracts and amendments to those contracts,~~  
25 ~~including emergency procurements, sole source contracts and~~

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1 ~~price agreements, prior to approval by the department of~~  
2 ~~finance and administration;~~

3 ~~(5)~~ (4) develop and implement procedures to  
4 standardize data elements, determine data ownership and ensure  
5 data sharing among ~~[executive agencies]~~ customers;

6 ~~(6)~~ (5) verify compliance with state  
7 information architecture and the state information technology  
8 strategic plan, technical standards and industry best practices  
9 before approving documents referred to in ~~[Paragraphs (2) and~~  
10 ~~(4)]~~ Paragraph (2) of this subsection;

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

16 ~~(8)~~ (7) develop information technology cost  
17 recovery mechanisms and information ~~[systems]~~ technology system  
18 rate and fee structures ~~[of state agencies and other public or~~  
19 ~~private sector providers and]~~ for all offered services, make  
20 recommendations to the information technology rate committee  
21 and publish available services and rates;

22 ~~(9)~~ (8) provide technical support to  
23 ~~[executive]~~ agencies in the development of their agency plans;

24 ~~(10)~~ (9) ensure that the use of existing  
25 public or private information technology or telecommunications

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1 resources ~~[when the use]~~ by customers is practical, efficient,  
2 effective and financially prudent ~~[and is in compliance with~~  
3 ~~the Procurement Code]~~;

4 ~~[(11)]~~ (10) review appropriation requests  
5 related to ~~[executive]~~ agency information technology requests  
6 to ensure compliance with agency plans and the state  
7 information technology strategic plan and make written  
8 recommendations by November 14 of each year to the department  
9 of finance and administration and by November 21 of each year  
10 to the legislative finance committee and the appropriate  
11 interim legislative committee; provided, however, that the  
12 recommendations to the legislative committees have been agreed  
13 to by the department of information technology and the  
14 department of finance and administration;

15 ~~[(12)]~~ (11) promulgate rules to ensure that  
16 information technology projects satisfy criteria established by  
17 the secretary and are phased in with funding released in phases  
18 contingent upon successful completion of the prior phase;

19 ~~[(13)]~~ (12) except as limited by the  
20 department by rule, provide oversight of agency information  
21 technology projects, including ensuring adequate risk  
22 management, disaster recovery and business continuity practices  
23 and monitoring compliance with strategies for information  
24 technology projects that affect multiple agencies;

25 ~~[(14)]~~ (13) conduct reviews of information

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1 technology projects and provide written reports to the  
2 appropriate legislative oversight bodies;

3 ~~[(15)]~~ (14) conduct or contract for background  
4 checks on department employees and prospective department  
5 employees that have or will have administrative access or  
6 authority to sensitive, confidential or private information or  
7 the ability to alter systems, networks or other information  
8 technology hardware or software; and

9 ~~[(16)]~~ (15) perform any other information  
10 technology function assigned by the governor.

11 D. As the chief information officer, the secretary  
12 may:

13 (1) contract, conduct or order risk  
14 assessments relating to any information technology within the  
15 jurisdiction of the department;

16 (2) coordinate, deploy, offer or provide  
17 cybersecurity risk prevention and information technology and  
18 mitigation and response solutions, including application and  
19 equipment selection, intrusion response, system monitoring or  
20 system testing for all users of agency-operated or -owned  
21 information technology;

22 (3) offer enterprise information technology  
23 solutions to agencies and, as practical, to other customers of  
24 agency-operated or -owned information technology;

25 (4) establish an administrative hearing and

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1 enforcement process internal to the department or in  
2 coordination with the administrative hearings office;

3 (5) conduct information technology assessments  
4 or audits to ensure compliance with the Department of  
5 Information Technology Act, rules promulgated by the department  
6 or other applicable laws; and

7 (6) make recommendations to the personnel  
8 board for the establishment and review of new information  
9 technology-related job classifications, pay bands and  
10 positions.

11 ~~[D-]~~ E. Each ~~[executive]~~ agency shall submit an  
12 agency information technology plan to the secretary in the form  
13 and detail ~~[required]~~ specified by the secretary. Each  
14 ~~[executive]~~ agency shall conduct background checks on agency or  
15 prospective agency employees that have or will have  
16 administrative access or authority to alter systems, networks  
17 or other information technology hardware or software.

