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**AGENCY BILL ANALYSIS
2025 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}

Click all that apply:
Original **Amendment** ___
Correction ___ **Substitute** ___

Date 2025-01-16
Bill No: HB60

Sponsor: Chandler, Christine **Agency Name and Code** NMHED
Short ARTIFICIAL **Number:** _____
Title: INTELLIGENCE ACT **Person Writing** Leakakos, Joseph
Phone: 5054128059 **Email** joseph.leakakos@hed.

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(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

House Bill 60 (HB60) creates requirements that those who develop or intentionally and substantially modify artificial intelligence (AI) systems must follow to protect New Mexico residents from algorithmic discrimination.

FISCAL IMPLICATIONS

HB60 does not provide an appropriation.

SIGNIFICANT ISSUES

HB60 creates requirements that those who develop or intentionally and substantially modify AI systems must follow to protect New Mexico residents from algorithmic discrimination. This bill defines algorithmic discrimination as unlawful differential treatment or impact based protected attributes such as actual or perceived age, disability, race, ethnicity, gender, and others.

A few examples of the requirements that those who develop or intentionally and substantially modify AI systems must follow include using reasonable care to protect consumers from algorithmic discrimination, disclosing potential risks of using AI systems, reporting credible incidents of algorithmic discrimination to the New Mexico Department of Justice (NMDOJ), and conducting impact assessments for AI systems. This bill also identifies exceptions to these

requirements such as when equivalent federal requirements are already in place or protections for trade secrets.

This bill identifies AI systems as systems that learn from inputs and produce decisions, predictions, and recommendations, among others outputs. This bill classifies AI systems as high-risk when they are involved in making decisions that have a material legal or similarly significant effect on New Mexico residents related to, education enrollment or an educational opportunity, employment or an employment opportunity, and housing, among other decision areas.

The focus of this bill is on protecting against algorithmic discrimination made by high-risk AI systems. This may affect students, educators, and researchers at higher education institutions (HEIs). For example, an HEI may use a high-risk AI system as defined in this bill to assist in admissions decisions, or a student healthcare provider may use such a system to make decisions about providing or withholding student healthcare.

The bill distinguishes between developers and deployers of these systems. Developers perform the AI system design, planning, development, and training. Deployers use AI systems created by developers. HEIs may be developers or deployers.

As developers, researchers working with and building these types of systems may need to meet the above requirements, though the bill provides clarification that the bill shall not be construed to restrict engagement in public or peer-reviewed scientific or statistical research.

As deployers, HEIs may utilize third-party high-risk AI systems. HEIs can require that the system developers provide documentation or other items to meet some of the requirements in this bill, though HEIs will still need to complete some of the requirements themselves. For example, deployers are required to perform impact assessments at periodic intervals. These impact assessments are meant to clarify the uses, benefits, and risks of a high-risk AI systems along with different summaries of the types of data used, the methods of evaluation of the system, and more. Deployers are also required to provide different types of notifications related to their use of the systems and the systems themselves.

One issue to call out is that it could be difficult to determine when developers or deployers of high-risk AI systems have not met the requirements in this bill. New Mexico residents may not know that a high-risk AI system has committed algorithmic bias. The burden appears to be on New Mexico residents to raise concerns over such bias, but, while the bill does require disclosure of different information about systems, impact assessments, and other evaluations, the primary proactive obligation the bill looks to apply to developers and deployers is to use reasonable care to protect New Mexico residents from algorithmic bias, reasonable care itself being imprecise.

Another issue is that the bill requires investigation into the working of high-risk AI systems upon receipt of credible reports of algorithmic bias. Some systems will use black-box algorithms where researchers and developers may not understand the entirety of how the system is working, an issue involved in AI explainability, a field of research within AI. The bill may require that developers and deployers not develop or deploy systems such as those that use black-box

models, or it may create further questions as to how to handle different types of systems with differing levels of explainability and insight into how they work.

While this bill is more likely to affect HEIs, it is possible that the New Mexico Higher Education Department (NMHED) could get involved, probably as a deployer more than a developer, and the above concerns would then apply to NMHED.

PERFORMANCE IMPLICATIONS

HB60 does not specify specific performance measures. It mentions requirements to produce and share items like documentation and notifications along with specific timeframes and update cadences, but there are not further performance requirements.

ADMINISTRATIVE IMPLICATIONS

HB60 may require HEIs to adjust practices as both developers and deployers of high-risk AI systems. HEIs may need to consider extra staff or faculty to accommodate the requirements in this bill. HEIs may also need to add extra steps or funding in the development or deployment of these systems. If NMHED were to become a developer or deployer, then NMHED would need to look at the same considerations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

The NMHED and/or HEIs could provide statewide or HEI-specific higher education guidance on protecting against algorithmic bias in high-risk AI systems.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HEIs, students, and others in New Mexico who engage with high-risk AI systems will not have legal protections that are provided in HB60 to lean on in instances of algorithmic bias. Developers and deployers of high-risk AI systems will not have to meet the requirements in HB60.

AMENDMENTS

N/A