

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 244

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO INFORMATION TECHNOLOGY; CLARIFYING PROVISIONS OF  
THE INFORMATION TECHNOLOGY MANAGEMENT ACT; REVISING THE  
MEMBERSHIP OF THE INFORMATION TECHNOLOGY COMMISSION; EXTENDING  
THE TERMINATION DATE FOR THE COMMISSION; PROVIDING PENALTIES  
FOR NONCOMPLIANCE BY PUBLIC OFFICIALS OR EMPLOYEES; AMENDING  
AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 15-1C-1 NMSA 1978 (being Laws 1999,  
Chapter 16, Section 1) is amended to read:

"15-1C-1. SHORT TITLE. -- ~~[Sections 1 through 9 of this  
act]~~ Chapter 15, Article 1C NMSA 1978 may be cited as the  
"Information Technology Management Act". "

Section 2. Section 15-1C-2 NMSA 1978 (being Laws 1999,  
Chapter 16, Section 2) is amended to read:

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underscored material = new  
[bracketed material] = delete

1 "15-1C-2. PURPOSE. -- The purpose of the Information  
2 Technology Management Act is to:

3 A. coordinate policies and procedures for e-  
4 government;

5 [~~A.~~] B. assess and inventory current information  
6 [~~systems~~] technology services and resources;

7 [~~B.~~] C. coordinate [the] central and individual  
8 executive agency information [systems] technology in a manner  
9 that ensures compliance with state information architecture and  
10 that [the most] ensures cost-effective and efficient  
11 information and communication systems and resources are being  
12 used by executive agencies;

13 [~~C.~~] D. develop a [five-year] three-year state  
14 information technology strategic plan for information and  
15 communication management that is updated annually by the  
16 information technology commission; and

17 [~~D.~~] E. promote data sharing between governmental  
18 entities and provide a mechanism for information technology  
19 expertise to be shared between the branches of state government  
20 and local governments. "

21 Section 3. Section 15-1C-3 NMSA 1978 (being Laws 1999,  
22 Chapter 16, Section 3) is amended to read:

23 "15-1C-3. DEFINITIONS. -- As used in the Information  
24 Technology Management Act:

25 A. "agency plan" means an executive agency's annual

1 information technology plan;

2 B. "commission" means the information technology  
3 commi ssi on;

4 [~~C.~~ "development project" means the period from  
5 when funding is made available for information technology  
6 development until after system implementation;

7 ~~D.] C.~~ "executive agency" means a state agency of  
8 the executive branch of government;

9 D. "e-government" means the provision of access to  
10 government information and services via the internet that  
11 complies with state information architecture;

12 E. "information technology" means computer and  
13 voice and data communication software and hardware, including  
14 imaging systems, terminals and communications networks and  
15 facilities, staff information systems services and professional  
16 services contracts for information systems services;

17 F. "information technology project" means the  
18 purchase, replacement, development or modification of a  
19 hardware or software system;

20 [~~F.] G.~~ "office" means the [~~information technology~~  
21 ~~management]~~ office of the chief information officer;

22 [~~G.] H.~~ "state information architecture" [~~includes~~  
23 ~~the standards, guidelines, policies and protocols to implement~~  
24 ~~information technology]~~ means a logically consistent set of  
25 principles, policies and standards that guides the engineering

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

4 [H.] I. "state information technology strategic  
5 plan" means the [executive] information technology planning  
6 document for the state that spans a [~~three-to-five-year~~]  
7 three-year period. "

8 Section 4. Section 15-1C-4 NMSA 1978 (being Laws 1999,  
9 Chapter 16, Section 4) is amended to read:

10 "15-1C-4. COMMISSION CREATED--MEMBERSHIP.--

11 A. The "information technology commission" is  
12 created. The commission consists of [~~thirteen~~] fifteen members  
13 as follows:

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

17 (2) one staff member with telecommunications  
18 regulatory experience appointed by the chairman of the public  
19 regulation commi ssi on;

20 (3) two members representing education, one  
21 appointed by the commission on higher education and one  
22 appointed by the president of the state board of education;

23 (4) two members from the national  
24 laboratories; [~~and~~]

25 (5) three members appointed by the governor to

1 represent the public with information technology and management  
 2 experience, but who are not employees of the state or a  
 3 political subdivision of the state and who do not have any  
 4 financial interest in the state information systems or state  
 5 contracts. The public members shall serve for staggered three-  
 6 year terms; and

7 (6) two members representing local government,  
 8 one appointed by the New Mexico association of counties and one  
 9 appointed by the New Mexico municipal league.