18 ~~[E. A state]~~ F. An agency that receives an invoice  
19 from the department for services rendered to the agency shall  
20 have thirty days from receipt of the invoice to pay the  
21 department or to notify the department if the amount of the  
22 invoice is in dispute. The agency shall have fifteen days from  
23 its notification of dispute to the department to present its  
24 reasons in writing and request an adjustment. The department  
25 shall have fifteen days from its receipt of the reasons for

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1 dispute to notify the agency of its decision. If the  
2 department and the agency do not agree on a resolution, the  
3 secretary of finance and administration shall make a  
4 determination on the amount owed by the agency to the  
5 department. If the agency has not paid the department or  
6 notified the department of a dispute within thirty days of  
7 receipt of the invoice, the department shall notify the  
8 department of finance and administration and request that the  
9 department of finance and administration transfer funds from  
10 the agency to the department of information technology to  
11 satisfy the agency's obligation.

12 [F-] G. The secretary, as chief information  
13 officer, shall prepare a state information technology strategic  
14 plan for the executive branch and update it at least once every  
15 three years, which plan shall be available to agencies by July  
16 31 of each year. The plan shall comply with the provisions of  
17 the Department of Information Technology Act and provide for  
18 the:

19 (1) interchange of information related to  
20 information technology among [~~executive~~] agencies;

21 (2) coordination among [~~executive~~] agencies in  
22 the development and maintenance of information technology  
23 systems;

24 (3) protection of the privacy and security of  
25 individual information as well as of individuals using the

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1 state's information technology systems; and  
2 [~~(4)~~ development of a statewide broadband  
3 network plan in conjunction with the public education  
4 department, the higher education department, state  
5 universities, other educational institutions, the public school  
6 capital outlay council, political subdivisions of the state,  
7 Indian nations, tribes and pueblos, the public regulation  
8 commission and telecommunication network service providers; and  
9 ~~(5)]~~ (4) coordination and aggregation of  
10 services where feasible for [~~entities as provided for in~~  
11 ~~Section 9-27-20 NMSA 1978 and other publicly funded entities~~]  
12 users of agency-operated or -owned information technology.

13 [~~G-~~] H. The secretary may apply for and receive,  
14 with the governor's approval, in the name of the department,  
15 any public or private funds, including United States government  
16 funds, available to the department to carry out its programs,  
17 duties or services or those of an administratively attached  
18 office or public body.

19 [~~H-~~] I. Where information technology functions of  
20 [~~executive~~] agencies overlap or a function assigned to one  
21 agency could better be performed by another agency, the  
22 secretary may direct the agencies to redirect or consolidate  
23 functions, unless a function is stipulated in statute, in which  
24 case the secretary shall recommend appropriate legislation to  
25 the next session of the legislature for its approval.

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1           ~~[F.]~~ J. Pursuant to the State Rules Act and rules  
2 established pursuant to that act, the secretary may make and  
3 adopt ~~[such reasonable procedural]~~ rules as may be necessary to  
4 carry out the duties of the department and ~~[its divisions and~~  
5 ~~requirements and standards for the executive branch's~~  
6 ~~information technology needs, functions, systems and resources]~~  
7 administratively attached offices or public bodies, including:

8                   (1) information technology security;  
9                   (2) ~~[approval for]~~ procurement of information  
10 technology; ~~[that exceeds an amount set by rule~~

11                   ~~(3) detail and format for the agency~~  
12 ~~information technology plan;~~

13                   ~~(4)]~~ (3) acquisition, licensing and sale of  
14 information technology; ~~[and~~

15                   ~~(5)]~~ (4) requirements for agency information  
16 technology projects and related plan, analysis, oversight,  
17 assessment and specifications;

18           ~~[J. Unless otherwise provided by statute, no rule~~  
19 ~~affecting any person or agency outside the department shall be~~  
20 ~~adopted, amended or repealed without a public hearing on the~~  
21 ~~proposed action before the secretary or a hearing officer~~  
22 ~~designated by the secretary. The public hearing shall be held~~  
23 ~~in Santa Fe unless otherwise permitted by statute. Notice of~~  
24 ~~the subject matter of the rule, the action proposed to be~~  
25 ~~taken, the time and place of the hearing, the manner in which~~

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1 ~~interested persons may present their views and the method by~~  
2 ~~which copies of the proposed rule, proposed amendment or repeal~~  
3 ~~of an existing rule may be obtained shall be published once at~~  
4 ~~least thirty days prior to the hearing date in a newspaper of~~  
5 ~~general circulation and mailed at least thirty days prior to~~  
6 ~~the hearing date to all persons who have made a written request~~  
7 ~~for an advance notice of hearing. Rules shall be filed in~~  
8 ~~accordance with the State Rules Act.]~~

9 (5) governance of the department;

10 (6) identification, protection and use of  
11 agency-operated and -owned data and information technology; and

12 (7) compliance with federal or state  
13 information technology law.

