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The AI Terrible Ten: The Worst State AI Policies and Four Better Models to Balance Safety and Innovation

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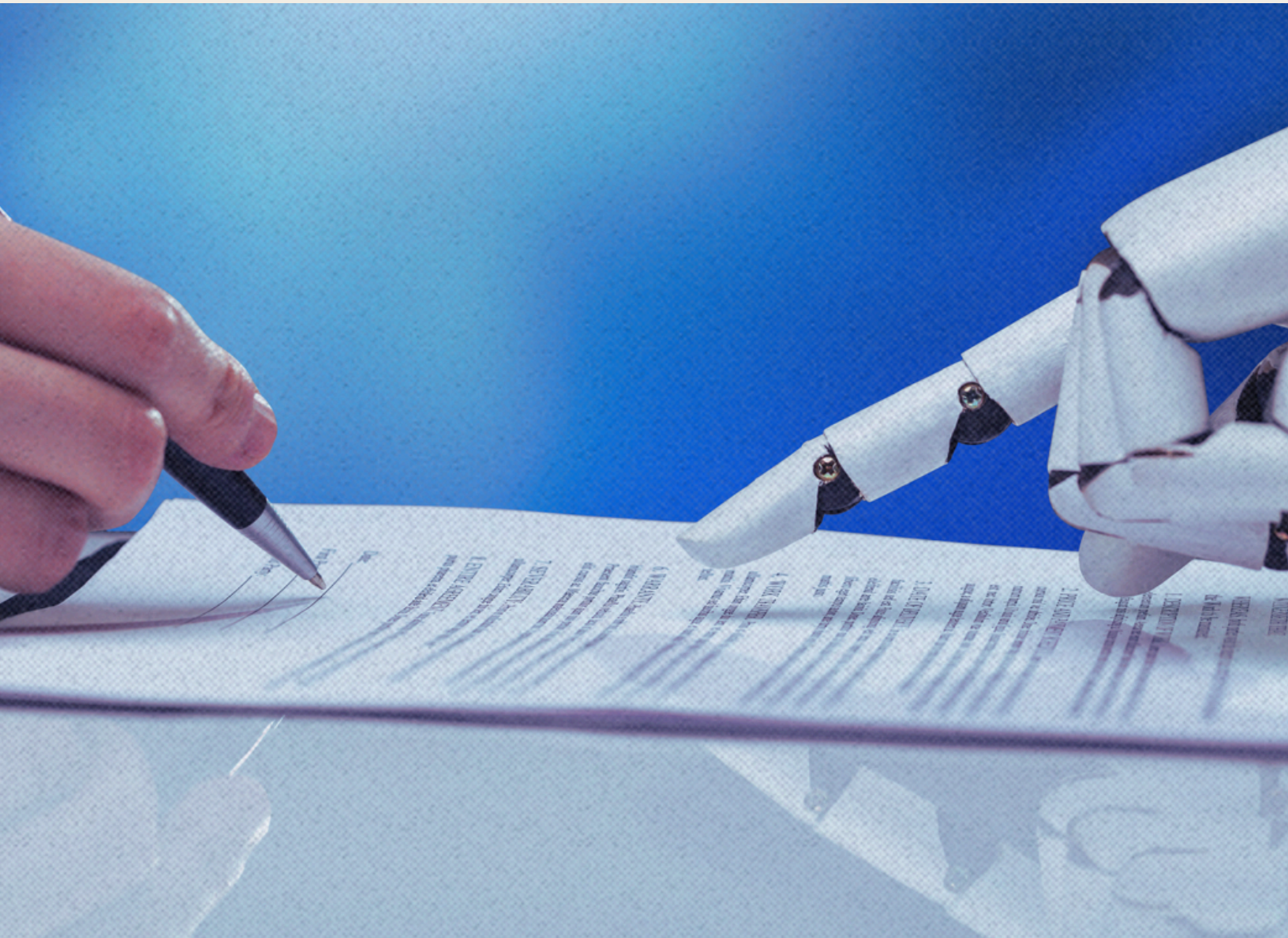

Executive Summary

Artificial intelligence (AI), an emergent technology still in its infancy, holds immense promise to improve American living conditions, expand consumer choice, and promote general economic flourishing. Rather than embrace this novel technology, state and local governments have responded with a regulatory briar patch of fear-based laws and precautionary policies that threaten to undermine this rapidly improving industry before it has a chance to be widely developed and utilized.

To highlight the worst offenders in state-level AI governance, this paper (1) introduces the many problems with the growing AI patchwork; (2) suggests a national policy framework as the ideal solution; (3) identifies and categorizes recent state legislative proposals; and (4) considers alternative legislative frameworks that offer a better approach to some of the more troubling laws currently pending or already passed. In evaluating these state-level laws, this paper introduces the *AI Terrible Ten*: ranking the worst state regulatory ideas and specific laws in each category of AI governance from 2025. The *AI Terrible Ten* include:

1. *"AI Fairness" & Anti-Bias Laws: Colorado's Consumer Protections for Artificial Intelligence Act (signed by Governor)*
2. *Precautionary Principle-Based Regulatory Frameworks: Hawaii Artificial Intelligence Safety and Regulation Act*
3. *Algorithmic Pricing Regulations: New York's Algorithmic Pricing Disclosure Act (signed by Governor) & California's Amendments to the Cartwright Act (signed by Governor)*
4. *Automation Taxes: New York's Robot Tax Act*
5. *Omnibus AI Packages: Florida's Artificial Intelligence Bill of Rights*
6. *AI Mental Healthcare Bans: Nevada AB 406 (signed by Governor)*
7. *Frontier Model Safety Laws: New York's Responsible AI Safety and Education Act (RAISE) (signed by Governor)*
8. *Content Provenance and AI Transparency: California's AI Transparency Act Amendments (signed by Governor)*
9. *Output and Model Ownership: Arkansas' An Act Regarding the Ownership of Model Training and Content Generated by a Generative Artificial Intelligence Tool (signed by Governor)*
10. *Criminal Conduct Escalators: Michigan's Amendments to 1931 PA 328*

As the *AI Terrible Ten* makes clear, the United States finds itself at a technological crossroads: embrace technological innovation or subject the technology to mountains of paperwork, ticky-tack compliance regiments, unclear reporting requirements, distortionary tax policies, readily abusable state government statutes, and even outright prohibitions on many applications of the technology's most promising use-cases. Consumers benefit more from pro-freedom AI policies than heavy-handed restrictions that undermine life-enriching innovations.

Although the overwhelming trend is toward micromanagement and over-regulation, some states—Montana and Utah—have instead embraced future-forward governance and novel approaches to regulatory co-learning in the intelligence era. In 2026, more states will face a choice between freedom and control. This paper identifies why repression should not be the first order of business and why freedom and opportunity should be the default. We outline pro-innovation, light-touch AI governance options that can strike a more sensible balance than the heavy-handed policies currently being considered.

Introduction: The Problem with Fear-Based Laws and Technocratic AI Patchworks

Although some critics downplay the risks of a patchwork approach to AI regulation, concern among many policy scholars and experts is growing as state regulation advances at an exponential rate. State governments introduced more than 600 AI bills in 2024, more than 1,200 in 2025, and more than 1,200 bills were pending just one month into 2026.[1] Not every proposed AI law is implemented, but the Future of Privacy Forum finds that state legislatures have passed 9.5 percent of the AI laws they introduced.[2] And it is likely AI regulatory activity will intensify in 2026 with experts predicting, "a flood of state AI bills that creates a regulatory tower of babble—laws with different definitions, standards, and mandates."[3]

A regulatory quilt of technocratic AI mandates from multiple government bodies will create immense costs for nationwide innovation that will filter downstream into the broader economy. Recent reports from economists at the American Enterprise Institute and the Computer & Communications Industry Association (CCIA) have documented some of these costs in more detail.[4] One of the most problematic costs is imposed on new competition and innovation by smaller upstarts. Technology firms of all sizes, large and small, will need to obtain legal teams and divert their time and energy into expensive paperwork and convoluted compliance regimes that differ meaningfully by jurisdiction. Relative to larger firms that possess large legal teams and financial resources, smaller firms will struggle to handle the increased workload and associated legal risk. As one analyst notes, "paperwork favors the powerful. People with resources will get through increased paperwork requirements, and people without them will not."[5] This means so-called Little Tech innovators and fledgling AI firms will be less likely to break through and compete with larger established players.[6]

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[1] Artificial Intelligence (AI) Legislation, Multistate, Last visited January 5, 2026, https://www.multistate.ai/artificial-intelligence-ai-legislation; and Baker Botts, "U.S. Artificial Intelligence Law Update: Navigating the Evolving State and Federal Regulatory Landscape," January 2026, https://www.bakerbotts.com/thought-leadership/publications/2026/january/us-ai-law-update.

[2] Austin Jenkins, "State Lawmakers Gear Up for AI Regulation Battles in '26," *Pluribus News*, November 20, 2025, https://pluribusnews.com/news-and-events/state-lawmakers-gear-up-for-ai-regulation-battles-in-26/.

[3] Kevin Frazier, *quoted in*, Oliver Roberts, "85 Predictions for AI and the Law in 2026," *The National Law Review*, January 5, 2026, https://natlawreview.com/article/85-predictions-ai-and-law-2026.

[4] Will Rinehart, "The Hidden Price Tag of California's AI Oversight Bill," *Exformation*, September 9, 2025, https://exformation.williamrinehart.com/p/the-hidden-price-tag-of-californias; Will Rinehart, "How much might AI legislation cost in the U.S.?" Exformation, March 19, 2025, https://exformation.williamrinehart.com/p/how-much-might-ai-legislation-cost; Trevor Wagener, "Learning from Internet Tax Freedom: State-Level Regulatory Pauses Can Pay Enormous Dividends," *Computer & Communications Industry Association*, June 25, 2025, https://ccianet.org/articles/learning-from-internet-tax-freedom-state-level-regulatory-pauses-can-pay-enormous-dividends; and Trevor Wagener, "$600 Billion AI Abundance Dividend from Federal Preemption of State Laws," *Computer & Communications Industry Association*, November 28, 2025, https://ccianet.org/articles/600-billion-ai-abundance-dividend-from-federal-preemption-of-state-laws.

[5] The Ezra Klein Show, "Transcript: Ezra Klein Interviews Jennifer Pahlka," *The New York Times*, June 6, 2023. https://www.nytimes.com/2023/06/06/podcasts/transcript-ezra-klein-interviews-jennifer-pahlka.html.

[6] Jordan Crenshaw and Michael Richards, "The Hidden Cost of 50 State AI Laws: A Data-Driven Breakdown," *U.S. Chamber of Commerce*, November 18, 2025, https://www.uschamber.com/technology/the-hidden-cost-of-50-state-ai-laws-a-data-driven-breakdown.

