

LFC Requester:

Jacobs

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/5/2026

Check all that apply:

Bill Number: HB301Original  Correction Amendment  Substitute Sponsor: DowShort JUDICIAL BRANCH INFOTitle: TECH PROJECTS

Agency Name

and Code

Office of Cybersecurity

Number: \_\_\_\_\_

Person Writing Analysis Todd BaranPhone: 505.231.3990 Email Todd.baran@cyber.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
	1,200	Non	GF

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: HB301 would amend the Department of Information Technology Act (Chapter 9, Article 27 NMSA 1978) to expressly allow the Department of Information Technology (DoIT) to “undertake, where feasible, information technology projects for any branch of the judiciary.” The bill appropriates \$1.2MM in FY27 to implement IT projects for the Judiciary.

### **FISCAL IMPLICATIONS**

None for the Office of Cybersecurity

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

### **SIGNIFICANT ISSUES**

Under current law, DoIT has explicit authority to provide telecommunication services (i.e., phone and internet) for all public entities, including the Judiciary (Section 9-27-20(A)). But DoIT lacks explicit statutory authority to provide other IT related services for the Judiciary. HB301 allows the Judiciary to leverage the IT experience and capabilities of DoIT with regard to IT projects and procurement, but, significantly, no part of the proposed amendment would require the Judiciary to participate in DoIT enterprise programs. Because participation by the Judiciary would be voluntary, there is risk that the Judiciary would neither accept support from DoIT nor comply with its standards, which may defeat the intent of the legislation.

OCS bases this supposition on its own experience with the Judiciary. OCS has statutory authority to offer cybersecurity services to public entities outside of the Executive branch, but participation by non-Executive branch agencies is voluntary. OCS has repeatedly offered its services to the Judiciary, but the offer has repeatedly been rejected. The Judiciary bases the rejection on Separation of Powers concerns. Specifically, the Judiciary has asserted that receiving services from a public entity outside of the Judicial branch would compromise its constitutional prerogative to adjudicate legal disputes, and to interpret the law.

The New Mexico Attorney General recently addressed these concerns and issues in a formal opinion letter. At the request of the Chair of the Science, Technology & Telecommunications Committee, the Attorney General was asked whether the legislature could give the OCS statutory authority to set cybersecurity standards for the Judiciary and to monitor compliance. The Attorney General concluded that the Legislature could vest such authority in the OCS, within limits.

Specifically, the Legislature can delegate authority to set cybersecurity standards, but it must provide clear guidelines and limits in the law. When exercising the delegated powers, OCS must avoid setting standards or implementing practices that interfere with core judicial powers, such as deliberations, legal analysis, setting and enforcing judicial rules and conducting private communications.

Specifically, the Legislature can delegate oversight authority to OCS, provided the law includes specific standards and boundaries for the OCS to follow. OCS, in turn, could be authorized to set conditions for using state IT equipment, and require Judicial and Legislative branches to meet minimum cybersecurity standards. OCS could also be authorized to regulate use of Judicial IT systems, provided OCS does not use its authority to gain access to confidential judicial information or interfere with core judicial functions. For example, the Attorney General concluded that, if legislatively authorized, OCS could require the Judiciary to use strong passwords and multi-factor authentication. Conversely, OCS could not be authorized to monitor judicial communications. The opinion letter draws the separation of powers line around confidential information and core judicial functions. Outside of that boundary, the Legislature can vest OCS with oversight of cybersecurity processes and services for all branches of government.

This Attorney General's opinion has considerable bearing on HB301. As currently drafted, HB301 makes participation in DoIT initiatives voluntary for the Judiciary. Because the Judiciary has historically been unwilling to voluntarily participate in Executive department IT initiatives, the legislation, as proposed, may not have its intended effect, which is to leverage the IT experience and capabilities of DoIT for the Judicial branch. The Attorney General opinion provides a path forward. To ensure that the Judiciary receives the expected level of IT support from DoIT, HB301 should be amended to mandate judicial branch participation in enterprise information technology solutions and programs offered by DoIT, unless participation would intrude on core judicial functions or expose confidential information.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Subsections B, C and D replicate the provisions of Section 9-27-20(B)-(D). To avoid duplication and confusion, those proposed subsections should be omitted from HB301.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**

Replace Section 1, subsection A with:

A. Unless excepted by the department, or doing so would intrude upon a core function conferred under the Constitution of the State of New Mexico, the judicial and legislative branches shall participate in enterprise information technology solutions and programs offered by the department.

Delete Subsections B, C and D.

Amend the Department of Information Technology Act, Chapter 9, Article 27, NMSA 1978, to eliminate limiting references to the executive branch, including the reference in the definition of “agency,” and replace with references that include the executive, judicial and legislative branches and their administratively or statutorily attached agencies, offices, boards and commissions.