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MEMORANDUM

January 20, 2026

SUBJECT: Executive Orders (SB 148; Work Order No. 34-LS0686I)

TO: Senator Robert Myers
Attn: Dawson Mann

FROM: Claire Radford
Legislative Counsel



You asked whether Executive Order 14179-Removing Barriers to American Leadership in Artificial Intelligence (E.O. 14179) or Executive Order 14365-Ensuring a National Policy Framework for Artificial Intelligence (E.O. 14365) require SB 148 to be amended to comply with federal law.

For purposes of E.O. 14179, the term "artificial intelligence" (AI) has the meaning in 15 U.S.C. 9401(3), where it is defined as "a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments. Artificial intelligence systems use machine and human-based inputs to—(A) perceive real and virtual environments; (B) abstract such perceptions into models through analysis in an automated manner; and (C) use model inference to formulate options for information or action." Because E.O. 14365 references E.O. 14179 in its introduction, it seems reasonable to assume that the same definition for "artificial intelligence" should be used in interpreting the directives of E.O. 14365.¹ Under this definition, an "autonomous vehicle" under SB 148 would qualify as "artificial intelligence." Based on the federal definition of "artificial intelligence" and the language of the executive orders, however, SB 148 does not require amendment to comply with these orders.

1. **E.O. 14179.** E.O. 14179 states: "It is the policy of the United States to sustain and enhance America's global AI dominance in order to promote human flourishing, economic competitiveness, and national security." Section 4 of the executive order requires certain federal entities to develop a federal AI action plan, and section 5 requires the review of all federal policies, directives, regulations, orders, and other actions taken pursuant to the revoked Executive Order 14110 of October 30, 2023 (Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence).

¹ "Pursuant to Executive Order 14179 of January 23, 2025 (Removing Barriers to American Leadership in Artificial Intelligence), I revoked my predecessor's attempt to paralyze this industry and directed my Administration to remove barriers to United States AI leadership." Executive Order 14365, January 23, 2025.

SB 148 requires an autonomous vehicle registered in this state to meet federal standards and regulations for a motor vehicle operated on a public highway. The bill also prohibits an autonomous vehicle registered in this state from transporting interstate commerce, goods, or passengers unless the transport is for personal, noncommercial, use or a human safety operator is physically present in the vehicle, and requires that human safety operators meet federal and state requirements for operating autonomous and nonautonomous vehicles. Finally, the bill creates a presumption of liability for a human safety operator for injury or damage caused by the operation of an autonomous vehicle.

SB 148 does not conflict with the policy or directives of E.O. 14179. This executive order states a broad federal policy and relates only to federal policies, directives, regulations, orders, and other federal actions. It does not reference state law, require a review of state-specific law or policies, or attempt to preempt the development of state law or policy.

2. **E.O. 14365.** E.O. 14365 states: "United States AI companies must be free to innovate without cumbersome regulation. But excessive [s]tate regulation thwarts this imperative." The E.O. claims (1) state regulation "by definition creates a patchwork of 50 different regulatory regimes that makes compliance more challenging, particularly for start-ups"; (2) "[s]tate laws are increasingly responsible for requiring entities to embed ideological bias within models";² and (3) "[s]tate laws sometimes impermissibly regulate beyond [s]tate borders, impinging on interstate commerce. The stated policy in E.O. 14365 is "to sustain and enhance the United States' global AI dominance through a minimally burdensome national policy framework for AI." In order to implement this policy, section 3 of the E.O. requires the U.S. attorney general to create an AI litigation task force to challenge state AI laws inconsistent with that policy, including on grounds of unconstitutional regulation of interstate commerce and federal preemption, and to challenge laws that require AI models to alter their truthful outputs or that may compel AI developers or deployers to disclose or report information in a manner that would violate the U.S. Constitution. The remainder of the E.O. requires federal entities to complete certain tasks: for example, sec. 4 requires the Secretary of Commerce, in consultation with others, to publish an evaluation of existing state AI laws; sec. 5 requires the Secretary of Commerce to specify conditions for certain federal funding eligibility and requires departments and agencies to assess discretionary grant programs to determine whether agencies may condition grants on states non-enactment of AI laws that conflict with the E.O.'s policy; sec. 7 requires the Chairman of the Federal Trade Commission to issue a policy statement related to AI; and sec. 8 requires legislative recommendations.

² The example provided states "a new Colorado law banning 'algorithmic discrimination' may even force AI models to produce false results in order to avoid a 'differential treatment or impact' on protected groups."

As described above, SB 148 requires that an autonomous vehicle registered in this state meet federal standards and regulations for a motor vehicle operated on a public highway, which does not conflict with federal requirements and does not conflict with E.O. 14365. State laws related to A.I., including SB 148, if enacted, would remain in effect unless and until the state laws were challenged and enjoined by a court or until federal legislation was passed that preempted the state law.

To the extent the E.O. directs the federal government to take a closer look at state laws and challenge state laws, if SB 148 were enacted and challenged as violating the federal dormant commerce clause,³ I think that such a challenge would be unlikely to succeed. In *Pike v. Bruce Church*, the U.S. Supreme Court established a test to determine whether a nondiscriminatory state law violates this clause:

Where the statute regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will of course depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities.⁴

Regulation of autonomous vehicles registered in the state under SB 148 would be upheld against a challenge under the commerce clause if the burden imposed on interstate commerce is not clearly excessive in relation to anticipated local benefits. Although SB 148 states that an autonomous vehicle registered in the state may not be engaged in the transport of interstate commerce, goods, or passengers unless the transport is for personal, nonpersonal use, or a human safety operator is physically present in the vehicle, this requirement applies only to vehicles registered in the state and does not capture autonomous vehicles registered in other jurisdictions. The limitation of this provision to vehicles registered within the state does not directly regulate interstate commerce or favor in-state economic interests over out-of-state interests, and the bill is arguably more burdensome on in-state interests. It is unlikely a court would find that this requirement impermissibly impinges on interstate commerce.

Please let me know if you have any additional questions.

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³ The Commerce Clause of article I, sec. 8, of the United States Constitution contains a negative implication, referred to as the dormant commerce clause, that prohibits certain regulation on interstate commerce.

⁴ 397 U.S. 137, 142 (1970).