

E2SSB 5838 - H COMM AMD
By Committee on Appropriations

ADOPTED 02/29/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that artificial
4 intelligence is a fast-evolving technology that holds extraordinary
5 potential and has a myriad of uses for both the public and private
6 sectors. Advances in artificial intelligence technology have led to
7 programs that are capable of creating text, audio, and media that are
8 difficult to distinguish from media created by a human. This
9 technology has the potential to provide great benefits to people if
10 used well and to cause great harm if used irresponsibly.

11 The legislature further finds that generative artificial
12 intelligence has become widely available to consumers and has great
13 potential to become a versatile tool for a wide audience. It can
14 streamline tasks, save time and money for users, and facilitate
15 further innovation. Artificial intelligence has the potential to help
16 solve urgent challenges, while making our world more prosperous,
17 productive, innovative, and secure when used responsibly.

18 Washington state is in a unique position to become a center for
19 artificial intelligence and machine learning. When used
20 irresponsibly, artificial intelligence has the potential to further
21 perpetuate bias and harm to historically excluded groups. It is vital
22 that the fundamental rights to privacy and freedom from
23 discrimination are properly safeguarded as society explores this
24 emerging technology.

25 The federal government has not yet enacted binding regulations,
26 however in July 2023, the federal government announced voluntary
27 commitments by seven leading artificial intelligence companies,
28 including three companies headquartered in Washington, to move toward
29 safe, secure, and transparent development of artificial intelligence
30 technology. The October 2023 executive order on the safe, secure, and
31 trustworthy development and use of artificial intelligence builds on
32 this work by directing developers of artificial intelligence systems

1 to share their safety test results for certain highly capable models
2 with the United States government.

3 Numerous businesses and agencies have developed principles for
4 artificial intelligence. In Washington, Washington technology
5 solutions (WaTech) developed guiding principles for artificial
6 intelligence use by state agencies. These principles share common
7 themes: Accountability, transparency, human control, privacy and
8 security, advancing equity, and promoting innovation and economic
9 development.

10 The legislature finds that the possible impacts of advancements
11 in generative artificial intelligence for Washingtonians requires
12 careful consideration in order to mitigate risks and potential harms,
13 while promoting transparency, accountability, equity, and innovation
14 that drives technological breakthroughs. On January 30, 2024,
15 governor Inslee issued Executive Order 24-01 directing WaTech to
16 identify generative artificial intelligence initiatives that could be
17 implemented in state operations and issue guidelines for public
18 sector procurement and usage.

19 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
20 appropriated for this specific purpose, a task force to assess
21 current uses and trends and make recommendations to the legislature
22 regarding guidelines and potential legislation for the use of
23 artificial intelligence systems is established.

24 (2) The task force is composed of an executive committee
25 consisting of members as provided in this subsection.

26 (a) The president of the senate shall appoint one member from
27 each of the two largest caucuses of the senate.

28 (b) The speaker of the house of representatives shall appoint one
29 member from each of the two largest caucuses of the house of
30 representatives.

31 (c) The attorney general shall appoint the following members,
32 selecting only individuals with experience in technology policy:

33 (i) One member from the office of the governor;

34 (ii) One member from the office of the attorney general;

35 (iii) One member from Washington technology solutions;

36 (iv) One member from the Washington state auditor;

37 (v) One member representing universities or research institutions
38 that are experts in the design and effect of an algorithmic system;

39 (vi) One member representing private technology industry groups;

1 (vii) One member representing business associations;
2 (viii) Three members representing community advocate
3 organizations that represent communities that are disproportionately
4 vulnerable to being harmed by algorithmic bias;
5 (ix) One member representing the LGBTQ+ community;
6 (x) One member representing the retail industry;
7 (xi) One member representing the hospitality industry;
8 (xii) One member representing statewide labor organizations; and
9 (xiii) One member representing public safety.

10 (d) The task force may meet in person or by telephone conference
11 call, videoconference, or other similar telecommunications method, or
12 a combination of such methods.

13 (e) The executive committee may convene subcommittees to advise
14 the task force on the recommendations and findings set out in
15 subsection (4) of this section.