Unfortunately, for tech firms of all sizes, states aren't learning the lessons from failed or burdensome policy ideas in sister states. For all its controversies, backtracking, delayed implementation deadlines, and looming unintended consequences, the Colorado AI Act ranks as the worst state offender of 2025, where it has become Exhibit A in how imprudent policymaking can cause buyer's remorse amongst its most ardent supporters.

The initial idea, however, began years prior when New York City passed a municipal AI fairness law in 2023 that required employers to audit automated employment decision tools (AEDTs) for race and gender bias, publish the results, and notify employees and job candidates of the use of AEDT tools.[7] Even though the Society for Human Resource Management declared the law a "bust" after a Cornell study found that only 18 of 391 New York City employers posted bias audits, several state policymakers spun up the Multistate AI Working Group to spread the idea anyway.[8] Colorado became the first state to pass it (and regret it).[9]

The Colorado AI Act is rooted in Precautionary Principle regulatory thinking—the idea that innovation should be restrained by default until it can be proven to be risk-free. Hawaii has taken this idea beyond even Colorado and literally proposed enshrining the specific term into law as a preemptive prohibition on AI regulation. Under Hawaii's approach, technologies are presumed harmful or guilty and can only be proven safe through a suite of paperwork requirements that slow innovation and harm competition.[10]

As these state examples show, policy ideas can—and do—spread. They can spread through working groups convened for that specific purpose, but they can also spread more naturally as policymakers work with state-level staff and professional organizations to introduce and modify existing bill text. Nevada led the country in implementing AI mental healthcare bans, for example, an idea that Illinois imported and signed into law. Tennessee even proposed legislation to make it a Class A felony to train language models to provide "emotion support through open-ended conversations."[11] All of which threaten to sustain mental health labor shortages.

Concerned with the rising cost of living, 24 state legislatures introduced more than 50 AI pricing bills in 2025.[12] As a general rule, state government should refrain from regulating price signals that reflect underlying economic realities. But Maine did just that when it introduced a bill that would regulate prices when they fluctuate based on demand responses. New York has used its recently enacted AI pricing law to crack down on pricing practices, using cherry-picked examples to justify its call for more and stronger pricing regulation in 2026, worsening patchwork concerns.

[7] Roy Maurer, "New York City AI Law Is a Bust," *SHRM*, February 18, 2024, https://www.shrm.org/topics-tools/news/technology/new-york-city-ai-law.
[8] Ibid.
[9] Lauren Weber, "New York City Passed an AI Hiring Law. So Far, Few Companies are Following It," *Wall Street Journal*, January 22, 2024, https://www.wsj.com/business/new-york-city-passed-an-ai-hiring-law-so-far-few-companies-are-following-it-7e31a5b7?st=vrech7k55lxweiy&reflink=desktopwebshare_permalink; *and Society for Human Resource Management, New York City AI Law is a Bust*, February 18, 2024, https://www.shrm.org/topics-tools/news/technology/new-york-city-ai-law#:~:text=The%20law%20requires%20employers%20that%20use%20automated,and%20job%20candidates%20that%20such%20tools%20are.
[10] Daniel Castro and Michael McLaughlin,"Ten Ways the Precautionary Principle Undermines Progress in Artificial Intelligence, *Information Technology & Innovation Foundation*, Feb. 2019. /https://www2.itif.org/2019-precautionary-principle.pdf.
[11] Dean W. Ball (@deanwball), X, December 26, 2025, 2:28pm, https://x.com/deanwball/status/2004635405845430607?s=20.
[12] Anita C. Marinelli, Kimberly L. Scott, and Miller Canfield, "Pricing Algorithms," *National Law Review*, November 25, 2025, https://natlawreview.com/article/pricing-algorithms-price-tags-and-personal-and-competitor-data-states-step.

Meanwhile, California has set the national stage for debate on many different AI topics, which have reverberated into many other state legislative chambers. Frontier model safety law debates began in California before being debated in New York, Rhode Island, Michigan, and Illinois. Content provenance laws similarly began in California before spreading to New York, Florida, and Virginia.

Perhaps even more worrying than the explosion of poorly designed state AI laws in 2025, is that many states are already recycling last year's worst offenders in 2026 by packing them into omnibus deals. The Florida "AI Bill of Rights," for example, looks to incorporate many distinct regulatory ideas in one measure, including privacy and data collection mandates, parental controls and child safety issues, political advertising limitations, and defamation rules. Other catch-all bills have been introduced in Utah, Nebraska, Tennessee, and Illinois, all of which adopt AI frontier model regulations as well as child safety-related mandates, among other new distinct regulatory objectives.[13]

The point is that what has often been described as a patchwork of AI regulation is actually many different patchworks spreading across the country. As state and local ideas that incubated in 2025 mutate into solidified 2026 policy priorities—likely growing more restrictive—the costs of a fragmented approach to AI policy will multiply as larger states exert outsized influence in shaping the AI policy priorities of the country.

The Ideal Solution and Its Critics: America Needs a National Policy Framework

In 2026, Congress is expected to work with the White House to consider options to offset growing patchwork costs by crafting a preemptive federal framework. A single baseline AI law that pre-empts state direct and implicit regulations on model development, algorithmic training, and extraterritorial policy designs would be preferable to the regulatory chaos that currently governs, but such a framework must be clear, concise, and carefully balance the tradeoffs of state policy discernment with broader innovation concerns.[14]

[13] The catch-all bills in other states include Utah HB 286, Nebraska LB 1083, Tennessee HB 1898, and Illinois HB 4705.
[14] Neil Chilson, "Clearing the Path for AI: Federal Tools to Address State Overreach," *Abundance Institute*, September 2025, https://abundance.institute/our-work/clearing-the-path-for-ai; and Kristian Stout and Ian Adams, "Beyond a Moratorium: Toward a Competency-Based Approach to AI Governance," *Truth on the Market*, November 21, 2025, https://truthonthemarket.com/2025/11/21/beyond-a-moratorium-toward-a-competency-based-approach-to-ai-governance/.

To give federal lawmakers time to develop that framework, Congress tried—but failed—to enact a moratorium on state AI regulation last summer.[15] In that void, only Tennessee Senator Marsha Blackburn introduced a comprehensive federal AI legislative framework for consideration last year, and it was quite regulatory in character.[16] With its endless paperwork requirements, extensive liability burdens, and broader decelerationist rulebook, the proposal is a poor substitute for the status quo.

Meanwhile, many confuse the Trump executive order on AI for federal pre-emption of state-level AI governance, but the order is limited and mostly outlines already existing federal power, leaving one legal expert to conclude that companies are still "operating in a contested zone between" federal and state regulation.[17] The order does, however, include a directive for the White House to work with Congress to design an AI framework, which will likely include some degree of preemption of certain state and local laws.[18]

Many state policymakers have pushed back on the idea of a national framework, citing legislative overreach concerns, even as many state and local politicians consider some of the most poorly designed state-level AI governance proposals in the country. Governor Ron DeSantis, for example, has criticized limitations on Big Tech regulation, instead opting to introduce the "AI Bill of Rights," which would represent some of the most comprehensive and aggressive regulation seen among the states.[19] Ironically, in other cases, sponsors of poorly designed and inappropriately scoped state AI regulations are supporting federal framework ideas only if the federal framework emulates their state regulations. New York State Representative Alex Bores, the author of New York's RAISE Act, for example, has argued that an ideal federal policy proposal would in many ways mirror the New York RAISE Act, which was amended to look more like California before New York Governor Kathy Hochul signed it in December.[20]

New York and California are some of the largest and most powerful states in the nation, but they are not alone in their zeal to advance regulation of AI technologies and markets. Many of these bills from other states are equally heavy-handed and confusing. They would impose costly new paperwork requirements and stiff penalties on innovators in a preemptive fashion that closely resembles the way Europe has regulated digital technology markets over the past quarter century.[21]

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[15] Cristiano Lima-Strong, "It's Back. Congress Gears Up for Year-End Fight Over Moratorium on AI Laws," *Tech Policy Press*, November 18, 2026, https://www.techpolicy.press/its-back-congress-gears-up-for-yearend-fight-over-moratorium-on-ai-laws/.

[16] Senator Marsha Blackburn, "Blackburn Unveils National Policy Framework for Artificial Intelligence," December 19, 2025, https://www.blackburn.senate.gov/2025/12/technology/blackburn-unveils-national-policy-framework-for-artificial-intelligence.

[17] Mike Katz, "The Coming AI Preemption War: Why 'Federal AI Clarity' Is Mostly a Mirage," *Manatt, Phelps, and Phillips*, January 12, 2026, https://www.manatt.com/insights/newsletters/client-alert/the-coming-ai-preemption-war-why-federal-ai-clarity-is-mostly-a-mirage.

[18] Adam Thierer, "Congress Has a Fresh Chance To Address AI Governance and Federal-State Division of Powers," *R Street Institute Real Solutions,* Nov. 20, 2025, https://www.rstreet.org/commentary/congress-has-fresh-chance-to-address-ai-governance-and-federal-state-division-of-powers.

[19] "Andrew Atterbury, "'We have to reject that with every fiber of our being': DeSantis emerges as a chief AI skeptic," *PoliticoPro,* Dec. 26, 2025, https://subscriber.politicopro.com/article/2025/12/we-have-to-reject-that-with-every-fiber-of-our-being-desantis-emerges-as-a-chief-ai-skeptic-00704333.

[20] Alex Bores (@AlexBores), X, November 28, 2025, 12:00pm, https://x.com/AlexBores/status/1994451221281697990.

[21] Dean W. Ball, "The EU AI Act is Coming to American," *Hyperdimensional*, February 13, 2025, https://www.hyperdimensional.co/p/the-eu-ai-act-is-coming-to-america.

With state policymakers now locked-in to a regulatory race to the bottom, Congress needs to place some limitations on America's most poorly designed state AI laws before they wreak havoc on interstate commerce and the broader United States economy. State lawmakers will continue to advance policies for algorithmic and autonomous systems until Congress establishes a federal framework.

With Congress gridlocked and the White House limited to issuing policy frameworks and executive orders, it falls to the states to have the patience and humility to develop prudent and light-touch AI governance frameworks. Montana and Utah balance the tradeoffs of AI policy better than most, but the overwhelming trend has tilted toward poor policy designs, regulatory fragmentation, and vague, open-ended mandates that threaten to stifle innovation and push life-saving technology outside the reach of American consumers. To display the many unintended consequences of state AI policymaking, the *AI Terrible Ten* outlines the most troubling offenders—by category—and then offers a roadmap for more constructive AI policymaking.

