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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: 2026-01-23
Bill No: SB68

Sponsor: Berghmans, Heather
UPDATE AI
Short Title: GOVERNANCE ACT

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

Senate Bill 68 (SB68) enacts the Artificial Intelligence Government Use Act that:

- Requires public bodies to establish policies regarding authorized and proper use of artificial intelligence (AI), along with security procedures related to AI and nonpublic data
- Requires an authorized human employee at a public body to make final decisions related to identified consequential domains, regardless of AI recommendations
- Prohibits the use of public body AI systems to intentionally override or avoid security or system integrity procedures unless authorized by designated security officers
- Requires certain public bodies, including the New Mexico Higher Education Department (NMHED), to make their policies related to AI available to the public upon request
- Requires public bodies to train employees on cybersecurity policies and the appropriate use of AI

SB68 also applies the above list of requirements to technology resources covering “hardware, infrastructure, personnel, or software used to automate office activities, for electronic or telecommunication[,] or to process or store information”.

Consequential decisions covered by SB68 are decisions that have "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:"

- Education enrollment
- Employment or employment opportunity
- Financial or lending service
- Housing

- Healthcare service
- Insurance
- Legal service

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

SB68 does not provide an appropriation.

SIGNIFICANT ISSUES

SB68 identifies a subset of decisions as consequential decisions, as defined above, and requires that a human employee make any final consequential decisions. The intent here appears to be that there are certain types or domains of decisions that require human input, but it is unclear what counts as valid or sufficient human decision-making. There are situations where AI systems and automated learning tools make better decisions than humans and situations where they make worse decisions, and this can apply to specific decisions made by the same systems and tools. Public bodies may find it difficult to separate out those scenarios and demonstrate compliance with the intent of SB68.

SB68 defines automated decision tools as a subset of AI that generates outputs such as scores, labels, predictions, or recommendations. Some of the terms in the bill, such as "label," are also used in a more technical sense in the larger AI and machine learning communities. If the bill's intent is to be matched, it may be useful to clarify the language to indicate that all AI and machine learning outputs are in-scope for SB68.

SB68 appears to require that cybersecurity and use policies and safeguards are in place before adopting new AI systems and automated decision tools, but while these requirements may reduce certain risks, they may slow timelines down for public bodies who are being pressured to increase the speed of adopting new solutions. Public bodies may find themselves stuck, simultaneously moving too fast and too slow for different stakeholders.

Section 3.B.4 could use further clarity. As written, it prohibits public body AI systems and automated decision tools from "intentionally overrid[ing] or avoid[ing] the security or system integrity procedures of the public body" except for when authorized by a designated security officer. The intention here may be to prevent these systems from engaging in activities or outputs that are not accounted for in a public body's formal cybersecurity and use policies, except for experimentation and testing for new solutions. However, the use of the words "override" and "avoid" may be trying to identify something different. It could help to include clarifying language for this item in particular.

SB68's definition of technology resources is broad, likely including most IT systems and associated software and hardware, an example being resources used to "process or store information" being quite broad. If the intent is for technology resources related to AI systems and automated decision tools in a narrower sense, then the broader language in SB68 may cause confusion.

SB68's definition of public body distinguishes state agencies such as NMHED from higher education institutions (HEIs) in sub-definitions. The policy and cybersecurity requirements of SB68 would apply to both NMHED and HEIs, but only NMHED would be required to make those policies publicly available upon request.

For HEIs, it may help to clarify whether the testing exception applies to research into these systems and tools since they are not being deployed for live use, especially for consequential decisions.

A final item to highlight is that SB68's definition for AI more broadly includes generative AI. Public bodies, including HEIs, are figuring out how to handle the appropriate use of generative AI, but this has been difficult, and generative AI systems now interact with other generative and non-generative AI systems, blurring the line between SB68's definitions of AI systems and automated decision tools.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

SB68 may require that NMHED or HEIs change how they evaluate, adopt, and implement solutions covered in this bill. This may require additional staff or expertise on both cybersecurity and use, and evaluation of and changes to current policy.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 28 (HB28) overlaps with some of the items raised in SB68.

House Bill 60 (HB60) covered some of the scope in SB68, though it was not passed into law.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

Evaluation, implementation, and application of AI systems, automated decision tools, and technology resources as identified in SB68 could be covered under current policy definition requirements, though current requirements may not cover newer aspects of these systems, tools, and resources, especially those that have been pushed heavily in recent years.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB68 is not enacted, NMHED and higher education institutions would not be subject to the bill's additional requirements related to cybersecurity and appropriate-use policies for AI systems and automated decision tools. Human review would not be explicitly required for consequential decisions. In addition, expanded policies related to these systems and tools would not be required to be made publicly available upon request.

AMENDMENTS

N/A

