# F I S C A L   I M P A C T   R E P O R T

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| | **LAST UPDATED** | 1/30/2024 |
| **SPONSOR** Sariñana/Serrato/Chandler/Chasey/Gurrola | **ORIGINAL DATE** | 1/26/2024 |
| | **BILL** | House Bill |
| **SHORT TITLE** Use of Artificial Intelligence Transparency | **NUMBER** | 184/aHGEIC |
| | **ANALYST** | Hanika-Ortiz |

## APPROPRIATION*
### (dollars in thousands)

| FY24 | FY25 | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| | $500.0 | Nonrecurring | General Fund |

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

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

| Agency/Program | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| DoIT/Office of Cybersecurity | No fiscal impact | No fiscal impact | Up to $500.0 | Up to $500.0 | Recurring | General Fund/Other State Funds |

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 130 (SB130)

## Sources of Information

LFC Files

<u>Agency Analysis Received From</u>
Department of Information Technology (DoIT)
General Services Department (GSD)
New Mexico Attorney General (NMAG)
State Ethics Commission (SEC)

## SUMMARY

### Synopsis of HGEIC Amendment

The House Government, Elections, and Indian Affairs Committee amendment to HB184 replaces GSD with DoIT, as the agency that receives the appropriation and implements the act.

**Synopsis of House Bill 184**

House Bill 184 (HB184) as amended appropriates $500 thousand from the general fund to DoIT to implement the Government Use of Artificial Intelligence Transparency Act.

Starting by October 1, 2024, each agency shall submit annually to DoIT an inventory of the agency's artificial intelligence (AI) systems, including the name of the system, the vendor, the capabilities and uses of the system, whether the system was used to independently support a "consequential decision," and whether the system was assessed using local data and the source of any other data used. The bill defines "consequential decision" as a decision by an agency regarding government benefits or services for a person or the imposition of punitive actions on a person.

Starting January 1, 2025, DoIT shall annually provide an aggregate inventory report on agency AI systems to the governor, LFC, and interim legislative committee on science and technology.

Starting July 1, 2025, DoIT shall annually reassess agency AI systems and assess new systems.

HB184 also adds a new section to the Procurement Code that includes a requirement for transparency by vendors of AI products or services. The bill defines "transparency" as "…the disclosure of the methodology of a system, including the types and sources of data the system uses, how data is collected, weighted and combined, and the methodology employed to correct errors, improve outcomes or otherwise modify the system".

The effective date of this bill is July 1, 2024.

## FISCAL IMPLICATIONS

The appropriation of $500 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. Although this bill does not specify future appropriations, it creates an expectation this program will continue in future fiscal years; therefore, this cost would become recurring.

The bill does not identify a funding source to assess agency AI systems in FY26 and future fiscal years. Presumably, costs will be provided for annually in the General Appropriation Act either from other state funds through an agency assessment or an appropriation from the general fund.

The House Appropriations and Finance Committee Amendment for House Bill 2 includes $1.6 million in new general fund revenue to staff up the new Office of Cybersecurity at DoIT.

## SIGNIFICANT ISSUES

GSD reports there is currently no tracking or reporting of AI systems utilized by agencies.

DoIT says many of the risks presented by AI fall within the purview of its Office of Cybersecurity. As a part of its function, the Office provides reports, policies, and procedures regarding the security of the State's IT systems.

HB184 defines the term "artificial intelligence system" as an application, data system, hardware, software, tool or utility that operates in whole or in part by using AI.

## PERFORMANCE IMPLICATIONS

NMAG provided the following:

> HB184 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 (personally identifiable information) or other data that is sensitive to consumers. Should this occur, GSD would likely need to adhere to Section 57-12C-3 NMSA 1978 regarding the disposal of PII. The Legislature may want to consider whether to adopt language to ensure that GSD and (executive) state agencies are in compliance with Section 57-12C NMSA 1978 when inventorying and assessing the data from their AI systems.

Furthermore:

> Implementation of HB184 may also require adjustments to conform to the Inspection of Public Records Act (IPRA). Trade Secrets are excepted under Section 14-2-1(F) (2023) NMSA 1978. 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.

## ADMINISTRATIVE IMPLICATIONS

HB184 would require DoIT to track purchases and reporting of AI systems used by agencies.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB130 which creates an AI work group to develop legislative proposals for state policies governing the use and disclosure of artificial intelligence. SB130 also has similar annual reporting requirements and a $500 thousand appropriation, but for both FY25 and FY26.

## ALTERNATIVES

DoIT says while AI systems are not new, they have received more attention recently as they have been used in more high impact applications such as assisting states with decision-making related to healthcare, criminal justice, and unemployment, for example. The Artificial Intelligence Work Group is proposed by SB130 to study AI systems and propose policy and legislation that will explore the risks of AI, guide appropriate use, and implement best practices for AI procurement.

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

State agencies will continue to use AI systems without having them inventoried and assessed.

AHO/ne/ss