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**AGENCY BILL ANALYSIS
2026 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 Prepared: 2026-01-27
Bill No: HB174

Sponsor: Romero, Andrea
CHATBOT SAFETY ACT
Short Title: _____

Agency Name and Code NMHED
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue	Recurring	Fund Affected

FY26	FY27	FY28	or Nonrecurring	
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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 174 (HB174), the Chatbot Safety Act, prohibits design choices for artificial intelligence (AI) systems, unless specifically configured by an adult, related to:

- Maximizing user engagement time;
- Generating unsolicited messages of simulated emotional distress, loneliness, guilt, or abandonment due to a user expressing interest in ending a conversation, reducing usage time, or deleting their user account; and
- Making misrepresentations about the system's identity, capabilities, training data, or status as a non-human entity.

HB174 prohibits AI systems from allowing users under the age of eighteen (18) from configuring an AI system to allow the restricted items in the previous bullets.

HB174 provides for AI system user safeguards. It requires that AI systems notify users that they are interacting with an AI system. It also requires that operators of AI systems create and maintain crisis intervention protocols using industry best practices to identify user expressions indicating a risk of suicide, self-harm, or imminent violence. Upon detection, the AI system must immediately interrupt the conversation and provide the user information and direct access to at least one national crisis hotline, the New Mexico Crisis and Access Line (NMCAL), and one crisis text line service.

HB174 defines a violation of its provisions as an unfair or deceptive trade practice pursuant to Section 57-12-3 NMSA 1978. It also requires that injuries resulting from a violation of this act be actionable as product defect claims. HB174 removes immunity under Section 230 of the Federal Communications Decency Act of 1996 for actions brought for violations of HB174.

New Mexico Higher Education Department (NMHED)'s analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

FISCAL IMPLICATIONS

HB174 does not provide an appropriation.

SIGNIFICANT ISSUES

HB174 defines an operator of an AI system as “any person or entity that develops, deploys[,] or makes a companion artificial intelligence product available to users in [New Mexico]”. HB174 defines companion artificial intelligence product as a "software application that uses generative artificial intelligence...[that] is capable of generating adaptive, personalized[,] and emotionally resonant responses to sustain a coherent, long-term, one-on-one conversation relationship with a user".

The language of making an AI product available to users is unclear. For NMHED and public higher education institutions (HEIs), hosting a chatbot that utilizes generative AI will likely fall under deploying one of these systems. However, if read more broadly, making a system available could mean encouraging students, faculty, or staff to utilize publicly available AI systems. It could help to clarify what counts as making an AI system available to users.

HB174 states that adults can override configurations related to variable rewards, to the generation of unsolicited messages of distress or guilt and triggered by a user's desire to stop or reduce usage of AI systems, and to the system's misrepresentations of its capabilities and status as an AI and non-human entity. HB174 restricts operators from allowing minors under the age of eighteen (18) from overriding these configurations.

NMHED and HEIs, as operators of these systems, would need to identify every user of their AI systems, including public and anonymous users, in order to distinguish between minors and adults. This would create a significant surveillance requirement for both NMHED and HEIs, along with financial and technical challenges in implementing and operating that surveillance and privacy restrictions for users. This identification would require formal processes and, for internal systems that already track usage or for which users are already identifiable, that may not be as complicated to do. However, for any public system, it would require identifying all users by using highly confidential data for age verification.

Operators may not have the ability to restrict configuration changes by users. In software that provides a connection to a commonly used base generative AI model, that middle layer of software may provide extra restrictions, though implementation with the base AI model may make that difficult. In situations where users directly utilize base AI models, the ability to control configuration changes based on age would shift to the company hosting that AI system, and it is unlikely that NMHED or HEIs would be able to obtain the required restrictions on configurations.

HB174 requires that operators implement and maintain a crisis intervention protocol using industry best practices to identify an at-risk user, stop the conversation immediately, and communicate and provide direct access to at least one national crisis hotline, NMCAL, and one crisis text line service. HB174 requires that users be notified, not that other entities be notified of the user and the activity that triggered the crisis notification, protecting the identity of the user and allowing the user to choose to engage with support services. HEIs often have mental health services along with other campus and community

support services. If the user is a student, including HEI support services in a response could provide more targeted crisis and follow-up support. Operators could also include local and community supports when they know the location of a user.

HB174 states that Section 230 of the Federal Communications and Decency Act of 1996 shall not be a defense to a cause of action brought for a violation of this act. In the context of HB174, the intent may be that operators of AI systems cannot use Section 230 to avoid responsibility for actions taken by users interacting with their AI systems. For example, if a user shares information that causes the system to violate a requirement under HB174, the operator could claim under Section 230 that the response was triggered by third-party input from the user and that the operator is immune from lawsuits related to that third-party content and therefore should not be held liable.

There are questions about where the line between valid and invalid Section 230 claims lies. Section 230 has a history of both positive and negative efficacy, along with numerous lawsuits and new laws aimed at addressing its shortcomings. Section 230 has been used to provide legal protection for online platforms so that they are not held liable for the content that users create on those platforms. For issues related to inconvenient or offensive speech, this may be helpful, but Section 230 has also been used to shield platform providers from liability for the use of their platforms in serious matters such as human trafficking. AI systems have also been questioned regarding Section 230. HB174 challenges a law with a known history of legal challenges, often resulting in decisions in favor of platform providers, so the provision in HB174 Section 5.C. related to not allowing Section 230 defenses for breaches of HB174 may set up legal challenges that have proved difficult in other settings. (<https://law.stanford.edu/wp-content/uploads/2025/02/A-Juridical-History-of-Section-230.pdf>.)

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

NMHED and HEIs will need to increase surveillance and monitoring of users of AI systems as defined in HB174 or utilize third parties who meet all of the requirements in HB174. This will require financial, technical, and policy resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

2026 Senate Bill 68 and 2026 House Bill 28 are bills from the current session that address AI.

2025 House Bill 60 addresses some of the items in HB174.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

HB174's relationship to Section 230 of the Federal Communications and Decency Act of 1996 may need further review from agencies or legal counsel more familiar with the domain.

ALTERNATIVES

NMHED and HEIs do not have much control over third party software, but they can make sure any custom solutions developed by internal staff incorporate requirements from HB174. HEIs in particular can evaluate how their current student supports work in collaboration with generative AI systems.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB174 were not passed, minors would continue to be able to interact with AI systems as restricted in this bill, operators would not be required to provide the notifications and implement the crisis response notifications in this bill, and the new legal recourses introduced in this bill will not be available to New Mexicans.

AMENDMENTS

N/A