



January 28, 2024

Members of the House Government, Elections & Indian Affairs Committee
hgeic@nmlegis.gov

Delivered via email

Re: Serious Concerns with NM HB 184

Dear Members:

We are writing to express the Software & Information Industry Association's (SIIA's) constitutional concerns with the current draft of HB 184. By way of background, SIIA is a trade association representing over 380 companies reflecting the broad and diverse landscape of digital content providers and users in academic publishing, education technology, and financial information; creators of software and platforms used by millions worldwide; and companies specializing in data analytics and information services. Our mission is to protect the three prongs of a healthy information environment essential to that business: creation, dissemination and productive use.

SIIA supports responsible procurement, meaningful oversight of AI systems and the overall intentions of HB 184. We are concerned, however, that the current language of the bill would unnecessarily burden both government agencies and the private sector. HB 184 as drafted would also risk disclosure of potentially sensitive information.

First, the bill requires annual assessments of AI systems to be performed by the New Mexico General Services Department. Although we understand the need for oversight, undergoing this requirement yearly would impose needless costs on both the agency and vendors. As defined, assessments include the production of outputs, the types and sources of data, and how that data is weighed. These are not likely to dramatically change over the course of a year in a way that would—per the purpose of an assessment—cause the “system's outcomes and methods [to not] align with the objectives, standards and legal requirements of the agency.” In fact, high frequency assessments for complex outputs, that are themselves highly influenced by ever-changing data, are more likely to confuse than clarify.

HB 184 also includes transparency requirements for vendors that would expose businesses to needless risk. The bill defines “transparency” as “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.” Although transparency is a useful procurement tool, this language would effectively require vendors to disclose sensitive information they maintain, potentially in violation of other statutory requirements. It could even require that a vendor's trade secrets be disclosed, such as components of its AI algorithm.

Oversight of AI systems is a legitimate legislative priority, and SIIA supports efforts to provide meaningful and risk-based guardrails around government use. However, it is crucial to establish workable compliance requirements and avoid creating additional and needless risk of sensitive data disclosure. For this reason, it is not advisable to pass such a substantive and impactful bill in a short budget session and with limited input from stakeholders. As an alternative, we suggest importing the language in SB 130, currently a study bill, that could accomplish the same goals more efficiently and with less risk. We thank you very much for your consideration, and would be happy to discuss any of these issues further with you, if helpful.

Respectfully submitted,

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Software & Information Industry Association

