

Colorado AI Impact Task Force
Final Recommendations
[Draft January 30, 2025]

By holding numerous sessions in which the Task Force engaged with many stakeholders, the Task Force has heard concerns and received proposed revisions on a wide range of provisions in SB 24-205. These led to discussions among Task Force members that identified a number of potential areas where the law could be clarified, refined, and otherwise improved. Those discussions revealed that, while there are distinct differences on some issues among stakeholders, particularly between representatives of industry groups and public interest groups, there are also many issues on which consensus or mutually acceptable compromise is achievable.

The Task Force recommends that discussions among policymakers and stakeholders continue in the coming weeks and months to achieve consensus and agreement where possible on changes to the law. It is the Task Force's hope that such continued engagement will lead not only to agreement on issues that appear ripe for consensus and compromise but also on some of the most contentious issues.

To help frame those future discussions, the remainder of this document groups proposed revisions into four categories:

- Issues with Apparent Consensus for Proposed Changes
- Issues Where Consensus on Changes Appears Achievable with Additional Time and Stakeholder Engagement
- Issues Where Achieving Consensus Likely Depends on Whether and How to Implement Changes to Multiple Interconnected Sections
- Issues with Firm Disagreement on Approach and Where Creativity Will Be Needed

We provide examples, where applicable, of the types of proposed changes that fall within each category.

- **Issues with Apparent Consensus for Proposed Changes**
 - There are a handful of relatively minor proposed changes presented by stakeholders for which there appears to be consensus both on the need for revisions as well as the general content of such revisions. In these instances, the revisions should be incorporated unless other stakeholders raise strong objections that the Task Force did not fully consider.
- **Issues Where Consensus on Changes Appears Achievable with Additional Time and Stakeholder Engagement**
 - There are also a number of areas where stakeholders have raised concerns and, while there appears to be consensus that those concerns are valid, there is disagreement on the details of implementing fixes. In these instances, stakeholders should engage with each other and with policymakers to craft

legislative language that addresses the concern without creating undesirable spillover effects. Examples include:

- More specifically defining the types of decisions that qualify as “consequential decisions” under the law to ensure greater clarity for those who may be subject to the law’s requirements without excluding applications that significantly impact consumers and workers
- Crafting exemptions to the definition of covered decision systems and from the obligations that the law imposes on developers and deployers
- Proposed changes to the law’s trade secret exemptions
- Proposed changes to the provisions governing the information and documentation that developers provide deployers
- Proposed changes to the timing of and triggering events for impact assessments
- Proposed changes to the scope of Attorney General rule-making and potentially to the timing of the law’s implementation

- **Issues Where Achieving Consensus Likely Depends on Whether and How to Implement Changes to Multiple Interconnected Sections**

- A somewhat harder set of challenges involves revisions proposed by one group of stakeholders where there appears to be some consensus that there is room and space to address the underlying concerns animating the proposals, but where other stakeholders have countervailing concerns that would need to be addressed to achieve consensus. In these instances, there may be room for agreement on revisions, but such agreement may require broader compromises that involve changes to multiple sections of the law.
- Examples of these proposed changes include:
 - Achieving consensus on proposed changes to the definition of “algorithmic discrimination” (section 6-1-1701(1)) may depend on how thornier issues involving sections 6-1-1702(1) and 6-1-1703(1), where industry and public interest groups have strong disagreement on what obligations developers and deployers should have in preventing algorithmic discrimination and how those obligations are enforced.
 - Proposed changes to the definition of “intentional and substantial modification” may be rendered irrelevant if consensus can be achieved on fixed intervals for impact assessments.
 - Stakeholders’ willingness to accept proposed changes to provisions governing when companies must provide information to the Attorney General may depend on whether changes are made to the law’s direct-to-consumer disclosure and explanation provisions.
 - Proposed changes to the requirements of the deployer risk management program might be considered in tandem with proposed changes to deployers’ impact assessment obligations.

- **Issues with Firm Disagreement on Approach and Where Creativity Will Be Needed**
 - The Task Force identified a number of issues for which stakeholder groups have firm disagreements about proposed approaches for amendment or even whether amendments should be made. Because of these disagreements, the Task Force is unable to make substantive recommendations with respect to these issues but believes there may be opportunities for creative solutions for building consensus as stakeholders continue to engage.
 - Examples of these issues include:
 - The definition of “substantial factor,” which helps define the scope of AI technologies that will be subject to the law.
 - The definition and mechanics of the “duty of care” for developers and deployers, or whether even to continue to include the concept of a duty of care or to replace it with more or less stringent obligations.
 - Whether to retain, minimize, or expand the small business exemption that currently exempts deployers with fewer than 50 employees from certain requirements in the law.
 - Whether to include any provision that provides an opportunity to cure certain incidents of non-compliance prior to enforcement by the Attorney General.
 - Proposed revisions to the consumer right to appeal.