16 (i) The executive committee shall define the scope of activity
17 and subject matter focus required of the subcommittees including, but
18 not limited to: Education and workforce development; public safety
19 and ethics; health care and accessibility; labor; government and
20 public sector efficiency; state security and cybersecurity; consumer
21 protection and privacy; and industry and innovation.

22 (ii) Subcommittees and their members may be invited to
23 participate on an ongoing, recurring, or one-time basis.

24 (iii) The executive committee in collaboration with the attorney
25 general shall appoint members to the subcommittees that must be
26 comprised of industry participants, subject matter experts,
27 representatives of federally recognized tribes, or other relevant
28 stakeholders.

29 (iv) Each subcommittee must contain at least one member
30 possessing relevant industry expertise and at least one member from
31 an advocacy organization that represents communities that are
32 disproportionately vulnerable to being harmed by algorithmic bias
33 including, but not limited to: African American; Hispanic American;
34 Native American; Asian American; Native Hawaiian and Pacific Islander
35 communities; religious minorities; individuals with disabilities; and
36 other vulnerable communities.

37 (v) Meeting summaries and reports delivered by the subcommittees
38 to the executive committee must be made available on the attorney
39 general's website within 30 days of delivery.

1 (3) The office of the attorney general must administer and
2 provide staff support for the task force. The office of the attorney
3 general may, when deemed necessary by the task force, retain
4 consultants to provide data analysis, research, recommendations,
5 training, and other services to the task force for the purposes
6 provided in subsection (4) of this section. The office of the
7 attorney general may work with the task force to determine
8 appropriate subcommittees as needed.

9 (4) The executive committee and subcommittees of the task force
10 shall examine the development and use of artificial intelligence by
11 private and public sector entities and make recommendations to the
12 legislature regarding guidelines and potential legislation for the
13 use and regulation of artificial intelligence systems to protect
14 Washingtonians' safety, privacy, and civil and intellectual property
15 rights. The task force findings and recommendations must include:

16 (a) A literature review of public policy issues with artificial
17 intelligence, including benefits and risks to the public broadly,
18 historically excluded communities, and other identifiable groups,
19 racial equity considerations, workforce impacts, and ethical
20 concerns;

21 (b) A review of existing protections under state and federal law
22 for individual data and privacy rights, safety, civil rights, and
23 intellectual property rights, and how federal, state, and local laws
24 relating to artificial intelligence align, differ, conflict, and
25 interact across levels of government;

26 (c) A recommended set of guiding principles for artificial
27 intelligence use informed by standards established by relevant
28 bodies, including recommending a definition for ethical artificial
29 intelligence and guiding principles;

30 (d) Identification of high-risk uses of artificial intelligence,
31 including those that may negatively affect safety or fundamental
32 rights;

33 (e) Opportunities to support and promote the innovation of
34 artificial intelligence technologies through grants and incentives;

35 (f) Recommendations on appropriate uses of and limitations on the
36 use of artificial intelligence by state and local governments and the
37 private sector;

38 (g) Recommendations relating to the appropriate and legal use of
39 training data;

1 (h) Algorithmic discrimination issues which may occur when
2 artificial intelligence systems are used and contribute to
3 unjustified differential treatment or impacts disfavoring people on
4 the basis of race, color, national origin, citizen or immigration
5 status, families with children, creed, religious belief or
6 affiliation, sex, marital status, the presence of any sensory,
7 mental, or physical disability, age, honorably discharged veteran or
8 military status, sexual orientation, gender expression or gender
9 identity, or any other protected class under RCW 49.60.010 and
10 recommendations to mitigate and protect against algorithmic
11 discrimination;

12 (i) Recommendations on minimizing unlawful discriminatory or
13 biased outputs or applications;

14 (j) Recommendations on prioritizing transparency so that the
15 behavior and functional components artificial intelligence can be
16 understood in order to enable the identification of performance
17 issues, safety and privacy concerns, biases, exclusionary practices,
18 and unintended outcomes;

19 (k) Racial equity issues posed by artificial intelligence systems
20 and ways to mitigate the concerns to build equity into the systems;

