AGENCY BILL ANALYSIS
2024 REGULAR SESSION

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 X **Amendment** _____

Correction _____ **Substitute** _____

Date Prepared: 01/24/2024

Bill No: HB184

Sponsor: Rep. D. M. Sariñana
Rep. L. Serrato
Rep. C. Chandler
Rep. G. Chasey

Short Title: USE OF ARTIFICIAL INTELLIGENCE TRANSPARENCY

Agency Name and Code Number: 305 – New Mexico Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	**FY25**		
	$500,000	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	**FY25**	**FY26**		

(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						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE
This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

House Bill ("HB") 184 proposes to create new law relating to Artificial Intelligence ("AI") transparency in state government by requiring inventories and assessments of AI systems in use. The proposed legislation would require every state agency to annually submit an inventory of AI solutions to the General Services Department ("GSD"). Additionally, the bill would require the Department to annually provide an aggregate inventory report to the Governor of New Mexico, the New Mexico State Legislative Finance Committee, and legislative interim committee on science and technology. HB 184 would also require the Department to annually conduct assessments or reassessments of all new and current AI system used by agencies.

HB184 proposes to amend NMSA 1978, Section 13-1 of the Procurement Code by creating the purchase of AI disclosure requirements. Every new contract for Artificial Intelligence services would be inventoried as outlined above and would need to meet transparency requirements established in the new law.

FISCAL IMPLICATIONS

As noted above in Fiscal Impact.

SIGNIFICANT ISSUES

HB 184 proposes that GSD overseen the inventory and assessment program. This may overlap with Department of Information Technology's ("DoIT"), who is already charged with responsibility for information technology ("IT") inventory programs and IT solution evaluation, including promulgating rules. Additionally, many of the risks presented by AI may also fall within the purview of DoIT's administratively attached Office of Cybersecurity, also charged with promulgating rules. As a part of its function, the Cybersecurity provides reports, policies, and procedures with regard to the security of the State's IT systems. HB 184 would make GSD responsible for conducting much of the same work.

PERFORMANCE IMPLICATIONS

None for this office.

ADMINISTRATIVE IMPLICATIONS

None for this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 130 ("SB130") proposes to create a new "Work Group" on Artificial Intelligence Systems. SB130 would require the Work Group to develop legislative proposals and recommendations for policies for state use and procurement, to meet four (4) times a year, and submit reports of activities and recommendations to the legislative finance committee, the appropriate legislative committee on science and technology, and the Governor. Agencies would be required to cooperate with the Work Group by providing information requested, as outlined in SB130.

Conflict – SB130 defines the term "Artificial Intelligence System" as "a hardware or software system using algorithms to process and interpret data to imitate intelligent behavior for specific decision-making goals." The definition of Artificial Intelligence System in SB130 is different than in HB184. This could cause conflict within the law if agencies will be relying on both definitions for providing information to the Work Group (as defined in SB130) and Department (as defined in HB184).

Relation – As stated above, SB130 creates a Work[ing] Group to develop legislative proposals and recommendations for policies for state use and procurement. Since HB184 is proposed legislation, the Work Group in SB130, if established, should analyze it.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

HB 184 may need to adhere to NMSA 1978, Section 57-12C (2017) Data Breach Notification. HB 184 proposes the collection of data as outlined in the procedures for inventory reports and assessments of AI systems. With the collection of this data, GSD may acquire PII or other data that is sensitive to consumers. Should this occur, GSD would likely need to adhere to Section 57-12C-3 with regard to disposal of PII. The Legislature may want to consider whether to adopt language to ensure that GSD and all state agencies are in compliance with Section 57-12C when inventorying and assessing the data from AI systems.

Implementation of HB 184 may also require adjustments to conform to the Inspection of Public Records Act ("IPRA"). Trade Secrets are excepted under NMSA 1978, Section 14-2-1(F) (2023). AI algorithms and data sets would almost certainly constitute trade secrets, which will require GSD to employ sophisticated subject matter experts to ensure that trade secrets are not disclosed in response to IPRA requests for AI system information.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS