CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5838

Chapter 163, Laws of 2024

68th Legislature
2024 Regular Session

ARTIFICIAL INTELLIGENCE TASK FORCE

EFFECTIVE DATE: March 18, 2024

Passed by the Senate March 4, 2024
  Yeas 30 Nays 19

DENNY HECK

President of the Senate

Passed by the House February 29, 2024
  Yeas 68 Nays 28

LAURIE JINKINS

Speaker of the House of Representatives

Approved March 18, 2024 3:31 PM

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5838** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 19, 2024

JAY INSLEE

Governor of the State of Washington

**Secretary of State
State of Washington**

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington   68th Legislature   2024 Regular Session

By Senate Ways & Means (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)

READ FIRST TIME 02/05/24.

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

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

5   NEW SECTION. **Sec. 1.** The legislature finds that artificial
6 intelligence is a fast-evolving technology that holds extraordinary
7 potential and has a myriad of uses for both the public and private
8 sectors. Advances in artificial intelligence technology have led to
9 programs that are capable of creating text, audio, and media that are
10 difficult to distinguish from media created by a human. This
11 technology has the potential to provide great benefits to people if
12 used well and to cause great harm if used irresponsibly.
13   The legislature further finds that generative artificial
14 intelligence has become widely available to consumers and has great
15 potential to become a versatile tool for a wide audience. It can
16 streamline tasks, save time and money for users, and facilitate
17 further innovation. Artificial intelligence has the potential to help
18 solve urgent challenges, while making our world more prosperous,
19 productive, innovative, and secure when used responsibly.
20   Washington state is in a unique position to become a center for
21 artificial intelligence and machine learning. When used

1 irresponsibly, artificial intelligence has the potential to further
2 perpetuate bias and harm to historically excluded groups. It is vital
3 that the fundamental rights to privacy and freedom from
4 discrimination are properly safeguarded as society explores this
5 emerging technology.

6   The federal government has not yet enacted binding regulations,
7 however in July 2023, the federal government announced voluntary
8 commitments by seven leading artificial intelligence companies,
9 including three companies headquartered in Washington, to move toward
10 safe, secure, and transparent development of artificial intelligence
11 technology. The October 2023 executive order on the safe, secure, and
12 trustworthy development and use of artificial intelligence builds on
13 this work by directing developers of artificial intelligence systems
14 to share their safety test results for certain highly capable models
15 with the United States government.

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

23   The legislature finds that the possible impacts of advancements
24 in generative artificial intelligence for Washingtonians requires
25 careful consideration in order to mitigate risks and potential harms,
26 while promoting transparency, accountability, equity, and innovation
27 that drives technological breakthroughs. On January 30, 2024,
28 governor Inslee issued Executive Order 24-01 directing WaTech to
29 identify generative artificial intelligence initiatives that could be
30 implemented in state operations and issue guidelines for public
31 sector procurement and usage.

32   NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
33 appropriated for this specific purpose, a task force to assess
34 current uses and trends and make recommendations to the legislature
35 regarding guidelines and potential legislation for the use of
36 artificial intelligence systems is established.
37   (2) The task force is composed of an executive committee
38 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 attorney general shall appoint the following members, selecting only individuals with experience in technology policy:

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

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

(iii) One member from Washington technology solutions;

(iv) One member from the Washington state auditor;

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

(vi) One member representing private technology industry groups;

(vii) One member representing business associations;

(viii) Three members representing community advocate organizations that represent communities that are disproportionately vulnerable to being harmed by algorithmic bias;

(ix) One member representing the LGBTQ+ community;

(x) One member representing the retail industry;

(xi) One member representing the hospitality industry;

(xii) One member representing statewide labor organizations; and

(xiii) One member representing public safety.

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

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

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

(iii) The executive committee in collaboration with the attorney general shall appoint members to the subcommittees that must be comprised of industry participants, subject matter experts,

1 representatives of federally recognized tribes, or other relevant
2 stakeholders.
3 (iv) Each subcommittee must contain at least one member
4 possessing relevant industry expertise and at least one member from
5 an advocacy organization that represents communities that are
6 disproportionately vulnerable to being harmed by algorithmic bias
7 including, but not limited to: African American; Hispanic American;
8 Native American; Asian American; Native Hawaiian and Pacific Islander
9 communities; religious minorities; individuals with disabilities; and
10 other vulnerable communities.
11 (v) Meeting summaries and reports delivered by the subcommittees
12 to the executive committee must be made available on the attorney
13 general's website within 30 days of delivery.
14 (3) The office of the attorney general must administer and
15 provide staff support for the task force. The office of the attorney
16 general may, when deemed necessary by the task force, retain
17 consultants to provide data analysis, research, recommendations,
18 training, and other services to the task force for the purposes
19 provided in subsection (4) of this section. The office of the
20 attorney general may work with the task force to determine
21 appropriate subcommittees as needed.
22 (4) The executive committee and subcommittees of the task force
23 shall examine the development and use of artificial intelligence by
24 private and public sector entities and make recommendations to the
25 legislature regarding guidelines and potential legislation for the
26 use and regulation of artificial intelligence systems to protect
27 Washingtonians' safety, privacy, and civil and intellectual property
28 rights. The task force findings and recommendations must include:
29 (a) A literature review of public policy issues with artificial
30 intelligence, including benefits and risks to the public broadly,
31 historically excluded communities, and other identifiable groups,
32 racial equity considerations, workforce impacts, and ethical
33 concerns;
34 (b) A review of existing protections under state and federal law
35 for individual data and privacy rights, safety, civil rights, and
36 intellectual property rights, and how federal, state, and local laws
37 relating to artificial intelligence align, differ, conflict, and
38 interact across levels of government;
39 (c) A recommended set of guiding principles for artificial
40 intelligence use informed by standards established by relevant

bodies, including recommending a definition for ethical artificial
intelligence and guiding principles;

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

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

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

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

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

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

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

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

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

(m) 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;

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

(o) Proposed state guidelines for the use of artificial
intelligence to inform 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 for high-risk artificial intelligence
systems;

(iii) Protect data privacy and security;

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

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

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

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

(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
December 1, 2025, and a final report by July 1, 2026. 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.

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

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

8   (a) "Artificial intelligence" means the use of machine learning
9   and related technologies that use data to train statistical models
10 for the purpose of enabling computer systems to perform tasks
11 normally associated with human intelligence or perception, such as
12 computer vision, speech or natural language processing, and content
13 generation.

14 (b) "Generative artificial intelligence" means an artificial
15 intelligence system that generates novel data or content based on a
16 foundation model.

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

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

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

26 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect immediately.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

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