Introducing The AI Terrible Ten

Category 1

"AI Fairness" & Anti-Bias Laws: Colorado's Consumer Protections for Artificial Intelligence Act (signed by Governor)

In May 2024, Colorado became the first state to implement comprehensive AI regulation when Governor Jared Polis signed the Colorado Consumer Protection for Artificial Intelligence Act (SB 24-205), putting a finalized stamp of approval on a bill that raised immediate national concern when it was introduced and that would become a cautionary tale for rushed AI regulation across the country.[22] In signing the law, Colorado adopted a European-style approach to emerging technology regulation, employing a precautionary approach to AI innovation that mimics the European Union's AI Act.[23] The law imposes a variety of open-ended and ambiguous mandates on AI developers and deployers to address concerns about so-called "algorithmic discrimination" in "high-risk" use cases where AI systems represent a "substantial factor" in making "consequential decisions."[24] In Colorado and in Europe, paperwork and compliance are valued more highly than new product launches. Such fear-based regulation discourages entrepreneurialism and investment in bold new ideas and businesses.[25]

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[22] Kevin Frazier & Adam Thierer, "Colorado's AI Law Is a Cautionary Tale for the Nation," *Reason*, August 15, 2025, https://reason.com/2025/08/15/colorados-ai-law-is-a-cautionary-tale-for-the-nation.

[23] Dean Ball, "The EU AI Act is Coming to America: The AI regulation onslaught," *Hyperdimensional*, February 13, 2025, https://www.hyperdimensional.co/p/the-eu-ai-act-is-coming-to-america.

[24] Sara Wilson, "Colorado becomes first state with sweeping artificial intelligence regulations," *Colorado Newsline*, May 20, 2024, https://coloradonewsline.com/briefs/colorado-first-state-artificial-intelligence-regulations.

[25] Adam Thierer, "Defending Technological Dynamism & the Freedom to Innovate in the Age of AI," *University of Texas at Austin Civitas Institute*, *Dynamism Outlook*, June 4, 2025, https://www.civitasinstitute.org/research/defending-technological-dynamism-the-freedom-to-innovate-in-the-age-of-ai.

Open-ended definitions and broad policy language threaten to impose enormous legal compliance costs on American innovators, as courts determine violations and settle enforcement actions.[26] Surprisingly, Governor Jared Polis himself cited these concerns when signing the law. He argued the measure would "create a complex compliance regime for all developers and deployers of AI" through "significant, affirmative reporting requirements," and noted how he was "concerned about the impact this law may have on an industry that is fueling critical technological advancements across our state for consumers and enterprises alike."[27] Polis went further and called on Congress to preempt state laws such as his to ensure a "cohesive federal approach" to AI policy.[28]

Polis nonetheless signed the law, even though he was aware of these problems. Prior to passage, a coalition of small AI developers in the state sent a letter to Colorado lawmakers explaining how the measure "would severely stifle innovation and impose untenable burdens on Colorado's businesses, particularly startups."[29] A more recent economic analysis of the Colorado bill by the Common Sense Institute found that the law could cause an estimated 40,000 job losses and eliminate $7 billion in economic output by 2030.[30] A Denver-based tech lawyer called Colorado's AI law "a real lift. This is something that your compliance teams are not used to."[31]

Faced with these mounting concerns, many Colorado government officials began having second thoughts. Colorado Attorney General Phil Weiser, who initially supported the bill, said the law "is really problematic [and] it needs to be fixed."[32] Polis and Weiser also joined the bill's sponsor, Colorado Senate Majority Leader Robert Rodriguez, in sending an open letter to innovators acknowledging that, "an overly broad definition of AI, coupled with pro-active disclosure requirements, could inadvertently impose prohibitively high costs on them, resulting in barriers to growth and product development, job losses, and a diminished capacity to raise capital."[33]

This is a stunning indictment of a law that was initially supported by three of the most powerful politicians in the state. Unfortunately, little about the Colorado law has changed despite these reservations. Initially, legislators created a Colorado AI Impact Task Force to consider improvements, but its final report from January 2025 provided no major corrections or clarifications.[34]

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[26] Nate Karren, "Why Colorado's Rethinking Its Burdensome AI Regulations," *Governing*, May 18, 2025, https://www.governing.com/artificial-intelligence/why-colorados-rethinking-its-burdensome-ai-regulations.
[27] Governor Jared Polis, Signing Statement for Senate Bill 24-205, May 17, 2024, https://drive.google.com/file/d/1i2cA3IG93VViNbzXu9LPgbTrZGqhyRgM/view.
[28] Ibid.
[29] Rocky Mountain Interest Group and Salon, Letter to Senator Rodriguez, https://drive.google.com/file/d/1acltqBnwjnPjRoe2ZCW5Tww_iABMUUj3/view.
[30] Thomas Young, Caitlin McKennie, and Catlin Hereford, "Unintended Costs: The Economic Impact of Colorado's AI Policy," *Common Sense Institute*, August 2025, https://www.commonsenseinstituteus.org/colorado/research/jobs-and-our-economy/unintended-costs-the-economic-impact-of-colorados-ai-policy.
[31] Suman Bhattacharyya, "'Heavy lift': Colorado AI Law Sets High Bar, Analysts Say," *CFO Dive*, July 15, 2025, https://www.cfodive.com/news/a-heavy-lift-colorado-ai-law-sets-high-bar-analysts-say/753025.
[32] Cameron Marx, "State AG Warns Colorado AI Bill Could Drive Innovation Out of State," *Broadband Breakfast*, August 5, 2025, https://broadbandbreakfast.com/state-ag-warns-colorado-ai-bill-could-drive-innovation-out-of-state.
[33] Colorado Governor Jared Polis, Letter on SB24-205, June 13, 2024, https://newspack-coloradosun.s3.amazonaws.com/wp-content/uploads/2024/06/FINAL-DRAFT-AI-Statement-6-12-24-JP-PW-and-RR-Sig.pdf.
[34] "Artificial Intelligence Impact Task Force," https://leg.colorado.gov/committees/2025A/interim/ArtificialIntelligenceImpactTaskForce.

The task force merely cited many "issues with firm disagreement on approach and where creativity will be needed," but did not propose any substantive changes to the law's most problematic provisions.[35] In late August, the Colorado legislature held a special session during which they considered changes to the measure.[36] Unfortunately, lawmakers again failed to make any improvements to the measure preferring to simply delay implementation.[37]

What makes SB 24-205, and others like it, unnecessary is that every state already has many anti-discrimination laws and consumer protection regulations on the books. In fact, as will be detailed later in this study, many Democratic lawmakers have correctly identified how various laws and regulations already apply to algorithmic systems and any harm that might come from them. With so many other regulations already in place, the Colorado AI Act is in many ways duplicative of existing technology-neutral law that already applies to AI—but turns the screws on innovators by adding many additional layers of bureaucracy.

Finally, such AI discrimination laws could also raise some free speech concerns depending on how states define algorithmic "fairness" or "bias." Sometimes rules put in place for the well-intentioned purposes can be "quickly weaponized against free speech itself" by leading to the regulation of expression related to those activities.[38] If Colorado later interprets the ambiguous provisions of its AI Act broadly, for example, it could be in conflict with First Amendment protected speech.

Similar proposals in other states: The Colorado legislature rushed the measure through in just over a month and it became a model for many other states who were considering similar bills in 2025.[39] Several states have considered variants of the Colorado law in 2025, including California, Connecticut, Massachusetts, New Mexico, New York, and Virginia. Initially, these states promised to work together through a Multistate AI Policymaker Working Group to create a more harmonized approach to algorithmic discrimination regulation.[40] This working group failed to provide regulatory simplification or clarity, however. Definitions and penalties differed widely among these states, as did their scope of regulatory coverage and penalties found in the bills.[41] Instead of a harmonized approach, these measures would instead create a confusing patchwork of differing legal standards that would raise the cost of doing business in the AI marketplace and contradict national AI policy objectives.[42]

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[35] Colorado AI Impact Task Force, Final Recommendations, January 30, 2025, https://content.leg.colorado.gov/sites/default/files/images/draft_ai_impact_task_force_recommendations.pdf.
[36] Jesse Paul, "Colorado Governor Calls Special Legislative Session to Deal with Nearly $1B Budget Hole, Artificial Intelligence Law," *The Colorado Sun*, August 6, 2025, https://coloradosun.com/2025/08/06/colorado-special-session-big-beautiful-bill.
[37] Mariam Baksh, "Colorado Legislature Delays Enforcement of AI Law as Deployer Coalition Pursues Developer Liability," *Inside AI Policy*, August 26, 2025, https://insideaipolicy.com/ai-daily-news/colorado-legislature-delays-enforcement-ai-law-deployer-coalition-pursues-developer.
[38] Dean Ball, Greg Lukianoff & Adam Thierer, "How State AI Regulations Threaten Innovation, Free Speech, and Knowledge Creation," *The Eternally Radical Idea*, April 3, 2025, https://eternallyradicalidea.com/p/how-state-ai-regulations-threaten.
[39] Tatiana Rice, "Colorado Makes History with the Nation's First Comprehensive AI Act," *Tech Policy Press*, May 24, 2024, https://www.techpolicy.press/colorado-makes-history-with-the-nations-first-comprehensive-ai-act.
[40] "Open letter: Why now is the time to act on US state AI legislation," IAPP Opinion, December 12, 2025, https://iapp.org/news/a/open-letter-why-now-is-the-time-to-act-on-us-state-ai-legislation.
[41] Logan Kolas and Nate Karren, "Governors Break Ranks Over AI Regulation Patchwork," *Now + Next*, June 5, 2025, https://www.theamericanconsumer.org/2025/06/nownext-governors-break-ranks-over-ai-regulation-patchwork.
[42] Kevin Frazier and Adam Thierer, "Blue States Plot to Defeat Trump's AI Policy Vision," *Substack*, November 13, 2025, https://adamthierer.substack.com/p/blue-states-plot-to-defeat-trumps.

When one such law passed in Virginia in 2025, then-Governor Glenn Youngkin vetoed it, citing the risk to jobs and investment, as well as the existence of other legal protections. "There are many laws currently in place that protect consumers and place responsibilities on companies relating to discriminatory practices, privacy, data use, libel, and more," Governor Youngkin correctly observed.[43]

Texas also passed a similar law last year called the Texas Responsible Artificial Intelligence Governance Act (TRAIGA or HB 149), which went into effect at the beginning of 2026. The initial draft of the measure,[44] which closely resembled the Colorado law, raised enough concern in the Texas legislature that substantial revisions were made before final passage.[45] However, the law retained some outright prohibitions on social scoring, the use of biometric identifiers, and other practices.[46] A new Texas Artificial Intelligence Council is tasked with ensuring that AI systems "are ethical and developed in the public's best interest," while also administering a new AI sandbox program.

In 2026, there is likely to be renewed effort to advance measures like the Colorado bill. For example, a bill regulating high-risk AI system development, deployment, and use was introduced in the state of Washington in mid-January that closely tracks the Colorado measure without addressing any of the flaws mentioned about that bill.[47] The measure also includes an expansive private right of action, making it even more problematic.

