AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(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: 1/15/26   *Check all that apply:*
Bill Number: HB 28   Original ___ X Correction ___
                                  Amendment ___ Substitute ___

Sponsor: Rep. Christine Chandler

Agency Name and Code Number: AOC 218

Short Title: Artificial Intelligence Transparency Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The law enacts the Artificial Intelligence Transparency Act (AITA), to require an entity deploying or using an artificial intelligence system to make a consequential decision affecting a consumer with regard to education enrollment, employment or an employment opportunity, a financial or lending service, housing, health care service, insurance or legal service, to provide notice to a consumer that the system will be used to make or generate a substantial factor to be used in making the decision, before an artificial intelligence system is used. The law requires that when an AI system is used, the deployer shall provide directly to the consumer a statement explaining information regarding the use of the system, an opportunity to correct any incorrect personal date used to generate a substantial factor, and an opportunity to appeal the adverse consequential decision. The law requires an appeal of an adverse consequential decision to be reviewed by a human being.

Additionally, the law requires a companion product, defined as a software application that generative artificial intelligence and is capable of generating adaptive responses to sustain a one-on-one conversational relationship with a user, at the beginning of each interactive session in which a companion product is used, to provide directly to the person a notice that the companion product is an artificial intelligence system. The law prohibits a companion product from representing itself as a human being or making material misrepresentations about the companion product's identity, capabilities, professional certifications or training data.

The law provides the State Department of Justice with the authority to enforce the provisions of the AITA, and permits a consumer affected by the use of an AI system or deployment of a companion product in New Mexico to bring a civil action in district court against a developer or deployer for declaratory or injunctive relief and attorney fees for a violation of the AITA. The law provides that nothing in the Act preempts or otherwise affects any right, claim, remedy presumption or defense available in law or equity, and that a violation of the AITA is an unfair or deceptive trade practice and may be enforced in the manner provided in the Unfair Practices Act.

The law defines "artificial intelligence " to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit and implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. The law further defines "companion product", "consequential decision", "consumer",   "deploy",   "developer",   "generative   artificial   intelligence", "interactive session", "machine learning" and "substantial factor".

The effective date of the Act is July 1, 2026.

FISCAL IMPLICATIONS
There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the

enforcement of this law and the imposition of fines, commenced civil actions and actions under the Unfair Practices Act, and appeals from fine impositions, declaratory or injunctive relief and actions brought pursuant to the Unfair Practices Act. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1) In May of 2024, Colorado passed the Colorado Artificial Intelligence Act, SB 24-205, originally scheduled to go into effect in early 2026, but now postponed until July 2026. The Colorado legislation is similar to HB 28 in that it defines "consequential decision" to include the same services outlined in HB 28, adding "an essential government service" to the list of services of which a decision has a material legal or similarly significant effect on the provision or denial to a consumer of or the cost or terms of the service. The Colorado AI Act also imposes safeguards against bias by AI systems.

While the Colorado law, like HB 28, defines a violation of the Act as an unfair or deceptive trade practice, the Colorado law grants exclusive authority to the Attorney General to enforce the unfair trade practice law. New Mexico's Unfair Trade Practices Act, Section 57-12-1 NMSA 1978, et. seq., provides private remedies.

One of the other chief differences between the Colorado law and HB 28, is that the Colorado law contains a rebuttable presumption that the developer used reasonable care as required under the law if the developer complied with the law's requirements and obligations and any additional requirements or obligations as set forth in rules promulgated by the Attorney General. HB 28 does not contain a rebuttable presumption.

Opponents of the Colorado AI Act claim that while regulation may be needed, the bill is not in the correct form. The U.S. Chamber of Commerce said that the bill may hamper small business adoption of AI and that a gap-filling approach would be better than the AI Act's broad application. Alternatively, advocates from groups like the Center for Democracy & Technology claim that the Colorado AI Act "reaffirms a 'central tenet of our civil rights laws' in establishing a discriminatory impact standard, and that it does not necessarily create new or higher standards for companies to prevent their AI decisions form being discriminatory." *A Deep Dive into Colorado's Artificial Intelligence Act*, National Association of Attorneys Generals, October 26, 2024.

2) In September of 2024, California adopted the California AI Transparency Act (SB 942), to take effect on January 1, 2026, and targeting "covered providers," defined as an entity that creates or produces a Generative AI system that has over 1 million monthly users and is publicly accessible in California. The Act's requirements only apply to image, video or audio content, and do not apply to text. Businesses that fail to comply can face a fine of up to $5,000 for each day they are in violation. Under the 2025 amendment, the law will be enforced by the California Attorney general, a city attorney, or a county counsel.

In October of 2025, Governor Newsom signed into law SB243, the companion chatbot law to the California AI Transparency Act, requiring operators to, among other things, be transparent with children that they are interacting with AI, rather than a human. Under the California law, an operator must maintain a protocol for preventing suicidal ideation, suicide, or self-harm content to users and publish protocol details on their internet website. With regard to minors, specifically, an operator must: (A) Disclose to any user the operator knows to be a minor that the

user is interacting with AI; (B) Provide notifications at least every three hours reminding them to take a break and that the companion chatbot is not human; and (C) Institute reasonable measures to prevent the companion chatbot from producing sexual material or directly stating that the minor should engage in sexually explicit conduct. HB 28 does not provide for any of these protections for minors or for adults. While it is likely that a "consequential decision" as defined in the law will be sought by an adult, there is no distinction made within the law between adult users and minor users, and no protection from suicidal ideation, suicide or self-harm content for anyone.

The California law has a private right of action with statutory damages of $1,000 per violation, along with remedies of injunctive relief and attorneys' fees and costs.

3) New Mexico's Unfair Trade Practices Act, Section 57-12-1 NMSA 1978, provides for private remedies (Section 57-12-10 NMSA 1978), a civil penalty imposed by the Attorney General (Section 57-12-11 NMSA 1978), and permits service of a civil investigative demand by the Attorney General (Section 57-12-12 NMSA 1978).

4) See *Artificial Intelligence 2025 Legislation*, National Conference of State Legislatures, July 10, 2025, for a listing of key legislation introduced nationwide related to AI issues generally.

5) There is a possibility that the federal government will ban states from imposing rules on AI companies or their clients. President Trump signed an executive order in mid-December, pressuring states not to regulate artificial intelligence, arguing that "the limited regulations already enacted by states, and others that might follow, will dampen innovation and growth for the technology." *What to know about Trump's executive order to curtail state AI regulations, Associated Press*, December 12, 2025. The executive order directs federal agencies to identify burdensome state AI regulations and threatens withholding federal funding or challenging the laws in court.

PERFORMANCE IMPLICATIONS
The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:
- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS
See "Fiscal Implications," above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS