



OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

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Written Testimony of
DOUGLAS MURDOCK
Chief Information Officer
Enterprise Technology Services

Before the
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION AND THE
COMMITTEE ON LABOR AND TECHNOLOGY
THURSDAY, FEBRUARY 15, 2024

SENATE BILL 2572
RELATING TO ARTIFICIAL INTELLIGENCE

Dear Chairs Keohokalole and Aquino, Vice Chairs Fukunaga and Moriwaki, and members of the committees:

The Office of Enterprise Technology Services (ETS) **opposes** this bill that prohibits the deployment of artificial intelligence (AI) products in the State unless affirmative proof establishing the product's safety is submitted to the new Office of Artificial Intelligence Safety and Regulation within the Department of Commerce and Consumer Affairs.

First, the broad definition of AI contained in this bill could stop many uses that state government, citizens and businesses are already using that are low risk. Some forms of AI have been in use for decades and do not need regulation. Discussion around AI risk is mostly about Generative AI or Artificial General Intelligence. At a minimum, the bill should be limited to GenAI and AGI. We recommend you allow the agency to determine what to regulate.

Second, AI is already widely used and embedded in everyday items such as smart phones, cars, and appliances, on web browsers and web sites such as Microsoft, Google and Zoom, and by almost every industry including banking, transportation, and services. Companies are racing to include more Generative AI in every product or service they offer. Regulation may be appropriate in some situations, but it will take years to catch up to existing use.

Finally, the regulatory process is bound to be very slow and there are not enough qualified AI experts to staff this new office. AI deployment will be changing constantly. Any filing with the agency will need to be updated daily or weekly or monthly.

ETS believes it would be better to require anyone deploying GenAI or AGI to submit their internal controls and governance process for review and to create strict liability for anyone distributing AI products that cause harm.

Our preference would be to revise this Senate bill to reflect the House companion bill HB2176 HD1. (See below)

A BILL FOR AN ACT

RELATING TO ARTIFICIAL INTELLIGENCE.

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

- 1 SECTION 1. (a) There is established an artificial
2 intelligence working group in the office of enterprise
3 technology services to develop acceptable use policies and
4 guidelines for the regulation, development, deployment, and use
5 of artificial technologies in the State.
- 6 (b) The working group shall consist of the following
7 members or their designees:
- 8 (1) The chief information officer of the office of
9 enterprise technology services, who shall serve as
10 chair of the working group;
- 11 (2) The chief data officer of the office of enterprise
12 technology services;
- 13 (3) The director of commerce and consumer affairs;
- 14 (4) The director of the office of planning and sustainable
15 development;
- 16 (5) The chief energy officer of the Hawaii state energy
17 office;



- 1 (6) The president of the university of Hawaii;
- 2 (7) Three members from the public or private sector, to be
3 appointed by the president of the senate; and
- 4 (8) Three members from the public or private sector, to be
5 appointed by the speaker of the house of
6 representatives.
- 7 (c) The chair of the working group shall invite the
8 following individuals to become members of the working group:
- 9 (1) Representatives of the healthcare industry; and
10 (2) Representatives of the travel industry.
- 11 (d) The working group shall:
- 12 (1) Develop acceptable use policies and guidelines for the
13 regulation, development, deployment, and use of
14 artificial technologies in the State;
- 15 (2) Work in conjunction with developments surrounding
16 federal artificial intelligence regulation;
- 17 (3) Ensure safe, secure, and trustworthy artificial
18 intelligence innovation;
- 19 (4) Identify and assess existing and potential risks
20 associated with the development, deployment, and use
21 of artificial intelligence systems and applications;

2024-1053 HB2176 HD1 HMSO



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Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
and
Committee on Labor and Technology
Thursday, February 15, 2024
9:35 a.m.

State Capitol, Conference Room 229 and via videoconference

On the following measure:
S.B. 2572, RELATING TO ARTIFICIAL INTELLIGENCE

Chairs Keohokalole and Aquino, Vice Chairs Fukunaga and Moriwaki, and Members of the Committees:

My name is Nadine Ando, and I am the Director of the Department of Commerce and Consumer Affairs (Department). The Department respectfully opposes the intent of this bill insofar as placement of the proposed new office within the Department.

The purpose of this bill is to (1) establish the Office of Artificial Intelligence (AI) Safety and Regulation within the Department of Commerce and Consumer Affairs to regulate the development deployment and use of AI technologies in the State; (2) prohibit the deployment of AI products in the State unless affirmative proof establishing the product's safety is submitted to the Office; and (3) makes an appropriation.

While the goal of ensuring responsible development and deployment of AI technologies is laudable, the Department lacks the necessary expertise to effectively oversee this emerging, and complex field.

The rapid evolution of AI technologies requires regulatory oversight from a body with a deep understanding of the technical intricacies and potential implications of these innovations. While the Department is competent in its current areas of jurisdiction, it does not possess the specialized knowledge and expertise needed to regulate the diverse and rapidly advancing field of AI.

The Department would like to urge the committee to consider placing this responsibility within an entity better equipped to handle the unique challenges posed by AI technology. The Office of Enterprise Technology Services (ETS) may serve as a more suitable choice due to its existing focus on providing technology services and solutions for State agencies.

In conclusion, while recognizing the importance of AI regulation, I urge the Committee to reconsider the placement of the proposed Office of Artificial Intelligence Safety and Regulation. Placing this responsibility within the Hawaii Office of Enterprise Services, rather than the Department, will better align with the State's goals and ensure that the regulatory framework is well-informed and adaptable to the ever-changing field.

Thank you for the opportunity to testify on the bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2572, RELATING TO ARTIFICIAL INTELLIGENCE.

BEFORE THE:

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON
LABOR AND TECHNOLOGY

DATE: Thursday, February 15, 2024 **TIME:** 9:35 a.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Christopher T. Han or Bryan C. Yee, Deputy Attorneys General

Chairs Keohokalole and Aquino and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

This bill amends the Hawaii Revised Statutes by adding a new chapter entitled "Artificial Intelligence Safety and Regulation." The new chapter establishes the Office of Artificial Intelligence Safety and Regulation (Office) within the Department of Commerce and Consumer Affairs to regulate the development, deployment, and use of artificial intelligence technologies in the State, while encouraging innovation and advancement of artificial intelligence development. The bill also makes an appropriation to establish the new office.

Among the proposed regulations in the chapter is one that prohibits the deployment of artificial intelligence products in the State unless proof of the product's safety is submitted to the Office. See section -4 at page 4, lines 13-17.

We recommend clarifying revisions to:

- (1) Add a definition of the term "safe" in section -3, at page 4, line 13;
- (2) Explicitly declare that artificial intelligence products require written approval from the Office in section -4 on page 4, lines 13-17;
- (3) Explicitly authorize the Office to make these approvals on page 5, line 19;

(4) Delete a sentence in section -14, at page 9, lines 4-7, to allow the Office to consider multiple factors rather than increase the burden of proof in undefinable cases of high risk; and

(5) Correct a typographical error on page 10, line 21.

Specifically, we recommend the following:

In section -3 on page 3, line 13, to page 4, line 12: add a definition of "safe" as follows: "Safe" means a determination that considers the level of risk, the level of harm, the potential benefits, and such other facts as the office may prescribe by rule."

In section -4 on page 4, lines 13-17: amend the section as follows: "~~No~~ Notwithstanding any other provision to the contrary in this chapter, no person shall deploy artificial intelligence products in the State without ~~submitting to~~ written approval from the office ~~[affirmative proof establishing]~~ determining the product's safety."

In section -13 on page 5, line 19: insert an additional paragraph as paragraph (1) and renumber the subsequent paragraphs: "(1) Approve artificial intelligence products as safe, considering the level of risk, the level of harm, the potential benefits, and such other factors as the office may prescribe by rule;".

In section -14(a)(2) on page 9, lines 4-7: Delete the following sentence: "~~[A developer of an artificial intelligence product deemed by the office to have a higher potential risk shall have a higher burden of proof to demonstrate the safety of the product before deployment.]~~"

In section -14(e) on page 10, line 21, the wording appears to be an incomplete sentence and should be deleted, or otherwise corrected if missing wording can be added: "~~[and rules by bringing civil actions or proceedings.]~~"

Thank you for the opportunity to offer comments.