Category 2
Precautionary Principle-Based Regulatory Frameworks: Hawaii's Artificial Intelligence Safety and Regulation Act

In early 2024, Hawaii introduced the most radical AI bill in the country. Whereas Colorado implicitly applied the Precautionary Principle to algorithmic systems using ambiguous language, the Hawaii Artificial Intelligence Safety and Regulation Act (SB 5272) proposed explicitly codifying the Precautionary Principle into law. The floated idea would have essentially made most AI innovation illegal by default.[48] By "shift[ing] the burden of proof to those who want to undertake an innovation to show that it does not cause harm," the proposed law would have created a standard that was impossible to satisfy. No algorithmic innovator can preemptively prove their application or service will never cause any harm.

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[43] Virginia State Legislative Information Center, HB 2094, *Governor's Veto*, March 24, 2025, https://lis.virginia.gov/bill-details/20251/HB2094/text/HB2094VG.
[44] Original draft bill number was HB 1709 but was later changed.
[45] Adam Thierer, "Texas & Virginia Steer States Away from European-Style AI Regulation," *R Street Analysis*, March 25, 2025. https://www.rstreet.org/commentary/texas-virginia-steer-states-away-from-european-style-ai-regulation.
[46] Alex LaCasse, "Governor Signs Texas Responsible Artificial Intelligence Governance Act," *IAPP*, June 23, 2025, https://iapp.org/news/a/governor-signs-texas-responsible-artificial-intelligence-governance-act.
[47] Washington State Legislature, "HB 2157," Last visited February 11, 2026, https://app.leg.wa.gov/billsummary?BillNumber=2157&Initiative=false&Year=2025.
[48] Ronald Bailey, "AI Regulators Are More Likely To Run Amok Than Is AI," *Reason*, May 3, 2024, https://reason.com/2024/05/03/ai-regulators-are-more-likely-to-run-amok-than-is-ai.

By effectively requiring innovators of all sizes to check infinite boxes before deploying their products and services for consumer use, the regulatory approach would have derailed many important AI products and services based on hypothetical fears. For example, while every new health-related AI tool carries some risk of harm, it also presents potentially enormous benefits. If state AI regulation defaulted to Hawaii's Precautionary Principle test, it would stifle new algorithmic health tools and applications that could not meet this impossible-to-satisfy standard. The bill specifically stipulated that, "it is crucial that the state adhere to the Precautionary Principle, which requires the government to take preventive action in the face of uncertainty; shifts the burden of proof to those who want to undertake an innovation to show that it does not cause harm; and holds that regulation is required whenever an activity creates a substantial possible risk to health, safety, or the environment, even if the supporting evidence is speculative."[49]

Precautionary Principle-based regulation is highly destructive and unsafe because it slows or forbids important innovations from being developed.[50] "The Precautionary Principle takes many forms," says legal scholar Cass Sunstein. "But in all of them, the animating idea is that regulators should take steps to protect against potential harms, even if causal chains are unclear and even if we do not know that those harms will come to fruition."[51] That all might sound sensible in theory. In practice, however, such an undefined and open-ended regulatory standard means that entrepreneurs must jump through endless bureaucratic hurdles and obtain countless permission slips before launching any new goods or services.[52]

This limits new entry and innovation by making it costly or even completely impossible to offer new products. For example, highly precautionary Federal Aviation Administration regulations have "hindered the expansion of delivery drone operations in the U.S., thus deterring innovation within the drone industry as a whole."[53] This has not only undermined domestic drone innovation, but also let Chinese-based drone makers race ahead of U.S. firms in the marketplace and become dominant globally.[54]

This sort of preemptive regulation is far more prevalent throughout the European Union, where it has decimated continental innovation on many fronts, including digital technology.[55]

[49] LegiScan, "Hawaii Senate Bill 2572," Last visited February 11, 2026, https://legiscan.com/HI/text/SB2572/id/2896679.
[50] Alex Tabarrok, "A Deadly Caution: How the Precautionary Principle is Killing Patients," Foundation for Economic Education, August 27, 2015. https://fee.org/articles/a-deadly-caution-how-fear-is-killing-patients; and Adam Thierer, "How Many Lives Are Lost Due to the Precautionary Principle?" Human Progress, *Blog Post*, November 4, 2019, https://humanprogress.org/how-many-lives-are-lost-due-to-the-precautionary-principle.
[51] Cass R. Sunstein, *Laws of Fear: Beyond the Precautionary Principle* (Cambridge, UK: Cambridge University Press, 2005).
[52] Adam Thierer, *Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom*, 2nd ed. (Mercatus Center at George Mason University, 2016).
[53] Mason Sarver, "Sorry for the Delay: How FAA Regulations in the U.S. are Stifling Innovation and Hindering the Growth of a Promising New Industry Based on Delivery Drones," *Journal of Air Law and Commerce*, Vol. 89, No. 3, 2024, https://scholar.smu.edu/jalc/vol89/iss3/7.
[54] Konstantin Kakaes, "Why Is America Losing the Commercial Drone Wars?," *Washington Monthly*, June 7, 2015, https://washingtonmonthly.com/2015/06/07/why-is-america-losing-the-commercial-drone-wars.
[55] Adam Thierer, "Embracing a Culture of Permissionless Innovation," *Cato Institute, Cato Online Forum*, November 17, 2014, https://www.cato.org/cato-online-forum/embracing-culture-permissionless-innovation.

Luckily, U.S. policymakers did not apply Precautionary Principle-based regulation to the internet or computing systems in the U.S. In fact, America took the opposite approach and made the freedom to innovate the basis of internet policy in the mid-1990s.[56] This resulted in an explosion of commercial and speech activity as new options and platforms developed rapidly.

Similar proposals in other states: Fortunately, the bill did not advance and no other state considered an AI-related measure that would have adopted such a sweeping prohibition on new AI systems. Yet many other states have considered and implemented—Colorado and New York chief among them—Precautionary Principle-style approaches into the regulatory codes of AI governance.

Category 3
Algorithmic Pricing Regulations: New York's Algorithmic Pricing Disclosure Act (signed by Governor) & California's Amendments to the Cartwright Act (signed by Governor)

AI tools are still in their infancy and innovators have only begun to unlock their potential. One use-case among many has been for industry to use AI and other algorithms to match the price of goods and services in real-time with what consumers are willing to pay, driving overall market efficiency. Yet, driven by a precautionary cultural fear of emerging technologies and a rising cost of living, policymakers across the country have turned to algorithmic price regulation as a solution—but that decision will backfire on consumers.[57]

New York enacted the Algorithmic Pricing Disclosure Act last year, which requires covered companies to spout and display a pre-determined government line on their services in the name of transparency.[58] That disclosure must specifically state, "THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA."[59] That may sound benign in theory, but in January of 2026, the office of New York Attorney General Letitia James used its authority under that law to send a threatening letter to the retail company, Instacart, which had already decided to suspend its use of data in item pricing.[60]

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[56] Adam Thierer, "The Policy Origins of the Digital Revolution & the Continuing Case for the Freedom to Innovate," *R Street Real Solutions*, August 15, 2024, https://www.rstreet.org/commentary/the-policy-origins-of-the-digital-revolution-the-continuing-case-for-the-freedom-to-innovate.

[57] Adam Thierer and Logan Kolas, "States Should Stop Trying to Regulate AI Pricing," *Governing*, February 3, 2026, https://www.governing.com/policy/states-should-stop-trying-to-regulate-ai-pricing.

[58] The Office of New York Attorney General Letitia James, "Attorney General James Demands Answers from Instacart About Algorithmic Pricing," *Press Release*, January 8, 2026, https://ag.ny.gov/press-release/2026/attorney-general-james-demands-answers-instacart-about-algorithmic-pricing.

[59] Boris Bershteyn, Karen M. Lent, Michael H. Menitove, and Anna E. Drootin, "New York Algorithmic Pricing Law Enacted as Other Jurisdictions Weigh Controls on Price-Setting Technologies," *Skadden Publication*, January 20, 2026, https://www.skadden.com/insights/publications/2026/01/new-york-algorithmic-pricing-law#:~:text=It%20requires%20companies%20that%20set,local%20legislation%20targeting%20algorithmic%20pricing.

[60] The Office of New York Attorney General Letitia James, "Attorney General James Demands Answers from Instacart About Algorithmic Pricing," *Press Release*, January 8, 2026, https://ag.ny.gov/press-release/2026/attorney-general-james-demands-answers-instacart-about-algorithmic-pricing.

Defending that decision in an op-ed in the *Times Union*, AG James used that opportunity to advocate for more and stricter algorithmic pricing laws in 2026, presumably to be enforced by her office.[61]

California's Amendments to the Cartwright Act (AB 325) has an even broader effect. The law, which was signed by California Governor Gavin Newsom in October 2025, amends and expands California's primary antitrust statute—the Cartwright Act—to prohibit the use or distribution of "common pricing algorithms" if someone "coerces another person to set or adopt a recommended price or commercial term recommended by the common pricing algorithm," but the law does not define what "coerces" means.[62] The law also significantly expands criminal penalties for antitrust violations related to such algorithmic practices. With its ambiguous and broad scope, and potential for criminal penalties, California's AB 325 could limit the creation of new AI products and options significantly because the measure could, as Dean Ball of the Foundation for American Innovation puts it, "accidentally regulate effectively all market transactions."[63]

It would be appropriate for federal-level policymakers to use their extensive existing array of regulatory and antitrust tools to investigate and address fully vetted instances of "price fixing." It is perhaps also true that updates, reforms, clarifications—and in some limited cases, expansions—should be made to existing statutory laws to increase consumer transparency. Instead, many states have proposed their own general transparency requirements, which will create policy confusion nationally as this patchwork of regulations develops.

Similar proposals in other states: As the affordability crisis deepens across the United States, many state lawmakers will likely turn to algorithmic pricing regulation as a solution to the rising cost of living—a trend that is set to get worse in 2026 as the idea spreads to other sectors and policy priorities.[64] In 2025, 24 state legislatures introduced more than 50 AI pricing bills across the country.[65]

Unfortunately, many of these states are addressing the issue with poorly conceived and shoddily written bill drafts. Maine' An Act to Prohibit the Use of Dynamic Pricing for Certain Consumer Goods (LD 1597), for example, included in their definition of "dynamic pricing" a ban on price changes that "fluctuate based on demand, the weather, consumer data or other similar factors," undermining the basic market principle of supply-and-demand price changes.[66]

[61] Letitia James, "Commentary: New York Must Set Stronger Limits on Algorithmic Pricing," *Times Union*, January 13, 2026, https://www.timesunion.com/opinion/article/algorithmic-pricing-new-york-21286819.php.
[62] California Legislative Information, "AB-325 Cartright Act: Violations," https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260AB325.
[63] Dean Ball, "Turning a Blind Eye," *Hyperdimensional*, October 23, 2025, https://www.hyperdimensional.co/p/turning-a-blind-eye.
[64] Jameson Spivak, "A Price to Pay: U.S. Lawmaker Efforts to Regulate Algorithmic and Data-Driven Pricing," Future of Privacy Forum, August 18, 2025, https://fpf.org/blog/a-price-to-pay-u-s-lawmaker-efforts-to-regulate-algorithmic-and-data-driven-pricing/.
[65] Anita C. Marinelli, Kimberly L. Scott, and Miller Canfield, "Pricing Algorithms," *National Law Review*, November 25, 2025, https://natlawreview.com/article/pricing-algorithms-price-tags-and-personal-and-competitor-data-states-step.
[66] LegiScan, "Maine House Bill 1597," Last visited February 11, 2026, https://legiscan.com/ME/text/LD1597/2025.