14 K. Unless specified in statute or in an express  
15 agreement by the department or the secretary, the secretary or  
16 the department shall not be considered the public record  
17 custodian for a person who entrusts data to the department for  
18 storage. Nothing in this subsection shall be construed to  
19 limit or eliminate the department's obligations with respect to  
20 the public records of the department or the department's legal  
21 or contractual obligations to manage data for a customer."

22 SECTION 4. Section 9-27-7 NMSA 1978 (being Laws 2007,  
23 Chapter 290, Section 7, as amended) is amended to read:

24 "9-27-7. INFORMATION TECHNOLOGY RATE COMMITTEE--  
25 MEMBERSHIP--DUTIES.--

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

3                   (1) five members appointed by the governor  
4 from ~~[executive]~~ agencies that use information technology  
5 services and pay rates to an internal service fund;

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

8                   (3) the secretary of information technology.

9           B. The information technology rate committee shall:

10                   (1) review the rate and fee schedule proposed  
11 by the secretary, and upon enactment of a statute creating a  
12 specified agency for cybersecurity services, the rate and fee  
13 schedule proposed by that agency for its services;

14                   (2) ensure that the rate and fee schedule  
15 complies with the federal office of management and budget  
16 circular A-87 or its successor directive with respect to rates  
17 for expenditure of money from federal grant awards;

18                   (3) consider for approval an equitable rate  
19 and fee schedule based on cost recovery, for ~~[state]~~ agencies  
20 that use information technology services and pay rates to an  
21 internal service fund, with priority service to public safety  
22 agencies;

23                   (4) present the ~~[committee's]~~ department's  
24 proposed rate and fee schedule by ~~[June]~~ July 1 of each year to  
25 the office of the governor, the department of finance and

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1 administration and the legislative finance committee; and

2 (5) by July 15 of each year, implement a rate  
3 and fee schedule based on the committee's recommendations;  
4 provided, however, that a reduction in rates or fees by the  
5 department shall not require the committee's approval if the  
6 reduction is based on cost recovery and if the committee is  
7 notified timely."

8 SECTION 5. Section 9-27-8 NMSA 1978 (being Laws 2007,  
9 Chapter 290, Section 8) is amended to read:

10 "9-27-8. ORGANIZATIONAL UNITS OF THE DEPARTMENT--POWERS  
11 AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--Those  
12 organizational units of the department and the officers of  
13 those units specified by law shall have all of the powers and  
14 duties enumerated in the specific laws involved. However, the  
15 carrying out of those powers and duties shall be subject to the  
16 direction and supervision of the secretary, who shall retain  
17 the final decision-making authority and responsibility for the  
18 administration of ~~[any such]~~ all laws within the jurisdiction  
19 of the department. The department shall have access to all  
20 information technology records ~~[data and information of other~~  
21 ~~executive branch departments, agencies and institutions,~~  
22 ~~including its own organizational units]~~ not specifically held  
23 confidential by law of those entities, departments and  
24 institutions who receive services from the department."

25 SECTION 6. Section 9-27-13 NMSA 1978 (being Laws 1977,

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1 Chapter 247, Section 23, as amended) is amended to read:

2 "9-27-13. TELECOMMUNICATIONS [~~SERVICES~~] ENGINEER.--~~[A.]~~

3 The secretary [~~of information technology~~] may hire a  
4 communications engineer to oversee the engineering  
5 responsibilities of the department [~~of information technology~~].

6 The communications engineer shall have a degree in either  
7 electrical engineering with an electrical communications  
8 specialty or in electronics engineering.

9 [~~B. In providing telecommunications services  
10 pursuant to Chapter 15 NMSA 1978, the department of information  
11 technology shall not provide telecommunications services,  
12 including telephone, data and broadband services, to an entity  
13 other than those authorized pursuant to Section 15-5-1 NMSA  
14 1978, except as is necessary to facilitate a state-mandated  
15 program, including distance education, telehealth or school-  
16 based health center programs. Before expansion or upgrade of a  
17 state-owned or state-funded telecommunications network, whether  
18 voice, data or video transmission, the department shall prepare  
19 a plan consistent with state law and applicable rules that  
20 includes an assessment of how the project would potentially  
21 affect local telecommunications service providers and  
22 telecommunications service ratepayers.]"~~