21 (l) Civil liberties issues posed by artificial intelligence
22 systems and civil rights and civil liberties protections to be
23 incorporated into artificial intelligence systems;

24 (m) Recommendations as to how the state should educate the public
25 on the development and use of artificial intelligence, including
26 information about data privacy and security, data collection and
27 retention practices, use of individual data in machine learning, and
28 intellectual property considerations regarding generative artificial
29 intelligence;

30 (n) A review of protections of personhood, including replicas of
31 voice or likeness, in typical contract structures, and a review of
32 artificial intelligence tools used to support employment decisions;

33 (o) Proposed state guidelines for the use of artificial
34 intelligence to inform the development, deployment, and use of
35 artificial intelligence systems to:

36 (i) Retain appropriate human agency and oversight;

37 (ii) Be subject to internal and external security testing of
38 systems before public release for high-risk artificial intelligence
39 systems;

40 (iii) Protect data privacy and security;

1 (iv) Promote appropriate transparency for consumers when they
2 interact with artificial intelligence systems or products created by
3 artificial intelligence; and

4 (v) Ensure accountability, considering oversight, impact
5 assessment, auditability, and due diligence mechanisms;

6 (p) A review of existing civil and criminal remedies for
7 addressing potential harms resulting from the use of artificial
8 intelligence systems and recommendations, if needed, for new means of
9 enforcement and remedies; and

10 (q) Recommendations for establishing an ongoing committee that
11 must study emerging technologies not limited to artificial
12 technology.

13 (5) The executive committee of the task force must hold its first
14 meeting within 45 days of final appointments to the task force and
15 must meet at least twice each year thereafter. The task force must
16 submit reports to the governor and the appropriate committees of the
17 legislature detailing its findings and recommendations. A preliminary
18 report must be delivered by December 31, 2024, an interim report by
19 December 1, 2025, and a final report by July 1, 2026. Meeting
20 summaries must be posted to the website of the attorney general's
21 office within 30 days of any meeting by the task force.

22 (6) Legislative members of the task force shall be reimbursed for
23 travel expenses in accordance with RCW 44.04.120. Nonlegislative
24 members are not entitled to be reimbursed for travel expenses if they
25 are elected officials or are participating on behalf of an employer,
26 governmental entity, or other organization. Any reimbursement for
27 other nonlegislative members is subject to chapter 43.03 RCW.

28 (7) To ensure that the task force has diverse and inclusive
29 representation of those affected by its work, task force members,
30 including subcommittee members, whose participation in the task force
31 may be hampered by financial hardship and may be compensated as
32 provided in RCW 43.03.220.

33 (8) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Artificial intelligence" means the use of machine learning
36 and related technologies that use data to train statistical models
37 for the purpose of enabling computer systems to perform tasks
38 normally associated with human intelligence or perception, such as
39 computer vision, speech or natural language processing, and content
40 generation.

1 (b) "Generative artificial intelligence" means an artificial
2 intelligence system that generates novel data or content based on a
3 foundation model.

4 (c) "Machine learning" means the process by which artificial
5 intelligence is developed using data and algorithms to draw
6 inferences therefrom to automatically adapt or improve its accuracy
7 without explicit programming.

8 (d) "Training data" means labeled data that is used to teach
9 artificial intelligence models or machine learning algorithms to make
10 proper decisions. Training data may include, but is not limited to,
11 annotated text, images, video, or audio.

12 (9) This section expires June 30, 2027.

13 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect immediately."

17 Correct the title.

EFFECT: (1) Modifies the membership of the task force to also
require: (a) One member representing private technology industry
groups and one member representing business associations; (b) one
member representing the LGBTQ+ community; (c) one member from the
retail industry; (d) one member from the hospitality industry; and
(e) three members, instead of one member, representing community
advocate organizations that represent communities disproportionately
vulnerable to being harmed by algorithmic bias.

(2) Expands the findings and recommendations the task force must
make, including findings and recommendations related to: Ethical
artificial intelligence; algorithmic discrimination issues;
minimizing biased outputs or applications; prioritizing transparency;
data privacy, security, collection, and retention practices; existing
remedies for addressing identified potential harms and new means of
enforcement and remedies if needed; and establishing an ongoing
committee.

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