Some state regulators have noted that poorly defining legal applicability could unintentionally regulate benign activities like happy hours, yet many bills retain broad definitions nonetheless.[67] And while some states reserved pricing regulation for sensitive sectors like housing, other states extended the regulatory purview of the proposed legislation to even grocery stores.[68] Colorado's Prohibit Surveillance Data to Set Prices and Wages Act (HB25-1264) was designed to snuff out inferences from "surveillance" data—including consumer price and worker wage changes—but broadly scoped the bill to implicate innocuous performance reviews, loyalty programs, and discount offers.[69] As policymakers across the country explore new and different ways to regulate algorithmic pricing in 2026, many different approaches will backfire on consumers as important new services are stifled or pushed out of reach.

Category 4
Automation Taxes: New York's Robot Tax Act

New York's Robot Tax Act (A3719) would impose a surcharge tax on industry that automates jobs equal to the labor or income tax revenue the government would have collected had the worker not been displaced because of AI, machinery, computer applications, or other technologies.[70] Proponents of automation taxes argue these taxes enhance job security and avoid a scenario where companies automate workers to dodge taxes, thereby depriving government of taxpayer money. Because this approach does not compensate businesses that hire displaced workers, the legislation raises the overall tax burden and masquerades as a pro-worker tax scheme when it would really hurt workers and consumers that benefit from job churn and raised living standards.

By raising taxes on innovators driving real value to consumers, New York not only would slow economic growth—but it would also punish businesses for using any type of AI, robotic, or automation-enhancing technology, even when these technologies are needed to compete on a global scale.[71] Economists who have studied "robot taxes" argue that a tax on automation penalizes productivity and new investment, which in turn discourages innovation and economic growth more broadly.[72]

[67] Georgia General Assembly, "Georgia SB 164," https://www.legis.ga.gov/legislation/70304.
[68] LegInfo, "California AB-446 Surveillance Pricing," Last visited February 11, 2026, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB446.
[69] "Colorado Legislative Session 2025 Updates," Last visited February 11, 2026, https://staffscapes.com/colorado-legislative-session-2025-updates/#:~:text=Prohibit%20Surveillance%20Data%20to%20Set,reviews%20and%20customer%20experience%20monitoring.
[70] LegiScan, New York Assembly Bill 3719, https://legiscan.com/NY/bill/A03719/2025.
[71] New York State Assembly, "A03719," Last visited February 11, 2026, https://assembly.state.ny.us/leg/?Actions=Y&Memo=Y&Summary=Y&bn=A03719.
[72] Robert D. Atkinson, "The Case Against Taxing Robots," *Information Technology & Innovation Foundation*, April 8, 2019, https://itif.org/publications/2019/04/08/case-against-taxing-robots.

Fears about automation and workforce disruption, although pre-existing, are commonly attributed to the English Luddite movement in the early-1800's.[73] The industrial revolution and the rise of modern machinery accelerated those worries. In 1927, U.S. Secretary of Labor James Davis wondered if automated machinery was "going to leave on our hands a state of chronic and increasing unemployment," and eventually leading to "a permanent jobless class."[74] Almost 100 years later, the United States has seen near-constant expansion of new employment opportunities in fields and professions that Davis could have never predicted. According to MIT economist David Autor, more than 60 percent of employment in 2018 were job titles that did not exist in 1940.[75] This happened because dynamic technological change introduced entirely new opportunities and increased worker options. Any automation tax introduced in 1940 would have frozen archaic jobs, led to wage stagnation, and diminished worker options.

Nonetheless, fears about technology-induced unemployment persist because, in the short-term, there is some truth to them. Technology-based workplace enhancements regularly change the composition of the workforce, leading to job churn, and displacing some existing jobs for new opportunities in the process. For example, the rise of online streaming meant the end of clerks working at video rental stores. Even when some workers lose their jobs permanently as new technologies are developed, it is not always the proximate cause of job disruption.

Broader micro- or macroeconomic circumstances might force some employers to shrink their workforce for reasons that have nothing to do with new workplace automation technologies. For example, many U.S. firms are currently struggling as chaotic tariff policies upend some sectors due to supply chain shocks or rapid spikes in key production inputs. If employers turn to automation software or robotic systems to help offset those costs, a robot tax would potentially put them in double jeopardy by raising their costs even more, thus threatening their survival. And by turning to robots, preliminary research shows that firms can grow more productively and thereby increase, not decrease, the demand for workers.[76] Robot taxes slow that growth and can backfire on workers.

In other cases, technological change augments jobs instead of automating them away. In the 1980s, for example, many feared ATMs would automate bank teller jobs, but as tellers stopped dispensing cash, bank employees had more time to take on new roles serving consumers as new financial services developed.[77] As technology automated and augmented jobs in other professions, new, safer, and better employment opportunities took their place.[78] Robotic systems now assist with many dangerous or exhausting mining and agricultural tasks.

[73] Calestous Juma, *Innovation and Its Enemies: Why People Resist New Technologies* (Oxford University Press, 2016).
[74] Cited in Timothy Taylor, "Automation and Job Loss: The Fears of 1927," *Conversable Economist*, March 16, 2016, https://conversableeconomist.blogspot.com/2016/03/automation-and-job-loss-fears-of-1927.html.
[75] David Autor, "The Labor Market Impacts of Technological Change: From Unbridled Enthusiasm to Qualified Optimism to Vast Uncertainty," January 2022, https://www.researchgate.net/publication/360965560_The_Labor_Market_Impacts_of_Technological_Change_From_Unbridled_Enthusiasm_to_Qualified_Optimism_to_Vast_Uncertainty.
[76] Tim Wang, Yi Zhang, and Chun Liu, "Robot Adoption and Employment Adjustment: Firm-level Evidence from China," *China Economic Review*, Volume 84 (April 2024), https://www.sciencedirect.com/science/article/abs/pii/S1043951X24000269#:~:text=industry%20labor%20reallocation.-,Abstract,from%20their%20non%2Dadopting%20counterparts.
[77] James Bessen, "The Automation Paradox," *The Atlantic*, January 19, 2016, https://www.theatlantic.com/business/archive/2016/01/automation-paradox/424437.
[78] Treavor Wagener, "What Bank Tellers and Radiologists Can Tell Us about Our Job Security in the AI Era," *CCIA*, February 3, 2026, https://ccianet.org/articles/what-bank-tellers-and-radiologists-can-tell-us-about-our-job-security-in-the-ai-era.

Unmanned drones dive into dangerous wells, monitor fires, and diffuse bombs instead of humans—allowing workers to develop and oversee technologies that deliver goods and services to consumers more safely and efficiently.[79]

On top of the historical lessons of labor economics, there are also many practical enforcement hassles associated with laws like New York's Robot Tax Act, including what classifies as a robot or an automation system for the purpose of taxation.[80] Almost all modern computational and digital technologies—calculators, personal computers, spreadsheet software, automated answering systems, and even smartphone apps—could have potentially violated the New York law in the past if some employees were losing jobs while those technologies were being introduced in the workplace. It is often unclear whether a worker is being completely displaced by new automation technology or instead being freed up to pursue new and potentially better-paying opportunities in the field. The Robot Tax Act treats all of the different scenarios the same.

Automation taxes also punish consumers by slowing quality improvements and raising prices. In healthcare, consumers must already contend with shortages of healthcare professionals. Doctors and nurses struggle to keep up with mountains of paperwork and menial tasks like note taking.[81] Medical professionals must also keep up with medical information that is doubling every 73 days when it used to double every 7 years.[82] AI can help them keep up with that exponential growth. Meanwhile, the robot tax act financially discourages doctors, nurses, hospitals, and small clinics from adopting AI-enabled software to improve patient care and allow providers to spend more time with patients.

A final problem with "robot taxes" is that they are unlikely to accomplish their underlying goal of creating a sizable compensation fund to help displaced workers. Firms under threat of automation taxes may relocate to jurisdictions with more competitive tax codes—an economic concept known as "innovation arbitrage"—and bring their innovations, civic leaders, and targeted tax dollars with them.[83] If companies choose to stay, higher taxes will lower business revenue—money that would have otherwise been used to invest in the company and its workers. And, as tax rates rise, domestic businesses will be placed at a competitive disadvantage compared to firms in other states or countries without similar tax burdens. Under both scenarios—whether companies stay or move—policymakers overstate the tax revenue implications of automation taxes.

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[79] National Institute of Standards and Technology, Public Safety Communications Research Division, "Uncrewed Aircraft Systems," November 17, 2022, https://www.nist.gov/ctl/pscr/research-portfolios/uncrewed-aircraft-systems; and Sam Kieldsen, "Poop Drones Are Keeping Sewers Running So Humans Don't Have to," *Wired*, April 28, 2025, https://www.wired.com/story/poop-drones-are-keeping-sewers-running-so-humans-dont-have-to.

[80] Robert Seamans, "No, Robots Should Not Be Taxed," *Forbes*, March 3, 2017, https://www.forbes.com/sites/washingtonbytes/2017/03/03/no-robots-should-not-be-taxed.

[81] Rea S. Hederman Jr. and Logan Kolas, "A Healthcare World Reimagined: How Big Government Threatens Healthcare AI and What to Do About It," *The Buckeye Institute*, April 1, 2024, https://www.buckeyeinstitute.org/research/detail/the-buckeye-institute-offers-policy-solutions-to-harness-ai-to-improve-healthcare.

[82] Adam Thierer, "What I Learned About the Power of AI at the Cleveland Clinic," *Medium*, May 6, 2022, https://medium.com/@AdamThierer/what-i-learned-about-the-power-of-ai-at-the-cleveland-clinic-e5b7768d057d.

[83] Adam Thierer, "Innovation Arbitrage, Technological Civil Disobedience & Spontaneous Deregulation," *Medium*, December 7, 2016, https://medium.com/tech-liberation/innovation-arbitrage-technological-civil-disobedience-spontaneous-deregulation-eb90da50f1e.