23 SECTION 7. Section 9-27-15 NMSA 1978 (being Laws 1997,  
24 Chapter 263, Section 1, as amended by Laws 2007, Chapter 288,  
25 Section 2 and by Laws 2007, Chapter 290, Section 15) is amended  
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1 to read:

2 "9-27-15. LEASE OF RADIO COMMUNICATIONS NETWORK--  
3 CONDITIONS AND REQUIREMENTS.--In exercising supervisory control  
4 pursuant to Section [~~15-2-2~~] 9-27-14 NMSA 1978, the department  
5 [~~of information technology~~] may lease to a public or private  
6 entity excess capacity [~~relating to the provision of two-way~~  
7 ~~radio services~~] on its radio communications property, including  
8 buildings, towers or antennas; provided that:

9 [~~A. the lease conforms with competitive procurement~~  
10 ~~requirements of the Procurement Code;~~

11 ~~B.]~~ A. the lease is for an [~~equal~~] equivalent value  
12 exchange of money, [~~or~~] property or services;

13 [~~C.]~~ B. the secretary [~~of information technology~~]  
14 certifies that the excess capacity will be available for at  
15 least the duration of the lease;

16 [~~D.]~~ C. if the lease exceeds ten years, the lease  
17 is first approved by the state board of finance;

18 [~~E.]~~ D. the department [~~of information technology~~]  
19 has submitted to the legislative finance committee a detailed  
20 plan for the use of excess capacity being leased and an  
21 assessment of how the lease will affect public sector uses and  
22 local telecommunication service providers; and

23 [~~F.]~~ E. income from [~~the leases~~] a lease shall be  
24 deposited to the credit of the department [~~of information~~  
25 ~~technology~~] and used to carry out the duties of the

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1 department."

2 SECTION 8. Section 9-27-16 NMSA 1978 (being Laws 1970,  
3 Chapter 71, Section 1, as amended) is amended to read:

4 "9-27-16. SERVICE CHARGE--CUSTOMERS.--

5 A. The department [~~of information technology~~] shall  
6 charge [~~a fee to the state or any officer, agency, department,~~  
7 ~~division, board or commission of the state for any services~~  
8 ~~rendered in the exercise of its supervisory control.~~

9 B. ~~Fees shall be fixed by the secretary of~~  
10 ~~information technology~~] customers approved rates for goods and  
11 services rendered.

12 [~~C.~~] B. Income from [~~fees~~] customer charges  
13 collected shall be deposited to the credit of the department  
14 [~~of information technology~~] and used to carry out the duties of  
15 the department.

16 [~~D. The department of information technology may~~  
17 ~~provide two-way radio services to counties and municipalities~~  
18 ~~at the same rates charged state agencies]~~

19 C. At the discretion of the secretary, if the  
20 department has excess capacity after providing goods or  
21 services to its statutorily required customers, the department  
22 may provide services to additional federal, state or tribal  
23 customers, including political subdivisions of the state and  
24 schools."

25 SECTION 9. Section 9-27-20 NMSA 1978 (being Laws 1963,

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

2 "9-27-20. TELECOMMUNICATIONS--~~[DUTIES]~~ REIMBURSEMENT  
3 APPLICATIONS--INFORMATION TECHNOLOGY OFFERINGS.--

4 ~~[A. The department shall enter into necessary~~  
5 ~~agreements to provide, where feasible, a telecommunication~~  
6 ~~network and related facilities to all executive, legislative~~  
7 ~~and judicial branches. Nothing in this section shall be~~  
8 ~~construed to apply to the provision of a telecommunication~~  
9 ~~network and related facilities to political subdivisions of the~~  
10 ~~state.~~

11 ~~B. Pursuant to Section 9-27-13 NMSA 1978, the~~  
12 ~~department may, where feasible and economical, provide a~~  
13 ~~telecommunication network and related facilities to educational~~  
14 ~~institutions that request to be included in the~~  
15 ~~telecommunication network and shall enter into the necessary~~  
16 ~~contractual agreements with telecommunication providers to~~  
17 ~~provide the telecommunication network and related facilities to~~  
18 ~~educational institutions that request to be included in the~~  
19 ~~telecommunication network.~~

20 ~~C. Pursuant to Sections 9-27-6 and 9-27-13 NMSA~~  
21 ~~1978, the department and the public education department shall~~  
22 ~~coordinate to apply for reimbursements from the federal~~  
23 ~~universal service fund pursuant to Section 254 of the federal~~  
24 ~~Telecommunications Act of 1996, 47 U.S.C. 254, as such section~~  
25 ~~existed on January 1, 2006, on behalf of state agencies,~~