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 13, 2024

Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection
Hawai'i State Capitol, Room 205
Honolulu, HI

Senator Henry Aquino
Chair, Committee on Labor and Technology
Hawai'i State Capitol, Room 204
Honolulu, HI

RE: SB 2572 (Gabbard) Artificial Intelligence - Concerns

Dear Chair Keohokalole, Chair Aquino and Members of the Committee,

TechNet has concerns with bill SB 2572, which would effectively require companies to obtain government approval before deploying artificial intelligence systems in the state.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

Our members are concerned about the requirement that companies submit affirmative proof to the state establishing their artificial intelligence system's safety and potential unintended consequences. First, the definition of artificial intelligence could include many low-risk use cases that are already in use and have been for years, including chat bots, product recommendations, and spam filters. It's also unclear what would constitute "affirmative proof".

The bill also vests a tremendous amount of authority in the executive director of the Office of Artificial Intelligence Safety and Regulation, the new state agency the bill seeks to create. The executive director has authority to assess the potential risks with the use of AI systems in the state, develop and enforce regulations on the development and deployment of AI, establish new standards for data privacy, security, and transparency, conduct risk assessments, provide guidance to AI developers, establish and maintain a public reporting system, and conduct investigations and audits of companies. We believe that many of these policy questions are better left with the legislature to determine rather than delegating to a new executive branch department.

Additionally, the enforcement provision states that each day of a violation of the bill or *future rules* is considered a separate violation. This will dramatically increase penalties and fines without companies knowing what rules they're going to be subject to.

A companion measure, HB 2176 (Perruso), was amended in committee to establish an artificial intelligence working group. The working group is tasked with developing acceptable use policies and guidelines for the regulation, development, deployment, and use of AI technologies in the state. We think this is a measured, thoughtful approach to answering these difficult policy questions and encourage this committee to amend SB 2572 in line with HB 2176.

If you have any questions regarding our position, please contact Dylan Hoffman at dhoffman@technet.org or 505-402-5738.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dylan Hoffman', written in a cursive style.

Dylan Hoffman
Executive Director for California and the Southwest
TechNet



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GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 12, 2024

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

Senator Henry J.C. Aquino
Chair, Labor and Technology

FROM: Matt Tsujimura

RE: **S.B. 2572 Relating to Artificial Intelligence**
Hearing Date: Thursday, February 15, 2024 at 9:35 a.m.
Conference Room: 229

Dear Chair Keohokalole, Chair Aquino, and Members of the joint Committee on Commerce and Consumer Protection, and Labor and Technology:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments in **opposition** to S.B. 2572 which establishes the Office of Artificial Intelligence Safety and Regulation within the Department of Commerce and Consumer Affairs to regulate the development, deployment, and use of artificial intelligence technologies in the State. S.B. 2572 also prohibits the deployment of artificial intelligence products in the State unless affirmative proof establishing the product's safety is submitted to the Office.

State Farm understands and shares the Legislature's concern for protecting the safety, privacy and fundamental rights of Hawaii's residents by ensuring the responsible and transparent use of artificial intelligence in the State. However, State Farm is concerned that S.B. 2572 may have unintended consequences such as unnecessarily inserting barriers and delays.

State Farm utilizes a number of different technologies to provide the safest, most efficient, and quality service as possible to all policy holders. Some of these technologies, while acceptable to federal and state regulators, may become subject to the provision in S.B. 2572.

State Farm requests that language be inserted to exclude insurers. Insurance is a highly regulated industry, and is subject to strict scrutiny across all levels of business including technology.

State Farm opposes the provisions subjecting regulation of the insurers to multiple agencies simultaneously. Enforcement and regulation should be dedicated to the Department of Commerce and Consumer Affairs Insurance Division who is in the best position to interpret, apply, and regulate an Insurer's use of technology such as artificial intelligence.

To ensure that the State is best positioned to reap the benefits of artificial intelligence while remaining as protected as possible, State Farm recommends that S.B.2572 be converted to a working group as reflected in H.B. 2176 H.D. 1 focusing on the development of acceptable use policies and guidelines for the regulation, development, deployment, and use of artificial technologies, and considers laws and regulations that may already provide protections to the people of the State.

For the above reason, we respectfully oppose S.B. 2572. Thank you for the opportunity to submit testimony.