Policymakers are rightly concerned about the employment effects of technological change, but they are wrong to consider taxes on automation as an appropriate solution. Instead, policymakers should reform antiquated occupational licensing rules that slow workforce adaptation, and make pro-competitive reforms to state and local tax codes so that future workers are better positioned to navigate dynamic job markets.

Similar proposals in other states: New York is currently unique in its approach to automation taxes at the state level, but similar ideas have been floated at the federal level and during political campaigns. During the 2019 presidential primary period, Democratic candidate Bill de Blasio, the former mayor of New York City, pitched a robot tax scheme as well as the creation of a new Federal Automation and Worker Protection Agency to "oversee automation and safeguard jobs and communities" through a permitting process for any company seeking to increase automation that would displace workers.[84] Similarly, Senator Bernie Sanders more recently proposed that Congress create "a robot tax on large corporations and use the revenue to benefit workers harmed by AI."[85] Neither DeBlasio nor Sanders offered additional details about how these schemes would work in practice. Nonetheless, as New York's Robot Tax Act makes clear, such ideas are likely to attract more attention as firms integrate more AI and robotic systems into workplaces.

Category 5
Omnibus AI Packages: Florida's Artificial Intelligence Bill of Rights

Speaking on the First Coast Connect podcast in late December, Florida House Speaker Designate Sam Garrison predicted that AI "tension" would "dominate" the 2026 Florida Legislative Session.[86] Whether he was swayed to such an opinion by the introduction of the Florida AI Bill of Rights (CS/SB 482) exactly one week prior is unclear—but unsurprising—given that Governor Ron DeSantis' push for state AI regulation has clashed with Trump administration priority of a unified AI policy vision and framework.[87] In early February, Politico reported that progress had stalled and that the Florida House of Representatives had not taken up the idea halfway into the 2026 legislative session.[88]

Included within the sweeping Florida package of mandates and dictums are nine broadly defined categorical "rights," including a right to: use AI to improve lives, parental controls, rights to know, data collection, publicity rights, two different types of criminal protections, political advertising limitations, and defamation safeguards.

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[84] Bill de Blasio, "Why American Workers Need to Be Protected from Automation," *Wired*, September 5, 2019, https://www.wired.com/story/why-american-workers-need-to-be-protected-from-automation; and Adam Thierer, "The Worst Regulation Ever Proposed," *AEIR*, September 8, 2019, https://www.aier.org/article/the-worst-regulation-ever-proposed.
[85] Bernard Sanders, United States Senate Health, Education, Labor and Pensions Committee, "The Big Tech Oligarchs' War Against Workers: AI and Automation Could Destroy Nearly 100 Million U.S Jobs in a Decade," October 6, 2025, https://www.sanders.senate.gov/wp-content/uploads/10.6.2025-The-Big-Tech-Oligarchs-War-Against-Workers.pdf.
[86] A.G. Gancarski, "Sam Garrison Expects AI 'Tension' to Drive 2026 Session, *Florida Politics*, December 30, 2025, https://floridapolitics.com/archives/771155-sam-garrison-expects-ai-tension-to-drive-2026-session/.
[87] Andrew Atterbury, "'We Have a Right to Do This': DeSantis wants Florida to Move Ahead with AI Policies," *Politico*, December 15, 2025, https://www.politico.com/news/2025/12/15/we-have-a-right-to-do-this-desantis-wants-florida-to-move-ahead-with-ai-policies-00690680.
[88] Andrew Atterbury, "Florida GOP-led House Stalls on DeSantis AI Agenda," *Politico*, February 10, 2026, https://www.politico.com/news/2026/02/10/desantis-ai-priorities-florida-00774661.

Those ideas are in many ways duplicative of many already existing Florida statutes—a fact the bill acknowledges implicitly when it states that its rights are only given "in accordance with existing law."[89] Furthermore, the overall package of ideas is also not novel, as it bundles many already existing state initiatives in other states into one sweeping omnibus package of vaguely defined mandates and over-encompassing jargon.[90]

As technology expert and legal scholar Kevin Frazier explains, according to the bill's original definitions, the term "artificial intelligence" is defined using widely circulated but vague terminology. Like many other state AI regulations in other states, Florida defines AI as a "machine-based system" that can infer from its inputs how to generate outputs "influencing physical or virtual environments"—which another scholar has called "useless" in AI settings as nearly all systems would fall under that overly broad criteria.[91] The bill also broadly defines "artificial intelligence technology company"—a separate legal definition—to include businesses using AI incidentally in normal everyday business applications.[92] For example, non-AI companies that use salesforce or spam filters would be regulated under the Florida approach. Whereas prudent AI policymaking narrowly defines "AI" and businesses that use it to include only advanced forms of "generative" algorithmic commerce, the AI Bill of Rights makes a mockery of its own self-limiting title by using such expansive definitional terminology that would subject nearly all electronic devices to its broadly sweeping regulatory applicability.[93] Fortunately, in a January committee hearing, bill sponsor Senator Tom Leek mentioned that the definitions within the AI Bill of Rights may change before it reaches the Governor's desk—but those changes alone would not be sufficient to avert the proposal's many unintended consequences.[94]

Definitional changes alone would not remove its many new parochial requirements that would re-shape child online activity in the AI era. The bill would still maintain its intent to expand the regulatory scope of the state's existing data privacy structure by universalizing regulatory applicability whenever data is used for AI purposes, harming innovation and model development by curtailing training data access. Unlike other state approaches to data privacy, it would not avoid messy and frivolous private rights of actions that would subject the AI industry to an over-eager plaintiff's bar that discourages providing consumers with improved products and services. It would not stem the tide of free speech suppression and privacy challenges the bill encourages with such a heavy-handed approach to enforcement. And it would not solve that many additional layers of compliance costs that would arise from a uniquely Floridian approach to AI regulation.

[89] Max Rieper, "Inside Florida's 'AI Bill of Rights'," *Multistate.ai*, January 30, 2026.
[90] Florida SB 482, https://www.flsenate.gov/Session/Bill/2026/482/BillText/Filed/HTML.
[91] Kevin Frazier, "Florida's AI Bill of Rights is a Risky, Broad-Brush Proposal," *South Florida Sun Sentinel*, January 22, 2026, https://www.sun-sentinel.com/2026/01/22/floridas-ai-bill-of-rights-is-a-risky-broad-brush-proposal-opinion/; and Paul D. Weitzel, "Defining Artificial Intelligence," *University of Nebraska College of Law*, April 25, 2025, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5154389.
[92] Seth Lubin, LinkedIn post, January 2026, https://www.linkedin.com/posts/sethlubin_dataprivacy-artificialintelligence-airegulation-activity-7416888770353991680-ohi9/.
[93] Kevin Frazier, "Florida's AI Bill of Rights is a Risky, Broad-Brush Proposal," *South Florida Sun Sentinel*, January 22, 2026, https://www.sun-sentinel.com/2026/01/22/floridas-ai-bill-of-rights-is-a-risky-broad-brush-proposal-opinion/.
[94] Cody Butler, "Florida Advances AI Bill of Rights Despite Federal Restrictions," *WCTV*, January 21, 2026, https://www.wctv.tv/2026/01/21/florida-advances-ai-bill-rights-despite-federal-restrictions/.

The AI Bill of Rights represents a sweeping degree of state AI policy meddling, much of which would be more appropriately handled by Congress in comprehensive AI and privacy legislation—if at all. It is not surprising then that critics argue the measure represents a "liability-heavy approach" that invites litigation due to its "overly broad and vague regulatory scope."[95]

Similar proposals in other states: In early March, Louisiana became the first state to import the AI Bill of Rights and its many sweeping mandates.[96] Both bills expansively iterate upon already existing proposals in other states—name, image, and likeness (NIL) laws in AI settings, chatbot regulations, data privacy rules, publicity rights, rules on political advertising, amongst others—combining them into something of a single omnibus proposal of state AI policymaking.—name, image, and likeness (NIL) laws in AI settings, chatbot regulations, data privacy rules, publicity rights, and rules on political advertising, amongst others—combining them into something of a single omnibus proposal of state AI policymaking. Other states have introduced more narrowly defined combination bills that regulate AI use and development. Utah, Nebraska, Tennessee, and Illinois have considered parallel but distinct regulatory strategies that mix frontier model requirements with chatbot regulation and restrictions, whereas Florida has focused more on directly consumer-facing regulations.[97] The rise of combination bills has become an early 2026 legislative theme, but the Florida approach is uniquely broad.

Category 6
AI Mental Healthcare Bans: Nevada's Assembly Bill 406 (signed by Governor)

One-third of American adults—more than 122 million Americans—have unmet needs for mental health services.[98] Yet, when Governor Joe Lombardo signed Nevada Assembly Bill 406 (AB 406) last June, Nevada became the first state to institute broad prohibitions on AI systems providing mental health therapy.[99] The bleak reality is that persistent shortages of mental health professionals have driven up costs nationwide, where a single session can cost between $122 to $227, while the median wait for an appointment sits at 67 days, or just over 2 months.[100] When therapists are available, they often offer inconvenient hours of operation, and patients must overcome personal obstacles that make seeking care unattractive, such as issues with in-person disclosure of life events.

[95] Mariam Baksh, "Tech Group Says Florida AI Bill of Rights Legislation Would 'Misallocate' Liability," *Inside AI Policy*, January 13, 2026, https://insideaipolicy.com/ai-daily-news/tech-group-says-florida-ai-bill-rights-legislation-would-misallocate-liability.
[96] Louisiana State Legislature, "Louisiana House Bill 734," Last visited March 2, 2026, https://legis.la.gov/Legis/BillInfo.aspx?i=250596.
[97] The catch-all bills in other states include Utah HB 286, Nebraska LB 1083, Tennessee HB 1898, and Illinois HB 4705. LegiScan, "Utah House Bill 286", Last visited February 11, 2026, https://legiscan.com/UT/bill/HB0286/2026; Nebraska Legislature, "LB 1081—Adopt the Transparency in Artificial Intelligence Risk Management Act," Last visited February 11, 2026, https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=63049; LegiScan, "Tennessee House Bill 1898," last visited February 11, 2026, https://legiscan.com/TN/bill/HB1898/202; and LegiScan, "Illinois House Bill 4705," Last visited February 11, 2026, https://legiscan.com/IL/bill/HB4705/2025.
[98] Hemangi Modi, Kendal Orgera, Atul Grover Exploring Barriers to Mental Health Care in the U.S. Washington, DC: AAMC; 2022, https://doi.org/10.15766/rai_a3ewcf9p; and Anthony Carter, "A Workforce Under Pressure: Preparing the Behavioral Health Workforce for Today and Tomorrow" *National Council for Mental Well-Being*, September 25, 2025, https://www.thenationalcouncil.org/behavioral-health-workforce-under-pressure-preparing-today-tomorrow/.
[99] Nevada Assembly Bill No. 406, https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/12575/Text; and Gregory Ferenstein, "Nevada's Ban on AI Therapists Highlights Regulation Based on Fear Rather than Analysis, *Reason*, November 12, 2025, https://reason.org/commentary/nevadas-ban-on-ai-therapists-highlights-regulation-based-on-fear-rather-than-analysis/.
[100] Kristen Garafano, "How Much Does Therapy Cost? Simple Practice," February 27, 2025, https://www.simplepractice.com/resource/how-much-does-therapy-cost/; and Solace, "How Long Should You Wait for a Psychiatrist Appointment?" *Solace*, October 8, 2025, https://www.solace.health/articles/psychiatric-appointment-wait-time.

