

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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: **Date** March 6, 2015
Original **Amendment** **Bill No:** SB 180
Correction **Substitute**

Sponsor: Sen. Nancy Rodriguez **Agency Code:** Attorney General's Office
Short Weapons of Mass **Person Writing** Tony W. Long, AAG
Title: Destruction and Explosives **Phone:** 505/222-9020 **Email** tlong@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates – HB 195

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: An act relating to criminal law; amending the Explosives Act to change the title to the weapons of mass destruction and explosives act; establishing crimes relating to the possession, manufacture and use of or threat to use, a weapon of mass destruction; providing penalties.

The short title of the act is changed from the “Explosives Act” to the “Weapons of Mass Destruction and Explosives Act”.

§30-7-17(A) of the bill defines chemical warfare agent, §30-7-17(D) of the bill defines nuclear agent, §30-7-17(E) of the bill defines radiological agent, §30-7-17(F) of the bill defines vector, §30-7-17(G) of the bill defines weapon of mass destruction, §30-7-17(H) of the bill defines weaponized, and §30-7-17(I) of the bill defines weaponized biological warfare agent.

§30-7-20 of the bill adds a false or facsimile “weapon of mass destruction” to the “hoax” bomb section and provides for the criminal penalty, a fourth degree felony.

§30-7-21 of the bill adds a false reporting of a “weapon of mass destruction” to the “bomb scare” section and provides for the criminal penalty, a fourth degree felony if the false reporting causes death or great bodily harm (GBH), and a misdemeanor if death or great bodily harm are not caused.

Section 5 of the bill provides for the following crimes and penalties in regards to Weapons of Mass Destruction (WMD) and recombinant technology:

- Possession, development, manufacture, produce or transfer of WMD – 2nd degree felony
- Use of WMD causing death – 1st degree felony
- Use of WMD causing GBH – 2nd degree felony
- Use of WMD causing widespread and substantial property damage – 3rd degree felony
- Use of recombinant technology to create WMD – 1st degree felony

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

There is existing federal law that deals with weapons of mass destruction. The federal law is also broader in its scope of definitions. Most, if not all, weapons of mass destruction are highly classified matters of national security and are typically handled by the United States Attorney's Office. Since it is a matter of national security, the attorneys handling such cases have to have extremely high levels of security clearance. Most prosecutors at the State level do not hold those security clearances and would be unable to actually enforce the Act in a court of law.

In Section 5, without lawful authority is not defined. It is unclear who, if anyone, would have lawful authority to act lawfully under Section 5, at any time.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates – HB 195

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A