California at the Forefront:
Steering AI Towards Ethical Horizons

February 21, 2024
9:30 a.m.
Suite 1200, 1021 O Street

JOINT INFORMATIONAL HEARING
SENATE GOVERNMENTAL ORGANIZATION COMMITTEE &
SENATE BUDGET AND FISCAL REVIEW SUBCOMMITTEE No. 4
ON STATE ADMINISTRATION AND GENERAL GOVERNMENT

Artificial intelligence (AI) has emerged as a significant technological advancement, particularly in California, which is a global leader in innovation and AI development boasting 35 of the world's top 50 AI firms and holding a remarkable share in AI-related patents, scholarly articles, and corporate ventures worldwide. This quickly developing technology is transforming industries and our daily experience, showcasing its wide-ranging impact and potential.

However, with the growth and integration of AI come significant challenges and risks. Just as humans have explicit and implicit biases built into our society, AI has the capacity to reflect and amplify these when implemented without proper guardrails and safety assurances. Further, AI poses risks both from bad actors using the technology to cause harm as well as from unintended, emergent capabilities of AI that can be misused.

To address these accelerating advancements and utilization of AI in state government, Governor Gavin Newsom signed Executive Order (EO) N-12-23 in September of 2023. To capture the benefits of AI for the good of society, and to protect against potential harms, the EO provides the framework for California's approach focusing on shaping the future of ethical, transparent, and trustworthy AI, while remaining the world's AI leader. Given the quickly changing technological environment, California must now grapple with how to utilize new technologies while remaining steadfast in assuring the ethical application and use of these tools in the public sector.

2023-24 Artificial Intelligence Legislation

SB 313 (Dodd) – Office of Artificial Intelligence. This bill would have established the Office of Artificial Intelligence, within CDT, with the power and authority necessary to guide the design, use, and deployment of automated systems by a state agency, as specified. (Held on the Senate Appropriations Committee Suspense File)

SB 398 (Wahab) – Department of Technology: advanced technology research. This bill would have required CDT to develop and implement a comprehensive research plan to study the feasibility of using advanced technology to improve state and local government services. (Never heard in the Senate Governmental Organization Committee)

SB 721 (Becker) – California Interagency AI Working Group. This bill creates the California Interagency Working Group to deliver a report to the Legislature regarding artificial intelligence, as specified. (Pending in the Assembly Privacy and Consumer Protection Committee)

SB 892 (Padilla) – Public Contracts: artificial intelligence services. This bill requires CDT to establish safety, privacy, and nondiscrimination standards relating to AI services and prohibits a contract for AI services from being entered into by the state unless the provider meets those standards, as specified. (Pending in the Senate Governmental Organization Committee)

SB 893 (Padilla) – California Artificial Intelligence Research Hub. This bill requires GovOps, the Governor's Office of Business and Economic Development, and CDT to collaborate to establish the California Artificial Intelligence Research Hub to serve as a centralized entity to facilitate collaboration between government agencies, academic institutions, and private sector partners to advance AI research and development that seeks to harness the technology's full potential for public benefit while safeguarding privacy, advancing security, and addressing risks and potential harms to society, as specified. (Pending in the Senate Governmental Organization Committee)

SB 896 (Dodd) – Artificial Intelligence Accountability Act. This bill codifies much of EO N-12-23 ensuring state agencies advance safeguards and consumer protections around AI including notification requirements and the evaluation of automated decision-making systems being utilized by a state agency or department for risk potential prior to adoption. (Pending in the Senate Governmental Organization Committee Committee)

SB 933 (Wahab and Ochoa Bogh) – Crimes: child pornography. This bill, for the purposes of existing crime provisions, includes an image generated through the use of AI as a computer-generated image. (Pending referral in the Senate)

SB 942 (Becker) – Consumer Protection: generative artificial intelligence. This bill states the intent of the Legislature to enact legislation that would establish a mechanism to allow consumers to easily determine whether images, audio, video, or text was created by generative AI. (Pending referral in the Senate)

SB 970 (Ashby) – Artificial Intelligence Technology. This bill defines various terms related to AI and synthetic voice, video, and image recordings produced by AI, and clarifies that use of such synthetic recordings, as specified, is deemed to be a false personation for purposes of these and other criminal provisions. Additionally, this bill requires the Judicial Council to develop and implement screening procedures for these types of recordings that are introduced as evidence, to identify those that are synthetic. (Pending referral in the Senate)

SB 1047 (Wiener) – Safe and Secure Innovation for Frontier Artificial Intelligence Systems Act. This bill enacts the Safe and Secure Innovation for Frontier AI Systems Act to, among other things, require a developer of a covered model, as defined, to determine whether it can make a positive safety determination with respect to a covered model before initiating training of that covered model, as specified. Additionally, this bill creates the Frontier Model Division within CDT. (Pending referral in the Senate)

SB 1070 (Padilla) – State Government: obtaining expertise. This bill would state the intent of the Legislature to subsequently amend the bill to support the state's efforts in meeting the challenges posed by specified urgent and critical issues, to strengthen the exchange of expertise and research between the state and its world-leading institutions of higher education to advance the state's global leadership in technology and innovation, and to partner with the state's world-leading institutions of higher education to identify solutions to responsibly spur innovation, support the state workforce, and improve the lives of all Californians. (Pending referral in the Senate)

SB 1120 (Becker) – Health Care Coverage: utilization review. This bill requires a health care service plan or health insurer to ensure that a licensed physician supervises the use of AI decisionmaking tools when those tools are used to inform decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to enrollees or insureds. (Pending referral in the Senate)

SB 1229 (Nguyen) – Insurance Disclosures. This bill requires a property and casualty insurer to disclose to an applicant or insured when it has used AI to make decisions on, or make decisions that affect, applications and claims review, as specified. (Pending referral in the Senate)

SB 1235 (Gonzalez) – Public Postsecondary Education: AI and Deepfake Working Group. This bill establishes the AI Deepfake Working Group, within a public institution of higher education, to evaluate and advise the Legislature and the public on the relevant issues and impacts of AI and deepfakes, as specified. (Pending referral in the Senate)

SB 1288 (Becker) – Public Schools: AI working group. This bill requires the Superintendent of Public Instruction, in consultation with the State Board of Education, to convene a working group for the purpose of evaluating AI-enabled teaching and learning practices, as specified. (Pending referral in the Senate)

SCR 17 (Dodd, Resolutions Chapter 135, Statutes of 2023) – Artificial Intelligence. Affirms the California Legislature's commitment to President Biden's vision for a safe AI and the principals outlined in the "Blueprint for an AI Bill of Rights" and expresses the Legislature's commitment to examining and implementing those principals in its legislation and policies related to the use and deployment of automated systems.

AB 302 (Ward, Chapter 800, Statutes of 2023) – Department of Technology: high-risk automated decision systems. Requires CDT, in coordination with other interagency bodies, to conduct a comprehensive inventory of all high-risk automated decision systems that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, state agencies.

AB 331 (Bauer-Kahan) – Automated Decision Tools. This bill would have prohibited "algorithmic discrimination," which is the use of an automated decision tool to contribute to unjustified differential treatment or outcomes that may have a significant effect on a person's life. (Held on the Assembly Appropriations Committee Suspense File)

AB 459 (Kalra) – Contracts Against Public Policy: personal or professional services: digital replicas. This bill provides that any agreement that includes a clause allowing the use of a person's digital likeness or voice for AI training, or as a replacement for their work, is against public policy and is considered unfair. It would apply to past and future agreements, and requires that individuals under such agreements be informed in writing by February 1, 2024, that these clauses are not enforceable. (Pending in the Assembly Rules Committee)

AB 642 (Ting) – Law Enforcement Agencies: facial recognition technology. This bill would have set minimum standards for the use of facial recognition technology by law enforcement agencies, as specified. (Held on the Assembly Appropriations Committee Suspense File)

AB 1791 (Weber) – Artificial Intelligence: technical open standards and content credentials. This bill declares the intent of the Legislature to subsequently amend this bill to include provisions that would require California-based companies that are in the business of generative AI to implement the Coalition for Content Provenance and Authenticity's technical open standard and content credentials into their tools and platforms. (Pending referral in the Assembly)

AB 1824 (Valencia) – Artificial Intelligence: disclosure. This bill states the intent of the Legislature to enact legislation that would create a disclosure requirement for content generated through AI. (Pending referral in the Assembly)

AB 1836 (Bauer-Kahan) – Intellectual Property: use of likeness: digital replica. This bill establishes a cause of action by the person or persons controlling the rights for the unauthorized production, distribution, or availability of a digital replica, as defined, of a deceased personality in an audiovisual work or sound recording, as specified. (Pending referral in the Assembly)

AB 1873 (Sanchez) – Sexual Exploitation of a Child. This bill makes a person guilty of a misdemeanor or felony if the person knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, generated using AI, that depicts a person under the age of 18 years engaged in an act of sexual conduct, as specified. (Pending referral in the Assembly)

AB 2013 (Irwin) – Artificial Intelligence Training Data Transparency. This bill requires a developer of an AI system or service, made available to Californians for use, to post on the developer's internet website documentation regarding the data used to train the AI system or service, as specified. (Pending referral in the Assembly)