10 B. Additionally, the following advisory members may  
 11 ~~[be appointed at the request of]~~ serve on the commission:

12 (1) two members from the judicial information  
 13 systems council appointed by the chairman of ~~[the]~~ that  
 14 council;

15 ~~[(2) two members from the house of~~  
 16 ~~representatives and two members from the senate appointed by~~  
 17 ~~the New Mexico legislative council; and~~

18 ~~(3) two members representing local~~  
 19 ~~governments, one appointed by the New Mexico association of~~  
 20 ~~counties and one appointed by the New Mexico municipal league]~~

21 (2) one staff member from the legislative  
 22 council service and one staff member from the legislative  
 23 finance committee, appointed by their respective directors; and

24 (3) the chief information officer.

25 C. Members of the commission, except the three

1 public members appointed by the governor, may select designees  
2 to represent them and vote on their behalf.

3 [~~C.~~] D. The members of the commission who are not  
4 supported by public money, or their designees, may receive per  
5 diem and mileage pursuant to the Per Diem and Mileage Act, but  
6 shall receive no other compensation, perquisite or allowance.

7 [~~D. For the initial year of operation, the chief~~  
8 ~~information officer shall act as chairman. Thereafter, the~~  
9 ~~commission shall elect a chairman and vice chairman for a two-~~  
10 ~~year term.]~~

11 E. The commission shall elect a chairman and vice  
12 chairman from the active membership of the commission for two-  
13 year terms.

14 [~~E.~~] F. The commission shall meet at least  
15 semiannually and may meet at the call of the chairman or a  
16 majority of the members. "

17 Section 5. Section 15-1C-5 NMSA 1978 (being Laws 1999,  
18 Chapter 16, Section 5) is amended to read:

19 "15-1C-5. COMMISSION--POWERS AND DUTIES.--The commission  
20 shall:

21 A. adopt and promulgate rules that [~~specify~~]  
22 delineate the state information architecture [~~to implement~~] as  
23 a framework for the state information technology strategic  
24 plan;

25 B. adopt and promulgate other rules necessary for

1 the administration of the Information Technology Management Act  
2 and the conduct of the affairs of the office;

3 C. develop and annually review strategies for  
4 identifying [~~and managing development~~] information technology  
5 projects that [~~involve multiple agencies to ensure appropriate~~  
6 ~~and timely resolution of system development problems~~] impact  
7 multiple agencies and ensure that those information technology  
8 projects are appropriately designed and developed;

9 D. provide information technology planning  
10 guidelines for agency annual plans;

11 E. update state information architecture and the  
12 state information technology strategic plan annually, including  
13 identifying areas of noncompliance with the state information  
14 technology strategic plan; [~~and~~]

15 F. submit proposed rules to the information  
16 technology oversight committee for its review prior to  
17 adoption;

18 G. review and comment on information technology  
19 appropriation requests presented to it by the chief information  
20 officer and report to the legislative finance committee and the  
21 information technology oversight committee regarding those  
22 requests;

23 H. establish policies, procedures and rules to  
24 ensure that information technology projects satisfy criteria  
25 established by the commission and are phased in, that funding

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1 is released in phases and that an executive agency's authority  
2 to proceed to the next phase of an information technology  
3 project is contingent upon successful completion of the prior  
4 phase. The policies, procedures and rules shall require the  
5 identification of one or more specific deliverables for each  
6 phase; and

7 I. adopt and promulgate rules to provide for  
8 mediation of disputes between an executive agency and the chief  
9 information officer pursuant to Paragraph (2) or (4) of  
10 Subsection B of Section 15-1C-7 NMSA 1978. "

11 Section 6. Section 15-1C-6 NMSA 1978 (being Laws 1999,  
12 Chapter 16, Section 6) is amended to read:

13 "15-1C-6. [~~INFORMATION TECHNOLOGY MANAGEMENT~~] OFFICE OF  
14 THE CHIEF INFORMATION OFFICER CREATED-- ADMINISTRATIVE  
15 ATTACHMENT-- CHIEF INFORMATION OFFICER-- QUALIFICATIONS-- STAFF.--

16 A. The [~~information technology management~~] "office  
17 of the chief information officer" is created. The office is  
18 administratively attached to the office of the governor.

19 B. The head of the office is the "chief information  
20 officer", who is appointed by the governor with the advice and  
21 consent of the senate. The chief information officer shall  
22 have a minimum of seven years' experience in the management of  
23 a large information technology enterprise. The chief  
24 information officer serves at the pleasure of the governor.

25 C. The chief information officer may hire staff as



1 necessary to carry out the provisions of the Information  
2 Technology Management Act. Staff of the office are subject to  
3 the provisions of the Personnel Act."

4 Section 7. Section 15-1C-7 NMSA 1978 (being Laws 1999,  
5 Chapter 16, Section 7) is amended to read:

6 "15-1C-7. OFFICE--POWERS AND DUTIES.--

7 A. The office may:

8 (1) obtain information, documents and records  
9 that are not confidential by law from an executive agency as  
10 needed to carry out the provisions of the Information  
11 Technology Management Act;

12 (2) enter into contracts;

13 (3) perform [~~performance or other audits or~~]  
14 reviews of executive agency [~~development~~] information  
15 technology projects or information technology management  
16 processes; and

17 (4) when requested, offer assistance or  
18 expertise to the judiciary, legislature, institutions of higher  
19 education, counties, municipalities, public school districts  
20 and other political subdivisions of the state.

21 B. The office shall:

22 (1) review agency plans and make  
23 recommendations to the commission regarding prudent allocation  
24 of information technology resources; reduction of data,  
25 hardware and software redundancy; and improving system

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1 interoperability and data accessibility [~~among~~] between  
2 agencies;

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

7 (3) recommend procedures and rules to the  
8 commission for improved oversight of information technology  
9 procurement;

10 (4) approve executive agency information  
11 technology [professional service] contracts [for technical  
12 sufficiency as they pertain to information technology] and  
13 amendments to those contracts, including emergency  
14 procurements, sole source contracts and price agreements, prior  
15 to final execution;

16 (5) verify compliance with state information  
17 architecture and the state information technology strategic  
18 plan before approving documents referred to in Paragraphs (2)  
19 and (4) of this subsection;

20 [~~(3)~~] (6) monitor executive agency compliance  
21 with its agency plan, the state information technology  
22 strategic plan and state information architecture and report to  
23 the governor, the commission and executive agency management on  
24 noncompliance;

25 [~~(4)~~] (7) review information technology cost

1 recovery mechanisms and information systems rate structures of  
2 executive agencies and make recommendations to the commission;

3 [~~(5)~~] (8) provide technical support to  
4 executive agencies in the development of their agency plans;

5 [~~(6)~~] (9) review appropriation requests  
6 related to executive agency information technology requests to  
7 ensure compliance with agency plans and the state information  
8 technology strategic plan and make written recommendations to  
9 the department of finance and administration, the legislative  
10 finance committee, [~~and~~] the information technology oversight  
11 committee and the commission by November 30 of each year;

12 [~~(7)~~] (10) provide oversight of [~~development~~]  
13 information technology projects, including ensuring adequate  
14 risk management and disaster recovery practices and [~~monitor~~]  
15 monitoring compliance with strategies developed by the  
16 commission for [~~timely resolution of development technology~~  
17 ~~project problems~~] information technology projects that impact  
18 multiple agencies; and

19 [~~(8)~~] (11) perform any other function assigned  
20 by the commission. "

21 Section 8. Section 15-1C-8 NMSA 1978 (being Laws 1999,  
22 Chapter 16, Section 8) is amended to read:

23 "15-1C-8. AGENCY PLANS--CERTIFICATION--NONCOMPLIANCE--  
24 PENALTIES. --

25 A. Agency plans shall:

underscored material = new  
[bracketed material] = delete

1 (1) be consistent with the state information  
2 technology strategic plan;

3 (2) demonstrate that the executive agency has  
4 developed information technology objectives consistent with the  
5 agency plan, the state information technology strategic plan  
6 and the state information [~~technology~~] architecture;

7 (3) show appropriate coordination with other  
8 executive agencies to improve customer service and reduce  
9 redundant data, hardware and software;

10 (4) include information about information  
11 technology objectives, inventories, data and expenditures for  
12 each fiscal year;

13 (5) demonstrate consistency with  
14 appropriations and budgets approved by the department of  
15 finance and administration; and

16 (6) include any other components required by  
17 the office or the commission.