February 15, 2024

Senate Consumer Protection and Commerce Committee

Senate Labor and Technology Committee

RE: Hawaii Artificial Intelligence Safety and Regulation Act (S.B. 2572)

POSITION: Opposition

The Insights Association, the leading nonprofit trade association for the market research and data analytics industry, appreciates the opportunity to offer testimony for today’s hearing regarding our concerns with the Hawaii Artificial Intelligence Safety and Regulation Act (S.B. 2572), legislation that would launch a new state agency to restrict the development, deployment and use of artificial intelligence (AI) “in accordance with the precautionary principle.”

Our members in Hawaii and our more than 7,700 overall members are the world’s leading producers of intelligence, analytics and insights defining the needs, attitudes and behaviors of consumers, organizations and their employees, students and citizens. With that essential understanding, leaders can make intelligent decisions and deploy strategies and tactics to build trust, inspire innovation, realize the full potential of individuals and teams, and successfully create and promote products, services and ideas.

It’s important to note that many of the concepts that should guide the use of AI in our industry (e.g., Duty of Care, Fit for Purpose, Use of Data, and Consumer Privacy) are already part of our core professional code of ethics. So, we already are bound by those concepts in the work we do, including with AI. That said, AI brings some new considerations and applications, which is why the Insights Association has already engaged with other industry trade associations around the world to work on AI-specific guidelines for the growing uses of AI in our industry.¹

¹ For example, the Insights Association has been discussing the 6 Rs to understand and address when using new tools or developing new products: (1) Reason for Use: What new outcomes are we able to generate using AI, what problems are being solved, and what problems are being created? What are the tradeoffs? (2) Risk: Transparency to all stakeholders, legal, privacy, IP ownership, data provenance, and regulation considerations. (3) Respondent Care: Are participants fully aware of how their data is being used, both now and in the future, and is the experience ensured to do them no harm? (4) Representation: Data fit, bias, and gaps. Who does the underlying data being used in AI represent, and not represent? (5) Recency: Data age, and fit for predictions and modeling. (6) Repeatability: Is the output created consistent and reliable for decision-making? (see "ASSOCIATIONS SHAPING THE FUTURE OF AI IN MARKET RESEARCH - OPPORTUNITIES, ETHICS, AND REGULATION." December 1, 2023.

As AI has taken off in the world, it has taken off in our industry. However, our best efforts to define the term (as well as differentiate it from overlapping concepts of machine learning, synthetic data, and others) have found definitions to be elusive even within our own industry. Therefore, we are not surprised that legislators and regulators have struggled to come up with bounded definitions that don't capture most every process, including simple automated spreadsheets and old-fashioned Bayesian statistical imputation.

Instead, the Insights Association urges you to consider at least limiting your regulatory proposals, in S.B. 2572 and other bills, to only the most high-risk AI systems and uses. A risk-based approach, as has been pursued at the federal level so far and even in the European Union, allows for the flexibility of defining AI rather broadly, while everyone is still arguing about definitions, but still pursuing basic protections for circumstances that appear to pose the potential for actual harm.

Also, we encourage you to carve out the use of AI for combatting fraud. We have seen a huge uptick in AI's use to commit fraud, particularly with online research panels, which corrupts the results of research studies and wastes resources (while usually being tied to broader criminal schemes of identity theft and financial services fraud). Our members are having to rapidly innovate in AI simply for purposes of detecting and deterring digital fraud.

The Insights Association and our members appreciate your time and attention to these important issues. AI presents great opportunities in the market research and data analytics industry, as it does in many others, and we wish to see it thoughtfully pursued to the benefit of companies and consumers.

Howard Fienberg
Senior VP, Advocacy
Insights Association

<https://www.insightsassociation.org/News-Updates/Articles/ArticleID/1126/Associations-Shaping-the-Future-of-AI-in-Market-Research-Opportunities-Ethics-and-Regulation>)

P R O T E C T ◆ C O N N E C T ◆ I N F O R M ◆ P R O M O T E

SB-2572

Submitted on: 2/14/2024 9:34:56 AM

Testimony for CPN on 2/15/2024 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Corinne Solomon	Individual	Comments	Written Testimony Only

Comments:

I offer comments only on this bill. If this bill passes please do not pass the other bills this session that attempt to piecemeal address AI concerns.

We need more thorough research on AI, not band aid bills.

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