Specialized AI companies have filled the market need for private, secure, and affordable mental health services by creating legitimate AI therapy tools built in partnership with licensed mental healthcare professionals and trained on high-quality therapy records. As James Madison Institute scholar Edward Longe, described it, these are nuanced tools that, "incorporate crisis-detection protocols, clinical guardrails, and structured interventions tailored to specific conditions."[101]

Rather than meet these developments with light-touch regulations that prioritize consumer safety and medical accessibility, Nevada responded instead with a first-of-its-kind ban on these life-altering AI technologies and specialized treatment tools. While Nevada bans specialized tools, less specialized LLMs, such as ChatGPT, continue to fill the market need informally and without specialized guardrails.

Similar proposals in other states: Illinois followed Nevada's lead and similarly passed the Wellness and Oversight for Psychological Resources Act (HB 1806) to ban the use of AI "to provide mental health and therapeutic decision-making."[102] Massachusetts S. 2632 proposed to ban standalone AI systems, including chatbots, from offering, providing, or advertising "therapy or psychotherapy" services, unless conducted by a licensed professional.[103] Even under direct supervision, the bill would still ban tool use directly by clients.

Meanwhile, Pennsylvania, New Jersey, and California have considered more refined and unique approaches to mental health therapy chatbot regulation.[104] Pennsylvania has focused on parental consent.[105] New Jersey has focused on mental health chatbot advertising.[106] California considered competing approaches to chatbot regulation, ultimately deciding to become the first state to tailor broader chatbot regulation to minor use, implicating mental health chatbot therapy among a broader category of companion chatbot regulations.[107]

Many other states have considered direct and indirect regulations on AI-aided mental health therapy[108] —but Utah stands out for its uniquely beneficial approach. Rather than focus on top-down bans and restrictions, Utah has instead focused on ensuring mental health chatbots operate with consumer protections in mind, respect user privacy, and measure risk by benchmarking against clinical best-practices.[109]

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[101] Dr. Edward Longe, "Don't Follow Nevada's Mental Health Mistake," October 28, 2025, https://jamesmadison.org/dont-follow-nevadas-mental-health-mistake/.
[102] "Governor Pritzker Signs Legislation Prohibiting AI Therapy in Illinois," *Illinois Press Release*, August 4, 2025, https://idfpr.illinois.gov/news/2025/gov-pritzker-signs-state-leg-prohibiting-ai-therapy-in-il.html.
[103] LegiScan, "Massachusetts, MA Senate Bill 2632," Last visited February 11, 2026, https://legiscan.com/MA/drafts/S2632/2025.
[104] "States Struggle to Regulate AI Chatbots for Mental Health Therapy Amid Rising Need for Care," *Health Policy Institute of Ohio*, October 3, 2025, https://www.healthpolicyohio.org/health-policy-news/2025/10/03/states-struggle-to-regulate-ai-chatbots-for-mental-health-therapy-amid-rising-need-for-care.
[105] "Senate Bill No. 631," *General Assembly of Pennsylvania*, Last visited February 11, 2026, https://www.palegis.us/legislation/bills/text/PDF/2025/0/SB0631/PN0635?mc_cid=7a546898e1&mc_eid=UNIQID.
[106] New Jersey Legislature, "Bill A5603," Session 2024-2025, https://www.njleg.state.nj.us/bill-search/2024/A5603?mc_cid=7a546898e1&mc_eid=UNIQID.
[107] Justin Gluck, "Understanding the New Wave of Chatbot Legislation: California SB 243 and Beyond," *Future of Privacy Forum*, November 4, 2025, https://fpf.org/blog/understanding-the-new-wave-of-chatbot-legislation-california-sb-243-and-beyond/.
[108] Austin Jenkins, "Rising Concerns Over AI Chatbots Prompt Legislative Action," *Pluribus News*, January 12, 2026, https://pluribusnews.com/news-and-events/rising-concerns-over-ai-chatbots-prompt-legislative-action.
[109] Jennifer Wessel, JD, "AI Therapy Chatbots Raise Privacy, Safety Concerns," *ACHI*, November 25, 2025, https://achi.net/newsroom/ai-therapy-chatbots-raise-privacy-safety-concerns/#:~:text=Regulators%20Eyeing%20Possible%20Approaches,focused%20on%20responsible%20AI%20policy.

Category 7
Frontier Model Safety Laws: New York's Responsible AI Safety and Education Act (RAISE) Act (signed by Governor)

Signed by Governor Kathy Hochul in late December, the New York General Assembly passed the Responsible AI Safety and Education Act (RAISE Act or OA6453B), which first errors by taking a "paperwork first" approach to AI safety. The RAISE Act requires arbitrarily defined "frontier" models—an AI system with greater than 10^26 computational operations—to create, publish, and adhere to frameworks that detail how "catastrophic risks are identified, mitigated, and governed." It also requires AI developers to anticipate future problems and take precautionary steps to mitigate those hypothetical harms. By layering paperwork and bureaucracy on top of routine AI activity, frontier model regulations create all kinds of ticky-tack paperwork requirements and bureaucracy that increase legal complexity and raise compliance costs, ultimately slowing down innovation and causing regulatory confusion.

New York's decision to mirror California Transparency in Frontier Artificial Intelligence Act (TFAIA or SB 53) also alarmingly raises the specter of "cartel federalism," where big states collude to align their policies, which drowns the opinions of smaller states. New York's amended version of the RAISE Act may still prove to be a marginal improvement over the regulatory split that would have governed had New York instead insisted on charting its own path on AI safety. But those short-term benefits will give way to larger total costs if this kind of interstate collaboration subjects smaller states—and the rest of the country—to the bi-coastal squeeze of heavy-handed regulations on AI policy matters outside of only "frontier" model safety.

If collaboration spreads beyond frontier model safety—into AI bias law, algorithmic pricing, data disclosure, and more—then the national frameworks for the rest of the country will be decided by policymakers in Sacramento and Albany, with little to no input from policymakers in the rest of the country. To make matters worse, by aligning New York's RAISE Act with California SB 53, New York imports California's vague definitions and mandates,[110] abusable and poorly designed whistleblower protections,[111] and its unclear enforcement design.[112] Such are the downsides to "copycat" approaches to regulatory alignment between large states.

A more thoughtful approach would deal directly with AI harms at the federal level where a similarly designed framework would be more appropriate for the interstate AI marketplace. Because "catastrophic harms" clearly implicate national security imperatives, frontier model regulation is best left to Congress where there is more subject matter expertise and a more appropriate division of power. Yet, New York shows no reverence for that more appropriate venue for such regulation. In fact, New York's usurpation of Congressional responsibility is intended insofar as Governor Hochul proclaimed on social media after signing the law, the RAISE Act sets the "national standard" for AI governance on the matter.[113]

[110] Neil Chilson, "California's SB 53 is Confused About Risk," *Getting Out of Control Substack*, September 9, 2025, https://outofcontrol.substack.com/p/californias-sb-53-is-confused-about.
[111] Neil Chilson (@neil_chilson), X, September 12, 2025 at 6:07pm, https://x.com/neil_chilson/status/1966624629402792087.
[112] Adam Thierer and Kevin Frazier, "No Single State Should Dictate National AI Policy," *Governing*, August 28, 2025, https://www.rstreet.org/commentary/no-single-state-should-dictate-national-ai-policy/.
[113] Governor Kathy Hochul (@GovKathyHochul), X, December 19, 2025 at 7:11pm, https://x.com/GovKathyHochul/status/2002169948743897310.

Through the RAISE Act, New York oversteps its authority by setting national—even geopolitical—policy at the state-level, where information is more limited and incentives are aligned to state policymaking, not the broader national interest.

Similar proposals in other states: California first debated frontier model safety legislation when it introduced the highly controversial Safe and Secure Innovation for Frontier Artificial Intelligence Models Act (SB 1047), which was vetoed by California Governor Gavin Newsom in September 2024.[114] New York retained many of California's most obvious mistakes up until Governor Kathy Hochul decided that the legislation could only pass if it was amended to emulate California's problematic—but less controversial—SB 53

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But many "zombie" elements of the original SB 1047 debates—vague risks, confusing definitions, strict auditing requirements, to name only a few—continue to infect legislation in other states. Rhode Island, Michigan, and Illinois, for example, all considered similarly restrictive measures to the pre-reform RAISE Act and SB 53.[115] The extraterritorial scope of the bill includes any company with a covered frontier model that serves a California consumer.Even as other states consider, debate, and even reject California and New York's approach to frontier model governance, their size and broad influence over law and markets in America means Albany and Sacramento will decide the frontier model rules the rest of the country must follow. If these policies are needed at all, they should be formulated by Congress and enforced in a more consistent way for the national marketplace by federal officials.

Category 8
Content Provenance and AI Transparency: California's AI Transparency Act Amendments (signed by Governor)

When California enacted the AI Transparency Act (SB 942) in 2024,[116] covered AI companies were required to provide consumers free AI detection tools to inform them of whether the content they are seeing was created or altered by generative AI.[117] California amended and expanded the AI Transparency Act (AB 853) in 2025 to include large online platforms (social media, content sharing website, and messaging companies), model hosting repositories (open-source platforms like Hugging Face),[118] and capture devices (cameras and phones). Covered providers must also "offer the user an option of including a manifest disclosure in certain GenAI created content... include a latent disclosure in certain GenAI created content, and add contractual obligations to licensees of their GenAI system to ensure transparency."[119]

[114] Bobby Allyn, "California Gov. Newsom vetoes AI safety bill that divided Silicon Valley," *NPR*, September 29, 2024, https://www.npr.org/2024/09/20/nx-s1-5119792/newsom-ai-bill-california-sb1047-tech.
[115] Justine Gluck, "The State of State AI: Legislative Approaches to AI in 2025," *Future of Privacy Forum*, October 2, 2025, https://fpf.org/blog/the-state-of-state-ai-legislative-approaches-to-ai-in-2025/.
[116] Ester Kye and David Stauss, "California AI Transparency Act Amendments Signed Into Law," Trouteman, Pepper, and Locke, October 28, 2025, https://www.troutmanprivacy.com/2025/10/california-ai-transparency-act-amendments-signed-into-law/.
[117] "SB-942 California AI Transparency Act," Last visited February 11, 2026, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB942.
[118] Dean W. Ball, "Turning a Blind Eye," *Hyperdimensional*, October 23, 2025, https://www.hyperdimensional.co/p/turning-a-blind-eye.
[119] Ester Kye and David Stauss, "California AI Transparency Act Amendments Signed Into Law," *Troutman, Pepper, and Locke,* October 28, 2025, https://www.troutmanprivacy.com/2025/10/california-ai-transparency-act-amendments-signed-into-law/.

