LFC Requester:	LFC

AGENCY BILL ANALYSIS
2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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and

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{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   X   **Amendment** _____
Correction _____   **Substitute** _____

Date Prepared: 2026-01-20
Bill No: HB28

Sponsor: Chandler, Christine

Short Title: ARTIFICIAL INTELLIGENCE TRANSPARENCY ACT

Agency Name and Code Number: NMHED

Person Writing: Leakakos, Joseph

Phone: 5054128059   **Email:** joseph.leakakos@hed.nm.gov

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 28 (HB28) enacts the Artificial Intelligence Transparency Act. HB28 provides consumer protections and notifications related to the use of artificial intelligence (AI) systems when those systems are used to make consequential decisions, recourse for appeal of adverse consequential decisions, notifications before and during use of generative AI systems, authority for the New Mexico Department of Justice (NMDOJ) to enforce the provisions of HB28, and the ability for New Mexico consumers affected by the use of AI systems to bring civil action in district court.

The New Mexico Higher Education Department's (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

HB28 bill does not provide an appropriation.

SIGNIFICANT ISSUES

HB28 defines a consequential decision as "a decision that has material legal or similarly significant effect on the provision or denial to a consumer of or the cost or terms of:"

- Education enrollment
- Employment or an employment opportunity
- A financial or lending service
- Housing

- Health care service
- Insurance
- Legal service

HB28 defines a significant factor as "a decision, score, label, prediction, or recommendation generated by AI that is a basis or partial basis to make a consequential decision."

HB28 creates requires that deployers of AI systems who put into use, host, or otherwise commercialize AI systems:

- Provide notice prior to use of the AI system that the AI system will be used to generate a substantial factor or make a consequential decision
- In the case of an adverse consequential decision, notices and information regarding the primary contributing factors to the decision, the level of human oversight, an opportunity to correct any data or inputs that contributed to the decision, and an opportunity to appeal the decision
- Have a human review an appeal of an adverse consequential decision

HB28 further defines a companion product as software that uses generative AI that is capable of "generating adaptive, personalized, and emotionally resonant responses to sustain a coherent, long-term, one-on-one conversational relationship with a user." At the beginning of each interactive session with a companion product, the companion product must notify users that they are interacting with an AI system, provide the notice in a manner that is conspicuous, and present this notification at a minimum of once every 30 minutes and for a duration of no less than 30 seconds throughout the interactive session.

HB28 provides authority to the NMDOJ to enforce the provisions of HB28 along with granting consumers affected by AI systems or companion products the right to bring a civil action in district court against a deployer or the developer of an AI system or companion product for declaratory or injunctive relief and attorney fees.

HB28 has two distinct sections focusing on different AI approaches: generative AI as commonly deployed through text-chat interfaces and non-generative AI (a non-standard term used here to group alternatives to generative AI). Though these are separated in this analysis, often these system overlap or work in tandem in ways that are harder to separate in application, especially different types of non-generative AI, and this overlap could require further clarification from the language in HB28.

Generative AI, as defined by HB28, is an AI system that learns the patterns and structure of input data in order to produce new output data that has similar characteristics.

Non-generative AI is a broad umbrella that includes machine learning models that can predict numeric outputs or categories of outputs, cluster input data into unique groupings, distill complex media such as images into understandable and usable patterns, focus on explaining correlative or causal factors in input data, identify outliers and anomalies in input data, and more.

The discussion around significant factors and consequential decisions likely intends to cover a range of non-generative AI. Some of these algorithms, such as linear regression, can often be explained in the manner described in HB28. However, some algorithms are black-box algorithms where a deployer could not explain how the AI system used a consumer's specific inputs to produce the outputs leading to an adverse consequential decision. An area of study known as explainable AI focuses on this issue (https://www.ibm.com/think/topics/explainable-ai). While the intent of making sure all decisions made by AI systems are explainable and accountable, developers and deployers of these AI systems may run into limits on their ability to meet these requirements.

The section of HB28 focused on companion products requires notification that a system is an AI system and that it not represent itself as a human or misrepresent its identity, though one aspect of generative AI that has garnered attention is that it can produce human-like text. There may be tension between the desire to continually identify generative AI systems as such while experiencing them as human-like.

New Mexico public higher education institutions (HEIs) and students at HEIs interact with both forms of AI systems covered in HB28. HEIs likely deploy both forms of AI systems, making HEIs deployers and accountable to the requirements in HB28. HEIs will likely need to shift many of HB28's requirements to developers of third-party AI systems that HEIs purchase and deploy.

Researchers at HEIs may be involved in research, development, testing, and more for AI systems covered in HB28. It appears that research into these systems could be distinct from deployment, though HEIs may need further clarification on those boundaries.

HEI courses in computer science, data science, and artificial intelligence will cover some of the requirements in HB28, though in different and more technical terms. HEIs may want to broaden those courses of study to ensure that students are familiar with legal requirements they would need to account for if they move into application of these systems.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

HB28 may identify HEIs as deployers or developers of AI systems covered under this bill. In that situation, HEIs would need to account for any new requirements they do not currently meet.

HEI researchers may need to factor in HB28's requirements if they intend to produce systems that fall under development or deployment as defined in HB28.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

2025 House Bill 60 covered some of the items in HB28 however, it contained a broader scope.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

HEIs could elect to adopt some of the requirements of HB28 without formal legislation.

NMHED could provide statewide guidance for deployment and use of AI systems at HEIs under NMHED's oversight.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HEIs, students, and New Mexico citizens will engage with AI systems but without the protections introduced in HB28. Developers and deployers of AI systems would not have legal requirements as laid out in earlier sections.

AMENDMENTS

N/A