

LFC Requester:	Emily Hilla
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 01/23/2024

Bill No: HB182

Sponsor: Gail Chasey and Charlotte Little and Katy M. Duhigg
Short Title: Election Changes

Agency Name and Code Number: 770 - NMCD
Person Writing: Anisa Griego-Quintana
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Recurring	General

(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: House Bill 182 would require disclaimers on advertisements generated in whole or part by use of artificial intelligence (with certain exceptions). It would prohibit use of materially deceptive media prior to an election that is intended to mislead voters; prescribes penalties.

AI GENERATED ADVERTISEMENTS. Would require clear and conspicuous disclaimers that the advertisement was generated using artificial intelligence and details how those disclaimers are to be made for each form of media used. A violation subjects the violator to civil penalties under Sec. 1-19-34.6 (up to \$1,000 per violation, not to exceed \$20,000 total).

Exceptions: Disclaimer requirements do not apply to:

- Radio or television station that broadcasts an ad as part of a newscast, documentary, or coverage if the broadcast clearly acknowledges that the ad was generated using AI and does not accurately represent the speech or conduct of the depicted person
- Radio or television station that broadcasts an ad when it is paid to do so
- An ad that reasonably constitutes satire or parody
- An ad published by a distribution platform if the platform has a written policy that the ad include a disclaimer. The distribution platform is not liable for a lack of disclaimer if it can show it provided the creator or purchaser with AI disclaimer requirements.

USE OF MATERIALLY DECEPTIVE MEDIA. “Materially deceptive media” is an image, video, or audio that depicts a person engaged in conduct or speech in which the depicted person did not engage; if a reasonable viewer or listener would incorrectly believe that the depicted person did engage in the conduct or speech; and was produced in whole or in part using artificial intelligence. Distributing or entering into an agreement with another to distribute materially deceptive media is a violation of the Campaign Reporting Act; a violator must also know the media falsely depicts an individual, the distribution occurs within 90 days before an election, and the intent is to alter voting behavior by misleading voters.

The prohibition does not apply to materially deceptive media if a disclaimer is included that the media has been manipulated using AI and depicts speech or conduct that did not occur.

Penalty for a willful and knowing violation is:

- For a first violation, a misdemeanor punishable by imprisonment of up to 90 days or a fine of up to \$500 or both

- For a violation that occurs within five years of a previous violation for using materially deceptive media, a felony punishable by imprisonment of up to five years or a fine of up to \$1,000 or both.

Enforcement of violations, including injunctive relief, may be sought in court by

- The Attorney General
- A District Attorney
- A depicted person who is falsely represented
- A candidate for office who is been or is likely to be injured by the distribution of materially deceptive media
- Any organization representing the interests of voters who are likely to be misled by the distribution of materially deceptive media.

Defines “artificial intelligence” as a machine-based system that can emulate the structure and characteristics of input data to generate synthetic content, including images, video, or audio.

This bill is not directed at the Corrections Department, but it does create a new crime for a person to distribute or enter into an agreement with another person to distribute materially deceptive media. The crime has numerous limitations that make it difficult to predict how often it will actually be committed. The crime also relates to political speech, and implicates the First Amendment to the US Constitution and Article II, Section 17 of the New Mexico Constitution. A first offense is a misdemeanor punishable by imprisonment for up to ninety days and/or a fine of \$500, and another violation within five years of another conviction is a felony punishable by imprisonment for up to five years and/or a fine of \$1,000.

FISCAL IMPLICATIONS

The passing of this bill would require system changes to provide the ability to track inmate time within our offender management system for this new crime. The changes associated with that is fairly negligible and is projected at less than \$5k. The cost to the department would increase if anyone was sentenced on the second charge within 5 years. A single offender sentenced on this charge would cost the agency between \$57,103 and \$285,515, depending on the 1-5 year term imposed by the judge, and based on current inmate cost/day rate. Therefore, any individual sentenced on this charge would be an additional burden to the agency.

SIGNIFICANT ISSUES

None for the Corrections Department.

PERFORMANCE IMPLICATIONS

None for the Corrections Department.

ADMINISTRATIVE IMPLICATIONS

None for the Corrections Department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None for the Corrections Department.

TECHNICAL ISSUES

None for the Corrections Department.

OTHER SUBSTANTIVE ISSUES

None for the Corrections Department.

ALTERNATIVES

None for the Corrections Department.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None for the Corrections Department.