AB 2058 (Weber) – Automated Decision Systems. This bill states the intent of the Legislature to enact legislation relating to commercial algorithms and AI-enabled medical devices. (Pending referral in the Assembly)

AB 2355 (W. Carrillo) – Political Advertisements: artificial intelligence. This bill requires a person, committee, or other entity that creates, originally publishes, or originally distributes a qualified political advertisement to include in the advertisement a specified disclosure that the advertisement was generated, in whole or in part, using AI. (Pending referral in the Assembly)

AB 2370 (Cervantes) – Artificial Intelligence. This bill prohibits AI from being used to replace community college faculty for purposes of providing academic instruction to, and regular interaction with, students in a course of instruction, and would authorize AI to only be used as a peripheral tool to support faculty in carrying out those tasks for uses such as course development, assessment, and tutoring. (Pending referral in the Assembly)

AB 2602 (Kalra, Bryan, and Friedman) – Contracts Against Public Policy: personal or professional services: digital replicas. This bill provides that a provision in an agreement between an individual and any other person for the performance of personal or professional services is contrary to public policy and deemed unconscionable if the provision meets specified conditions relating to the use of a digital replica of the voice or likeness of an individual in lieu of the work of the individual or to train a generative AI system. This bill specifies that it would apply retroactively. (Pending referral in the Assembly)

AB 2652 (Muratsuchi) – State Department of Education: AI working group. This bill requires the Superintendent of Public Instruction, in consultation with the State Board of Education, to convene a working group for the purpose of exploring how AI and other forms of similarly advanced technology are currently being used in education, identifying how they may be used in future, and developing best practices to ensure that those technologies advance, rather than harm, educational quality, pupil critical thinking and writing skills, and the essential work of certificated and classified employees. (Pending referral in the Senate)

AB 2811 (Lowenthal) – Artificial Intelligence: legal professionals. This bill expresses the intent of the Legislature to enact Legislation that would require legal professionals to disclose to the court whether they have used AI or machine learning to prepare any pleadings, motions, or other documents filed with any court in this state. (Pending referral in the Assembly)

AB 2885 (Bauer-Kahan) – Artificial Intelligence. This bill states the intent of the Legislature to enact legislation to define the term "artificial intelligence." (Pending referral in the Assembly)

AB 2839 (Pellerin) – Elections: deceptive media in advertisements. This bill prohibits a person, committee, or other entity from knowingly distributing an advertisement or other election communication that contains materially deceptive and digitally altered or digitally created images or audio or video files with the intent to influence an election or solicit funds for a candidate or campaign, as specified. (Pending referral in the Assembly)

AB 2930 (Bauer-Kahan) – Automated Decision Tools. This bill, among other things, requires a deployer and a developer of an automated decision tool to perform an impact assessment for any automated decision tool the deployer uses that includes, among other things, a statement of the purpose of the automated decision tool and its intended benefits, uses, and deployment contexts. (Pending referral in the Assembly)

AB 3050 (Low) – Artificial Intelligence. This bill requires the California Department of Technology to issue regulations to establish standards for watermarks to be included in covered AI-generated material, as defined. This bill also provides that an AI-generating entity or individual that creates a deepfake using a person's name, voice, signature, photograph, or likeness, in any manner, without permission from the person being depicted in the deepfake, is liable for the actual damages suffered by the person or persons as a result of the unauthorized use. (Pending referral in the Assembly)

AB 3058 (Low) – Universal Basic Income: employment replaced by AI. This bill states that it is the intent of the Legislature to enact legislation to promote economic security and stability for California residents by creating a universal basic income program from residents whose employment is replaced by AI. (Pending referral in the Assembly)

AB 3095 (Waldron) – Artificial Intelligence. This bill declares the intent of the Legislature to enact legislation relating to AI. (Pending referral in the Assembly)

AB 3204 (Bauer-Kahan) – Data Digesters. This bill requires data digesters to register with the California Privacy Protection Agency, pay a registration fee, and provide specified information, prescribes penalties for failure to register as required, requires the agency to create a page on its internet website where this registration information is accessible to the public, and creates the Data Digester Registry Fund to be available for expenditure by the agency to offset the reasonable costs of establishing and maintaining the informational website and the costs incurred by state courts and the agency in connection with enforcement. (Pending referral in the Assembly)

ACR 96 (Hoover) – 23 Asilomar AI Principles. This measure expresses the support of the Legislature for the 23 Asilomar AI Principles as guiding development of AI and of related public policy. (Pending in the Senate Judiciary Committee)

AJR 6 (Essayli) – Artificial Intelligence. This measure would urge the United States government to impose an immediate moratorium on the training of AI systems more powerful than GPT-4 for at least six months to allow time to develop much-needed AI governance systems. (Pending in the Assembly Privacy and Consumer Protection Committee)