

LFC Requester:

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### AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

**SECTION I: GENERAL INFORMATION**

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

Date Prepared: 1/23/2026

Check all that apply:

Bill Number: SB 68

Original  Correction   
Amendment  Substitute

Sponsor: Sen. Heather Berghmans

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Update AI Governance Act

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis: SB 68 would require public bodies to establish policies regarding the use of artificial intelligence, automated decision tools, and technology resources by employees. It would also direct public bodies to provide employee training on these policies.

Section 1 would title the act as the “Artificial Intelligence Government Use Act.”

Section 2 would establish the definitions relevant to the act. Of particular note, “consequential decision” is defined as “a decision that has a material, legal or similarly significant effect on the provision or denial of, or the cost or terms of, the following goods or services to a person: (1) education enrollment; (2) employment or an employment opportunity; (3) a financial or lending service; (4) housing; (5) health care service; (6) insurance; or (7) legal service.” “Public body” is defined as “(1) a state agency, a board, a bureau, a commission, a department, a district or an instrumentality of the state; or (2) a county, a municipality, the governing body of a charter school, a school district, the New Mexico school for the deaf, the New Mexico school for the blind and visually impaired or a public post-secondary educational institution.”

Section 3 has the following components:

- Subsection 3(A) would require each public body to establish a policy regarding the authorized use of artificial intelligence, automated decision tools, and technology resources by the public body’s employees.
- Subsection 3(B) would require these policies to: address security procedures, particularly with respect to the security of non-public data; explain the authorized uses of artificial intelligence and other automated decision tools; require an authorized human employee to make final consequential decisions regardless of the recommendation of artificial intelligence and other automated decision tools; and prohibit the use of artificial intelligence and automated tools to intentionally override or avoid security or system integrity procedures other than in the course of a security or system test within the scope of the employee's regular job duties or as authorized by a designated security officer.
- Subsection 3(C) would require “an executive, judicial or legislative agency, board, bureau, commission, department or instrumentality of the state” to make its above policies available to the public upon request.

Section 4 would require public bodies to train their employees on its cybersecurity and artificial intelligence policies and the appropriate use of artificial intelligence, automated decision tools, and technology resources in any decision-making context.

Section 5 would establish the effective date of the act as July 1, 2026.

## **FISCAL IMPLICATIONS**

As a “public body” within the meaning of SB 68, the NMDOJ would be required to establish a policy related to the authorized uses of artificial intelligence, automated decision tools and technology resources pursuant to the act. It would also be required to develop and conduct training for employees on the policy and appropriate uses of these tools. While the NMDOJ already has an artificial intelligence policy that adheres to much of the requirements of SB 68, the NMDOJ may need to allocate staff, time and resources to review and update the policy, as well as to conduct trainings.

## **SIGNIFICANT ISSUES**

N/A

## **PERFORMANCE IMPLICATIONS**

None for this office.

## **ADMINISTRATIVE IMPLICATIONS**

None for this office.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflict: SB 68 may slightly conflict with HB 28 in the methods employed to address the issue of the use of artificial intelligence in consequential decision-making. HB 28 would require “deployers” of artificial intelligence (including the state or a political subdivision of the state) to provide notice to a consumer when using artificial intelligence to make a “consequential decision,” which is defined almost identically in both SB 68 and HB 28. It would also require the deployer to provide a detailed explanation when it has used artificial intelligence to make a consequential decision that is adverse to the consumer. To the extent any entities categorized as “deployers” in HB 28 and “public bodies” in SB 68 overlap, the two bills may conflict in that HB 28 seems to assume that these entities are permitted to make consequential decisions based on artificial intelligence outputs, whereas SB 68 requires such entities to mandate that a human make the final consequential decision, regardless of the output of the artificial intelligence tool.

Relationship: SB 68 also relates to several bills that would regulate the use of artificial intelligence or artificial intelligence-related technology. HB 22, “Distribution of Sensitive and Deepfake Images,” would govern the distribution of deepfake images (which can be created through artificial intelligence), including by adding the unauthorized distribution of “sensitive deepfake images” to the crime of unauthorized distribution of sensitive images and providing that a person may maintain a civil action for libel, slander, or invasion of privacy based on the publication of sensitive deepfake images. HB 141, “Artificial Intelligence Accountability Act,” would institute various protections against the harmful use of generative artificial intelligence, including by establishing requirements for providers of generative artificial intelligence services,

large online platforms, and capture device manufacturers to embed latent digital markers to enable tracking of synthetic media, and authorizing the Attorney General to enforce the act.

### **TECHNICAL ISSUES**

The definitions of “artificial intelligence” in SB 68, HB 28, and HB 141 are slightly different. SB 68 and HB 28 use the phrase “for explicit *and* implicit objectives,” whereas HB 141 uses the phrase “for explicit *or* implicit objectives.” Additionally, the language defining “consequential decision” in SB 68 and HB 28 differs very slightly. It may be prudent to consider using consistent language. Additionally, it should be noted that the definition of “artificial intelligence” differs from that used in other laws, including Section 1-19-26(C), NMSA 1978.

### **OTHER SUBSTANTIVE ISSUES**

N/A

### **ALTERNATIVES**

N/A

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

### **AMENDMENTS**

N/A