Key Hearing Issues

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Artificial Intelligence and Use in Government

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Artificial Intelligence Definition

- The National Artificial Intelligence Initiative Act of 2020 defines artificial intelligence (AI) as "a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments." Due to the rate and speed at which technology has been evolving, the need to define AI and understand its risks and benefits in government is a recurring conversation.

- The main types of AI are generative and predictive AI. Generative AI creates content based on learned information, either from human input or machine learning, and outputs information in the form of text, images, and sound. Predictive AI makes predictions based on historical data by finding patterns and analyzing data to predict future events. Generative AI can help with the creation of coding language, images, or videos whereas predictive AI can be helpful in health care to predict how certain diseases can progress. However, AI depends on the quality and amount of data the AI is trained on to produce quality results, which can change over time, affecting AI trustworthiness.
  - o Terms frequently associated with AI are "deepfakes," "synthetic media," and "deceptive media," which other states have enacted legislation surrounding definitions and uses of these terms.

AI Legislation in New Mexico

- In the 2024 legislative session, New Mexico lawmakers proposed three types of legislation relating to AI, of which only House Bill 182 was passed. HB 182, the Campaign Reporting Act, defines AI as "a machine-based or computer-based system that through hardware or software uses input data to emulate the structure and characteristics of input data in order to generate synthetic content, including images, video or audio." The bill amends the Campaign Reporting Act to create a misdemeanor and a fourth-degree felony for the use of materially deceptive media, the use of AI, during elections.
  - o While New Mexico has defined AI in HB 182, the bill defined generative AI and not predictive AI. According to the National Conference of State Legislators

(NCSL), New Mexico is one of nineteen states that have AI-related campaigning and election legislation.

State-Enacted AI Legislation

- State-enacted legislative approaches across the country include the creation of AI-study groups, task forces, and AI commissions in states like Maryland, Louisiana, Alabama, Indiana, New York, and more. Other states like Connecticut, Virginia, and Washington have enacted AI legislation for government use.
    - Other states have created AI task forces, however, professionals working with AI have encouraged lawmakers to create AI legislation beyond a task force.
- In 2023, 31 states, including Puerto Rico, introduced AI legislation in their respective legislative sessions. In 2024 legislative sessions, 45 states enacted or are pending AI legislation. Four states did not have a regular 2024 session and one state, Arkansas, does not have any legislation surrounding AI.
    - According to NSCL, most of the legislation introduced in 2024 related to government use and private sector use of AI. Other kinds of proposed legislation include criminal use of AI, health, and child pornography.

Benefits and Risks of AI

- There are both benefits and risks with the usage of AI. Benefits seen with AI include fraud detection, like in banking in finance, by monitoring financial transactions. According to the National Center for Biotechnology Information (NCBI), AI has identified rapid and accurate detection of abnormalities, like identifying tumors during radiological examinations. NCBI states that AI has sped up the interpretation of complex images and has improved early detection of diseases.
- According to the National Technology Information Association (NTIA), potential risks of AI include data privacy. Because AI systems often require large amounts of data to function, machine-learning models like ChatGPT save user input for continuous technology adaptation, so private sensitive information, like health information, is in jeopardy of being compromised. In addition, because AI systems need human input to train the system, there is potential for bias and discrimination.
    - The rapid pace of AI has outpaced the regulatory frameworks, causing gaps in oversight in accountability, leading to possible AI use that is unsafe and not transparent. However, risks with AI can be mitigated with proper measures and oversight surrounding its use.

Regulatory Framework for AI in Government

- Federal blueprints and frameworks surrounding AI encourage the use of clear and plain language that is understandable by a broad audience. The National Institute of Standards and Technology's AI risk management framework encourages transparency, accountability, and ethical uses of AI. Other states are considering a regulatory framework

to place guardrails around AI. The first-ever rule on AI was adopted in the European Union in 2023 via a risk-based approach. The EU's Artificial Intelligence Act aims to ensure that AI systems are overseen by people, and are safe, transparent, traceable, non-discriminatory, and environmentally friendly. The Act establishes obligations for providers and users of AI, like additional transparency requirements, depending on the level of risk AI can create (acceptable risk, high-risk, and unregulated risk). There are no federal legislation enactments that focus on protecting people from AI. State and federal governments are still developing proposals for AI oversight.

- o Other state legislatures are focusing on building AI transparency by disclosing when governments use AI. Some states have proposed to make certain AI assessments public for further accountability.

- o A regulatory framework could also include "consequential decisions," or decisions that have a legal, material, or similarly significant effect on an individual's life relating to the impact of, access to, or the cost, terms, or availability of the following: employment, education, vocational training, housing, essential utilities, family planning, health care, financial services, the criminal justice system, legal services, and access to benefits. Consequential decisions can alleviate algorithmic discrimination, as seen in the passed Colorado AI Act in its 2024 legislative session.