18 B. Prior to making information technology  
19 purchases, regardless of the funding source, an executive  
20 agency shall certify to the [~~office~~] commission, pursuant to  
21 rules adopted by the commission, that its proposed information  
22 technology purchases are consistent with its agency plan, the  
23 state information architecture adopted by the commission and  
24 the state information technology strategic plan. The [~~office~~]  
25 commission or the office may delay or stop a purchase if it

1 believes that the proposed purchase may not meet the  
2 requirements of the agency plan, state information architecture  
3 or the state information technology strategic plan.

4 C. A person who makes an information technology  
5 purchase or sale and intentionally fails to comply with the  
6 certification requirements set forth in Subsection B of this  
7 section is in violation of the provisions of that subsection  
8 and:

9 (1) is guilty of a misdemeanor, as provided in  
10 Section 31-19-1 NMSA 1978;

11 (2) is subject to a civil penalty in an amount  
12 not to exceed one thousand dollars (\$1,000) for each violation;  
13 and

14 (3) shall be individually liable to the state  
15 for the amount of the purchase or sale. "

16 Section 9. A new section of the Information Technology  
17 Management Act is enacted to read:

18 "[NEW MATERIAL] INFORMATION TECHNOLOGY PLANS AND  
19 PROJECTS-- COMMISSION ON HIGHER EDUCATION-- STATE DEPARTMENT OF  
20 PUBLIC EDUCATION-- JUDICIAL BRANCH-- LEGISLATIVE BRANCH. --

21 A. The commission on higher education, the state  
22 department of public education, the judicial branch of  
23 government and the legislative branch of government are  
24 encouraged to submit their annual information technology plans  
25 to the office, the legislative finance committee and the

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1 information technology oversight committee for review and  
2 comment by those entities.

3 B. The commission on higher education, the state  
4 department of public education, the judicial branch of  
5 government and the legislative branch of government are  
6 encouraged to submit periodic status reports regarding  
7 information technology projects to the office and the  
8 legislative finance committee for review and comment.

9 C. The commission on higher education, the state  
10 department of public education, the judicial branch of  
11 government and the legislative branch of government are  
12 encouraged, but not required, to certify to the commission that  
13 their information technology projects are consistent with their  
14 information technology plans. "

15 Section 10. Section 15-1C-9 NMSA 1978 (being Laws 1999,  
16 Chapter 16, Section 9) is amended to read:

17 "15-1C-9. TERMINATION OF AGENCY LIFE--DELAYED  
18 REPEAL.--The information technology commission [~~and information~~  
19 ~~technology management office are~~] is terminated July 1, [~~2005~~  
20 2009 pursuant to the Sunset Act. The commission [~~and office~~]  
21 shall continue to operate according to the provisions of the  
22 Information Technology Management Act until July 1, [~~2006-~~  
23 ~~Effective July 1, 2006, that act is repealed~~] 2010. "

24 Section 11. Section 15-1C-11 NMSA 1978 (being Laws 1999,  
25 Chapter 16, Section 11) is amended to read:

1 "15-1C-11. OVERSIGHT COMMITTEE DUTIES. --

2 A. The information technology oversight committee  
3 shall hold one organizational meeting each year to develop a  
4 work plan and budget for the ensuing interim. The work plan  
5 and budget shall be submitted to the New Mexico legislative  
6 council for approval.

7 B. The committee shall:

8 (1) monitor the work of the information  
9 technology commission and the [~~information technology~~  
10 ~~management~~] office of the chief information officer, including  
11 reviewing the commission's rules setting out the policies,  
12 standards, procedures and guidelines for information  
13 architecture and development projects and the annual update of  
14 the state information technology strategic plan;

15 (2) oversee the implementation of the  
16 Information Technology Management Act, review the work of the  
17 judicial information systems council and the judicial  
18 information division and oversee any other state-funded  
19 systems;

20 (3) meet on a regular basis to receive and  
21 evaluate periodic reports from the information technology  
22 commission and [~~information technology management~~] office of  
23 the chief information officer; and

24 (4) perform such other related duties as  
25 assigned by the legislative council.

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1 C. The committee shall make a report of its  
2 findings and recommendations for the consideration of each  
3 session of the legislature. The report and any suggested  
4 legislation shall be made available to the legislative council  
5 by December 31 preceding that session. "

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

underscored material = new  
[bracketed material] = delete