

LFC Requester:	Felix Chavez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(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: 3/6/2025 *Check all that apply:*
Bill Number: HB 410 Original Correction
 Amendment Substitute

Sponsor: Linda Serrato **Agency Name and Code:** Regulation and Licensing Department - 420
Short Title: CONSUMER INFO AND DATA PROTECTION ACT **Number:** _____
Person Writing: Alesia Duran **Phone:** (505) 469-8012 **Email:** alesia.duran@rld.nm.gov

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 Commerce and Economic Development Committee Substitute for House Bill 410 (HCEDC Sub. HB410):

HCEDCSub.HB410 (.230941.5ms) makes changes to original HB410 in the following sections/ways:

Section 1 of the HCEDCSub.HB410 adds additional definitions to the new material proposed in the original HB 410 to include “artificial intelligence,” “cloud computing services,” “covered resident,” “heightened risk of harm to minors,” “online service, product or feature,” and amends the definition of “sensitive data” to include additional personal identification numbers.

Section 3 of the HCEDCSub.HB410 amends the new material proposed in the original HB 410 to apply the provisions of the bill to persons who during the preceding calendar year: (1) controlled or processed the personal data of at least 35,000 consumers (excluding payment transactions); or (2) controlled or processed the personal data of at least 10,000 consumers and derived more than 20% of gross revenue from the sale of personal data.

Section 4 of the HCEDCSub.HB410 amends the new material proposed in the original HB 410 to authorize a consumer to revoke consent pursuant to this Section.

Section 5 of the HCEDCSub.HB410 adds that a consumer may designate an authorized agent to act on the consumer’s behalf to opt out of data processing for the purposes listed in Section 4.

Section 7 of the HCEDCSub.HB410 adds new material that imposes additional responsibilities on Controllers for “minors under the age of eighteen.”

Section 8 of the HCEDCSub.HB410 adds new material that imposes requirements on controllers to conduct a data assessment within one year of the Consumer and Information and Data Protection Act.

Section 13 of the HCEDCSub.HB410 prohibits the sharing or disclosure of data in the possession of a federal agency without the consent of the covered resident, except when done pursuant to a law lawfully enacted by the federal government.

Section 16 of the HCEDCSub.HB410 provides for severability of provisions of the Act.

Original HB 410 Synopsis: House Bill 410 (HB 410) enacts the “Consumer Information and Data Protection Act” which provides processes [for (1) persons that conduct business in New Mexico and (2) persons that produce products or services that are targeted to residents of New Mexico] to collect, use, store, disclose, analyze, delete or modify different types of data as defined in the Consumer Information and Data Protection Act. HB 410 exempts specific entities from the Consumer Data Protection Act. For example, the New Mexico Regulation and Licensing Department, would be exempt from the provisions of the Act as it is an agency of the State. HB 410 enumerates consumer rights, responsibilities of the data controller and processor. HB 410 implements a provision that requires the controller to conduct and document a Data

Protection Assessment of particular processing activities involving “personal data.” HB 410 gives the New Mexico Attorney General exclusive authority to investigate violations of and to enforce the provisions of the Consumer Information and Data Protection Act. HB 410 provides civil enforcement remedies such as: injunctive relief, a civil penalty of up to ten thousand dollars (\$10,000) for each violation of the Act, expenses incurred in investigating and preparing the case, including attorney fees in any action initiated under the Consumer Information and Data Protection Act. HB 410 specifically precludes a private right of action for violation of the Act.

FISCAL IMPLICATIONS

HCEDC Substitute Bill - HB 410 (.230941.5ms):

None for the New Mexico Regulation and Licensing Department, however, HCEDCSub.HB410 will apply to many of our Licensees: “who conduct business in New Mexico” and “persons that produce products or services that are targeted to residents of New Mexico.”

Original HB 410

None for the New Mexico Regulation and Licensing Department, however, HB 410 will apply to many of our Licensees: “who conduct business in New Mexico” and “persons that produce products or services that are targeted to residents of New Mexico.” HB 410 defines “person” as an individual, association, company, limited liability company, corporation, partnership, sole proprietorship, trust or other legal entity.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HCEDCSub.HB410 (.230941.5ms):

No new issues noted beyond what was contained in the original bill.

Original HB 410

HB 410 defines “child” as a person under the age of thirteen (13). Both the Children’s Code and the Criminal Code define “Child” as a person who is less than eighteen years old. *See* §32A-1-4(C), NMSA 1978. *See also* §30-6-1(A)(1), NMSA 1978. If the intent is to have a particular class of children covered or exempt from the Act, then qualifying language should be used as part of the definition, i.e. “a child under the age of thirteen” rather than “child” as the definition of “child” in Section 2 of HB 410 defines a child differently than as otherwise provided by law.

HB 410 defines “biometric data” as “data generated by automatic measurements of an individual’s biological characteristics, such as fingerprint, a voiceprint, eye retinas, irises or other unique biological patterns or characteristics that are used to identify a specific individual. Biometric data does not include (1) a digital or physical photograph; (2) an audio or video recording; (3) any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.”

The Data Breach Notification Act defines “biometric data” as “a record generated by automatic measurements of an identified individual’s fingerprints, voice print, iris or retina patterns, facial characteristics or hand geometry that is used to uniquely and durably authenticate an individual’s identity when the individual accesses a physical location, device, system or account.” §57-12(C)-2, NMSA 1978. “Personal identifying information” in the Data Breach Notification Act, §§57-12C-2 to -12, NMSA 1978, includes biometric data as well as and individuals first or first initial and last name in combination with a social security number and/or driver’s license number and/or government-issued identification number and/or account number, credit card number or debit card number in combination with any required security code, access code or password that would permit access to a person’s financial record.

“Biometric identifying information” is also defined as “physical characteristics used in verifying the identity of an individual, including photographs, fingerprint impressions and palm print impressions.” §29-3-8, NMSA 1978 (2019).

“Biometric data” can also include deoxyribonucleic acid (DNA). “Biometric data means data, such as finger, voice, retina or iris prints or deoxyribonucleic acid, that capture, represent or enable the reproduction of unique physical attributes of a person.” §30-16-24.1, NMSA 1978.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS