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NetChoice
Protecting Free Speech and Free Enterprise Online

Kansas SB 405, An Act concerning Artificial Intelligence

TESTIMONY IN OPPOSITION

February 9, 2026

Kansas Legislature
Senate Federal and State Affairs Committee

Dear Chair Thompson, Vice-Chair Blew, Ranking Member Goudeau and Members of the Senate Federal and State Affairs Committee:

NetChoice is a trade association of leading online businesses promoting free enterprise and free expression on the Internet. Our members include businesses of all sizes that rely on artificial intelligence technologies to serve Kansas consumers and businesses. NetChoice respectfully asks that you **oppose** the legislation as it:

> - Would ban beneficial AI applications that Kansas residents rely on daily
> - Invite trial lawyer lawsuits with punitive damages and grants courts unprecedented power to dictate how companies train AI models.

While we appreciate the Legislature's interest in ensuring AI technologies are deployed responsibly, SB 405 is fundamentally flawed legislation that would stifle innovation, harm Kansas consumers, and create an unworkable regulatory regime. The bill's prohibitions are so broad and vague that they would effectively ban most conversational AI applications, depriving Kansans of beneficial technologies while doing little to address legitimate concerns.

The Bill Bans Beneficial Technologies

The prohibitions in SB 405 would ban or severely restrict technologies that provide real value to Kansas residents. AI-powered companion apps help isolated elderly Kansans maintain cognitive engagement and social connection, yet SB 405 would ban these applications because they provide "emotional support" and "simulate" human conversation. Personal finance management tools that help everyday Kansans budget and plan for retirement would fall under the bill's prohibition on investment advisory chatbots. Healthcare applications that help patients schedule appointments or manage chronic conditions would potentially violate provisions against providing "emotional support," even when developed with oversight from licensed healthcare practitioners. The prohibition on AI that can simulate a human being would sweep in virtually any natural language processing application, from voice assistants to customer

service chatbots to educational tutors, and would interfere with robotics development and any system designed to communicate naturally with users.

The requirement that AI not "mirror interactions with another human" essentially describes any LLM with natural language capabilities. All conversational AI is designed to communicate in natural language because that is how humans prefer to interact with technology. The provision is so broad it captures the very essence of what makes AI useful to consumers.

The bill requires providers to "knowingly" avoid certain outcomes, but this standard is fundamentally unclear when applied to AI systems. Large language models generate responses based on probabilistic patterns in training data. No provider can know with certainty what every possible output will be across millions of potential conversations. Companies cannot comply with a requirement they cannot understand.

SB 405 Invites Abusive Litigation and Grants Courts Unprecedented Control Over AI Development

The bill creates a private right of action with liquidated and punitive damages. This combination will attract plaintiff's attorneys looking for settlements rather than consumers seeking genuine protection. The vague standards combined with statutory damages mean any company deploying conversational AI in Kansas faces litigation risk regardless of compliance efforts. If equitable relief is necessary, it should be limited to ceasing harmful chatbot operations, not dictating upstream training methodologies.

Perhaps even more troubling, the bill grants courts unprecedented power to order how companies train their AI models, allowing judges without technical expertise to dictate private research and development processes. This dangerous government overreach into private innovation would force companies to disclose trade secrets, create conflicting court mandates, and drive AI development out of Kansas entirely.

For these reasons, we respectfully urge this Committee to **oppose SB 405**. As always, we offer ourselves as a resource as you continue to discuss these complex issues. Thank you for your consideration of our comments.

Sincerely,

Amy Bos, Vice President Government Affairs, NetChoice[1]

NetChoice is a trade association that works to protect free expression and promote free enterprise online. .

[1] The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.