

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/16/2025 *Check all that apply:*
Bill Number: HB60 Original Correction
 Amendment Substitute

Sponsor: Chandler **Agency Name and Code Number:** Department of Information Technology - 361
Short Title: ARTIFICIAL INTELLIGENCE ACT **Person Writing:** Jason L. Clack
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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

BILL SUMMARY

Synopsis: House Bill 60 (“HB 60”) creates the Artificial Intelligence Act (“the Act”) which applies to developers and deployers of artificial intelligence systems.

The Act would create definitions for the terms “algorithmic discrimination,” “artificial intelligence system,” “consequential decision,” “consumer,” “deploy,” “deployer,” “developer,” “health care services,” “high-level summary,” “high-risk artificial intelligence system,” “intentional and substantial modification,” “offered or made available,” “recipient,” “risk incident,” “substantial factor,” and “trade secret” as those terms would apply in the Act.

The Act would create a reasonable duty of care for developers to protect consumers from known or foreseeable risks of algorithmic discrimination arising from intended and contracted uses of a high-risk artificial intelligence system. This would require developers to make certain information regarding high-risk artificial intelligence systems available to consumers and keep that information up to date.

The Act would require developers to disclose risk incidents within 90 days to the New Mexico Department of Justice (“NM DOJ”) and known recipients of the subject high-risk artificial intelligence system, the known and foreseeable risks of algorithmic discrimination that may arise from the intended uses of the system. The Act would also require disclosure to the NM DOJ a copy of the summary and documentation the developer has made available to recipients, with protections for trade secrets, work product, privileged information, and information that would create a security risk if disclosed.

The Act would require deployers to use reasonable care to protect consumers from known or reasonably foreseeable risks of algorithmic discrimination by establishing a risk management policy and program to govern the deployer's deployment of a high-risk artificial intelligence system. The NM DOJ would establish requirements for the risk management policy, by rule.

The Act would require deployers to conduct impact assessments for any high-risk artificial intelligence systems deployed by the deployer and establish requirements for these impact assessments. The Act would also create exceptions to the impact assessment requirements.

The Act would require deployers to make information available to consumers and on its website, regarding the types of high-risk artificial intelligence systems that the deployer currently deploys and how known or reasonably foreseeable risks of algorithmic discrimination from the deployment of each system are managed, and a detailed explanation of the nature, source and extent of the information collected and used by the deployer. The deployer would also be required to update this information at least annually.

The Act would require deployers to give notice to consumers when a high-risk artificial intelligence system is used to make or is a substantial factor in making a consequential decision concerning a consumer. The Act would also require an appeal process when a high-risk artificial intelligence system has been used to make or has been a substantial factor in making

a consequential decision concerning a consumer that is adverse to the consumer.

The Act would require a deployer to notify the NM DOJ when a deployer discovers that a high-risk artificial intelligence system that has been used has caused algorithmic discrimination. The Act would also create an exception from the Inspection of Public Records Act (“IPRA”) for any risk management policy, impact assessment or record submitted to the NM DOJ, as well as protections for proprietary information, trade secrets, and privileged information.

The Act would require a developer that offers or makes available an artificial intelligence system intended to interact with consumers to ensure that a consumer is informed that the consumer is interacting with an artificial intelligence system.

The Act would create exceptions to the Act for other laws, security and testing requirements, and artificial intelligence systems that comply with federal requirements.

The Act would provide for enforcement by the NM DOJ, as well as any civil remedies available in law or equity.

The Act would require the NM DOJ to promulgate rules pursuant to the Act on or before January 1, 2027.

The effective date of the Act would be July 1, 2026.

FISCAL IMPLICATIONS

DoIT does not serve the public directly, however, under the broad definition of “consumer” in the Act, which will mean “a resident of New Mexico,” DoIT may be subject to the provisions of the Act as a “developer” if it develops or intentionally and substantially modifies an artificial intelligence system, or as a “deployer” if it deploys an artificial intelligence system. Therefore, any fiscal impacts would be commensurate with the amount of time and resources needed to comply with the notice provisions and required impact assessments if any high-risk artificial intelligence systems are implemented by DoIT. This may require additional funding and the creation of an additional FTE position in order to comply with these requirements, because there are currently no positions within the Department with these job duties.

DoIT and the Office of Cybersecurity (“OCS”) would be fiscally impacted if the amendment proposed below becomes law. DoIT and OCS would each require an additional FTE to implement the proposed oversight.

SIGNIFICANT ISSUES

HB 60 would be applicable to public bodies and agencies if those public bodies or agencies develop or deploy artificial intelligence systems. The definition of high-risk artificial intelligence systems in the Act is very broad and expansive and may apply to nearly all generative artificial intelligence systems that state agencies and public bodies implement and deploy. Therefore, this Act would have significant administrative and fiscal impacts on public bodies and state agencies which would be required to comply with the notice and impact assessment provisions.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

HB 60 would have an administrative and fiscal impact on state agencies that develop or deploy artificial intelligence systems and would therefore be required to comply with the notice and impact assessment requirements of the Act. Currently, numerous state agencies contemplate deploying public facing artificial intelligence systems, which would trigger the significant compliance obligations and associated costs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Because the proposed Act would not exempt public entities, including state agencies, public bodies may confront significant compliance obligations. Unless funded through future appropriations, the Act would impede or prevent agency adoption of consumer assistive AI technologies, such as licensing or benefit systems. DoIT and the OCS currently oversee state agency technology projects and cybersecurity compliance. To avoid conflict with existing agency information technology project oversight and the substantial administrative burdens associated with the proposed bill, the law should make clear that state agencies are exempt from compliance, subject to DoIT and OCS oversight. DoIT/OCS proposes expressly exempting state agencies from compliance with the proposed bill, but with the addition of explicit oversight authority for AI and emerging technologies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

Add a new section that provides:

- A. Except as provided in this section, state agencies are exempt from the requirements of this Act.
- B. On a form and in the manner specified by rule, prior to developing or deploying an AI system, state agencies shall submit to the Department of Information Technology and to the Office of Cybersecurity a plan that addresses operational, financial, and technical risks of a proposed development or deployment.
- C. The Department of Information Technology and the Office of Cybersecurity shall promulgate rules that specify compliance requirements and processes for state agency AI system development and deployment, including a safety and security planning and implementation, risk assessment, bias mitigation and privacy protection.
- D. No state agency shall develop or deploy an AI system without first obtaining approval of the plan required by this Act.

E. The Department of Information Technology and the Cybersecurity Office shall jointly promulgate rules that govern annual review of an existing or future AI deployment for confirmation of bias protection measures, cybersecurity and risk mitigation.