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underscoring material = new  
[bracketed material] = delete

1 ~~political subdivisions and educational institutions as~~  
2 ~~available for telecommunication network services.~~

3 ~~D. Pursuant to Section 9-27-7 NMSA 1978, the~~  
4 ~~department shall establish a rate structure based on actual~~  
5 ~~costs, including necessary administrative expenses, and shall~~  
6 ~~charge participants according to such rate structure.]~~

7 A. Whenever feasible, the department shall be the  
8 purchaser and vendor of information technology goods and  
9 services for agencies.

10 B. On July 1, 2023 and on July 1 of each subsequent  
11 year, the department shall provide a list of the information  
12 technology goods and services it has available to offer to each  
13 agency. Excepting goods and services that are not offered by  
14 the department, agencies shall acquire the information  
15 technology that they require from the department."

16 SECTION 10. Section 9-27-22 NMSA 1978 (being Laws 1963,  
17 Chapter 181, Section 3, as amended) is amended to read:

18 "9-27-22. CHARGES FOR CENTRAL TELECOMMUNICATION NETWORK  
19 SERVICES.--Departments, institutions and agencies participating  
20 in the central telecommunication network shall be charged for  
21 the total monthly costs of the service, including a pro rata  
22 and equitable share of the [total monthly costs of the service]  
23 department's cost of providing central telecommunications  
24 services. This determination is to be made by the department.  
25 Toll calls not covered by the wide-area telephone service and

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underscored material = new  
[bracketed material] = delete

1 supplemental equipment shall be segregated and paid for by  
2 agencies, institutions and departments making the calls or  
3 using the supplemental equipment."

4 SECTION 11. Section 9-27-24 NMSA 1978 (being Laws 1963,  
5 Chapter 181, Section 5, as amended) is amended to read:

6 "9-27-24. APPROPRIATION.--All income to the central  
7 telecommunication network fund is appropriated to [~~carry out~~  
8 ~~the purposes of Sections 9-27-20 through 9-27-25 NMSA 1978 or~~  
9 ~~their successor recompiled sections~~] the department for the  
10 purposes of the Department of Information Technology Act.

11 Payments from the central telecommunication network fund shall  
12 be made on vouchers signed by the secretary or the secretary's  
13 designee."

14 SECTION 12. Section 9-27-26 NMSA 1978 (being Laws 2017,  
15 Chapter 7, Section 9) is amended to read:

16 "9-27-26. INDIAN NATIONS, TRIBES AND PUEBLOS--[STATEWIDE  
17 BROADBAND] AGENCY-OWNED OR -OPERATED BROADBAND NETWORK--RIGHT-  
18 OF-WAY AND SERVICE AGREEMENT.--Indian nations, tribes and  
19 pueblos may connect to [~~the statewide~~] an agency-operated or  
20 -owned broadband network in exchange for a mutually agreed upon  
21 right-of-way and service agreement with the chief information  
22 officer. The chief information officer shall apply for  
23 reimbursements from the federal universal service fund pursuant  
24 to Section 254 of the federal Telecommunications Act of 1996,  
25 47 U.S.C. 254, as such section existed on January 1, 2006, on  
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underscored material = new  
[bracketed material] = delete

1 behalf of Indian nations, tribes and pueblos that execute a  
2 right-of-way agreement."

3 SECTION 13. A new section of the Department of  
4 Information Technology Act is enacted to read:

5 "[NEW MATERIAL] PROVISION OF INFORMATION TECHNOLOGY GOODS  
6 AND SERVICES.--

7 A. The department shall offer each agency the  
8 opportunity to outsource some or all of that agency's  
9 information technology service requirements to the department.

10 B. The department shall not be required to offer  
11 any information technology service that does not have an  
12 established rate.

13 C. Any information technology services outsourced  
14 to the department shall be specified in an intergovernmental  
15 agreement that identifies all services to be provided and the  
16 rates or fees for any such services that are not established  
17 through the rate committee process."

18 SECTION 14. REPEAL.--Sections 9-27-9.1, 9-27-10, 9-27-18  
19 and 9-27-19 NMSA 1978 (being Laws 2017, Chapter 45, Section 1,  
20 Laws 2007, Chapter 290, Section 26, Laws 1971, Chapter 115,  
21 Section 2 and Laws 1975, Chapter 214, Section 4, as amended)  
22 are repealed.