S-4148.2

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**SUBSTITUTE SENATE BILL 5838**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Nguyen, Conway, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Lovick, Muzzall, Nobles, Saldaña, Salomon, Stanford, Torres, Valdez, and Wellman; by request of Attorney General)

AN ACT Relating to establishing an artificial intelligence task force; creating new sections; providing an expiration date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

However, when used irresponsibly, artificial intelligence has the potential to further perpetuate bias and harm to historically excluded groups, as demonstrated by previous innovations like facial recognition technology. It is vital that the fundamental rights to privacy and freedom from discrimination are properly safeguarded as society explores this emerging technology.

The federal government has not yet enacted meaningful regulations or oversight into generative artificial intelligence and to date the industry has self-regulated. In July 2023, the federal government announced voluntary commitments by seven leading artificial intelligence companies, including three companies headquartered in Washington, to move toward safe, secure, and transparent development of artificial intelligence technology. The October 2023 executive order on the safe, secure, and trustworthy development and use of artificial intelligence builds on this work by directing developers of artificial intelligence systems to share their safety test results with the United States government.

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

The legislature finds that the possible impacts of advancements of generative artificial intelligences on Washingtonians require careful consideration in order to promote transparency, accountability, equity, and innovation, and to mitigate risks and potential harms.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, a task force to assess current uses and trends and make recommendations to the legislature regarding standards for the use and regulation of artificial intelligence systems is established.

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

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

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

(c) The following members must be appointed by the attorney general:

(i) One member representing the office of the governor;

(ii) One member representing the office of the attorney general;

(iii) One member representing Washington technology solutions;

(iv) One member representing the Washington state auditor; and

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

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

(e) The office of the attorney general may convene subcommittees to advise the task force on designated topics of concern including, but not limited to: Commerce; labor; education; law enforcement; and health care.

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

(ii) Subcommittees may be comprised of nonmember industry participants, subject matter experts, representatives of federally recognized tribes, or other relevant stakeholders.

(iii) Each subcommittee must contain at least one member from an advocacy organization that represents communities that are disproportionately vulnerable to being harmed by algorithmic bias including, but not limited to: African American; Hispanic American; Native American; Asian American; Native Hawaiian and Pacific Islander communities; religious minorities; individuals with disabilities; and other vulnerable communities.

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

(4) The executive committee of the task force shall examine the development and use of artificial intelligence by private and public sector entities and make recommendations to the legislature regarding standards for the use and regulation of artificial intelligence systems to protect Washingtonians' safety, privacy, and civil and intellectual property rights. The task force findings and recommendations must include:

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

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

(c) A recommended set of guiding principles for artificial intelligence use;

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

(e) Opportunities to support and protect the innovation of artificial intelligence technologies;

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

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

(h) Civil liberties issues posed by artificial intelligence systems and civil rights and civil liberties protections to be incorporated into artificial intelligence systems;

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

(j) Proposed state regulatory structures for the use of artificial intelligence to require the development, deployment, and use of artificial intelligence systems to:

(i) Retain appropriate human agency and oversight;

(ii) Be subject to internal and external security testing of systems before public release;

(iii) Protect data privacy and security;

(iv) Ensure transparency so that consumers are informed when they interact with artificial intelligence systems or products created by artificial intelligence; and

(v) Ensure accountability, including oversight, impact assessment, auditability, and due diligence mechanisms.

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

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

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

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

(a) "Artificial intelligence" means technologies that enable machines, particularly computer software, to simulate human intelligence.

(b) "Generative artificial intelligence" means technology that can mimic human ability to learn patterns from substantial amounts of data and create content based on the underlying training data, guided by a user or prompt.

(c) "Machine learning" means a process by which an artificial intelligence is fed significant volumes of data allowing the artificial intelligence to learn and adapt without following explicit instructions from a developer.

(8) This section expires June 30, 2027.

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

**--- END ---**