Under this broadened scope, large online platforms must create user-friendly interfaces—like labels, badges, icons, or interactive indicators—that use "system provenance data" to inform consumers when content is synthetic, or otherwise created or highly modified by generative AI.

Transparency promotion is preferable to outright bans on AI generated content—but the original law and its amendments foment confusion and ambiguity rather than promoting certainty and transparency. Only "covered" providers with more than one million "users" must comply with these new regulatory enactments, yet neither the law nor its subsequent amendments define the term "user."[120]

Perhaps even more worrying than the law's blatant ambiguity, however, is that the approach itself is premature—effectively locking-in extraterritorial regulation for the rest of the country before industry standards have had time to develop.[121] Industry is already responding to online misinformation in AI-generated content with new guidelines and industry standards—termed "content credentials"—so publishers, creators, and consumers can trace provenance and history of digital media and distinguish fact from fiction.[122] That voluntary approach avoids squeezing out new market entrants with vague and rigid requirements and allows the rules to develop over time as the technology evolves.

Rather than wait for carefully vetted industry standards and best-practices to emerge, California mandates specific requirements beforehand. A hasty and short-sighted approach to AI transparency, Governor Gavin Newsom is already warning of "unintended consequences" and threats to "user privacy."[123] Rather than veto the flawed legislation, thereby ensuring that the legislature got the policy right before signing the amendments, Newsome instead signed the amendments and encouraged the Legislature to revisit the bill in 2026.[124]

Similar proposals in other states: New York, Florida, and Virginia have each introduced content provenance bills in 2025 similar to California AB 853, each with their own unique scope, conduct rules, compliance obligations, and reporting requirements.[125] New York, for example, proposes an expanded scope to include state government agencies while limiting some of the requirements covered entities must face.[126] Florida kept many of the same provisions as California, but also expanded the bill to focus on content provenance in political campaigns.[127]

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[120] Ibid.

[121] "CCIA Urges Lawmakers to Reject AB 1064 and AB 853 Over Online Innovation and Access Concerns," *CCIA Press Release*, July 15, 2025, https://ccianet.org/news/2025/07/ccia-urges-lawmakers-to-reject-ab-1064-and-ab-853-over-online-innovation-and-access-concerns/#:~:text=Innovation%20Policy-,CCIA%20Urges%20Lawmakers%20to%20Reject%20AB%201064%20and%20AB%20853,penalties%2C%20and%20unclear%20legal%20standards.

[122] Coalition for Content Provenance and Authenticity (C2PA), Last visited January 31, 2026, https://c2pa.org/about/.

[123] Gavin Newsom, Office of the Governor, Signing Message on Assembly Bill 853, https://www.gov.ca.gov/wp-content/uploads/2025/10/AB-853-Signing-Message.pdf.

[124] Ibid.

[125] Bill Track 50, "New York S06954," Last visited February 11, 2026, https://www.billtrack50.com/billdetail/1877610; Florida Senate, CS/SB 702: Provenance of Digital Content, https://www.flsenate.gov/Session/Bill/2025/702; and Virginia, HB 2121, Digital Content Authenticity and Transparency Act, https://lis.virginia.gov/bill-details/20251/HB2121.

[126] Bill Track 50, New York S06954, Last visited January 15, 2026, https://www.billtrack50.com/billdetail/1877610.

[127] Florida Senate, "CS/SB 702: *Provenance of Digital Content*," Last visited February 11, 2026, https://www.flsenate.gov/Session/Bill/2025/702.

California has also taken vastly different—but still problematic—approach to AI transparency governance. California's Artificial Intelligence Training Data Transparency (AB 2013) seeks to govern dataset transparency, but it has instead invited legal challenges as its "transparency" requirements have allegedly run afoul of the U.S. Constitution's Takings Clause by threatening to expose trade secrets, or depreciate their value, without compensation.[128] Before that lawsuit, the idea quickly spread to the state of Washington, which has introduced a near replica of AB 2013.[129]

Many bills in other states seek to impose various independent requirements on AI deployers and developers. Rhode Island's Transparency and Accountability in Artificial Intelligence Use by Health Insurance to Manage Coverage and Claims Act (SB 2010), for example, requires that healthcare insurers disclose details about how AI is used in their business operations, but also extends those disclosure regulations to include the developer's training datasets and "data governance measures."[130] New York's Fundamental Artificial Intelligence Requirements in (FAIR) News Act (AB 8962), would require broadly defined news outlets—likely everything from mainstream media to independent Substack publications—to disclose the use of generative AI to its workers and consumers, but complicates the law further by giving individual employees the right to opt-out of employer deals to license their training data.[131] Many other bills threaten vague, open-ended requirements on both developers and deployers. The AI transparency patchwork is enormous, complicated, and growing.

Category 9
Output and Model Ownership: Arkansas' An Act Regarding the Ownership of Model Training and Content Generated by a Generative Artificial Intelligence Tool (signed by Governor)

Signed by Governor Sarah Huckabee Sanders in April of 2025, Arkansas' Act Regarding the Ownership of Model Training and Content Generated by a Generative Artificial Intelligence Tool (Act 927) assigns default AI ownership rights of generative AI outputs and models to the individuals or persons providing the inputs or directives, unless otherwise contracted. Few outlets have actually covered the law, but its limited coverage has been mostly positive for its willingness to combat gray areas and clarify legal ambiguities.[132] But in economics, private ownership rights are exercised insofar as individuals can "exclude" others from product use and benefit.[133] The law therefore misunderstands the decentralized and non-excludable design of many AI systems, which creates false expectations of ownership rights and in many ways complicates, not clarifies, ownership status.

[128] Tammana Malik, "The Unmaking of Grok: Elon Musk's xAI Sues California Attorney General Over Training Disclosure Law," *The National Law Review*, January 5, 2026, https://natlawreview.com/article/unmaking-grok-elon-musks-xai-sues-california-attorney-general-over-ai-training.
[129] Washington State Legislature, "HB 1168," https://app.leg.wa.gov/BillSummary/?BillNumber=1168&Year=2025&Initiative=false.
[130] Dean W. Ball, "The AI Patchwork Emerges," *Hyperdimensional*, January 15, 2026, https://www.thefai.org/posts/the-ai-patchwork-emerges.
[131] Ibid.
[132] inVeritas, "Four Key AI Bills Enacated During the 2025 Legislative Session," May 19, 2025, https://www.inveritasinfo.com/blog/four-key-ai-bills-enacted-during-the-2025-legislative-session; and ThinkGov, "Arkansas Breaks New Ground: First Comprehensive AI Governance Laws Take Effect Monday," August 1, 2025, https://thinkgov.ai/arkansas-ai-laws-august-2025.
[133] Will Rinehart, 'The Law & Economics of "Owning Your Data,'" *American Action Forum*, April 10, 2018, https://www.americanactionforum.org/insight/law-economics-owning-data/.

Consider that open-source platforms like Hugging Face intentionally avoid exclusive ownership rights to encourage collaborative approaches to AI innovation. If under Arkansas law, a user fine-tunes an open-source AI model, they could face legal consequences for violating licensing obligations and terms-of-service agreements, thereby exposing them to legal risk and discouraging collaborative open-source AI innovation efforts. Many fine-tuners already navigate contracts and licenses—agreements Act 927 would not nullify—but the potential for conflict and legal ambiguity could still chill innovative activity, especially for non-experts without access to expansive legal teams.

The Arkansas approach to output and model ownership also potentially creates confusion with federal copyright law, blurring the lines of which kinds of AI use-cases states are most competently positioned to regulate. The Arkansas approach rightly defers to federal copyright law in potential cases of conflict but creates an illusion of ownership when federal law sets the terms of copyright, nonetheless. For example, a consumer claiming ownership of an AI-generated image under Arkansas law may be denied copyright registration at the federal level, causing confusion on ownership rights. The Arkansas approach to AI output and model ownership creates many more unintended consequences than it solves while meaningfully contributing to patchwork issues by creating legal ownership standards unique to Arkansas. These matters would be better addressed through a more uniform federal approach to avoid marketplace confusion.

Similar proposals in other states: Arkansas is unique in its approach to data and model ownership, no other states have followed suit.

Category 10
Criminal Conduct Escalators: Michigan's Amendments to 1931 PA 328

Michigan's Amendments to 1931 PA 328 (HB 4667) amends the state penal code to add three new felony offenses, depending on how the technology is used, when a criminal leverages AI systems—such as chatbots, voice assistants, generative AI models, and other automated decision-making tools. Mandating that AI use in criminal activity carry a separate felony offense sounds acceptable in theory, but the legislation would create many unintended consequences in practice.

First, the definition of an AI system is incredibly broad and vague: "any machine-based system that can process data, generate content, or simulate human-like interactions, including, but not limited to, chatbots, voice assistants, generative AI models, and automated decision-making tools." That overly broad definition implicates every-day tasks and software that most would not originally consider to be AI. Second, rather than enforcing the laws already on the books if an AI system is used to commit a crime, HB 4667 tacks on a felony with mandatory prison time simply because AI was used in the crime. Since HB 4667 creates new felonies for using, developing, or distributing AI systems to commit a crime —the bill would turn cases where an individual leverages AI to commit minor offenses into serious felonies that carry mandatory minimum sentences. For example, using an AI to create a fake IDs for underage drinking would carry a life-ruining felony offense with a mandatory prison sentence up to eight years on top of the minor infraction, even for low-level misconduct.

Similar proposals in other states: Fortunately, no other states have considered such misguided policy on AI felonies.

State Lawmakers Should Be Patient and Tap Existing Tools First

Prudent technology policy is rooted in patience and humility. Complicated and fast-moving technologies need to be treated flexibly in ways that can bend to technology as it evolves. That is how societies can maximize the benefits of innovation.[134] As the *AI Terrible Ten* makes clear, policymakers err when they try to fit rigid legal codes around changing technologies, rather than adopting flexible and iterative frameworks that can evolve with technology, not clash against it.

AI development is not happening in a legal vacuum. Indeed, perhaps the biggest myth currently driving the push for many AI proposals is that algorithmic and robotic innovation is unfolding in a "Wild West," or a lawless state of anarchy.[135] Nothing could be further from the truth. The reality is that AI and robotic systems—and any harms caused by them—are covered by a wide variety of existing laws enforced by many different governments, regulatory agencies, and the courts.[136]

Many Democratic policymakers have stressed this reality in recent statements. In 2023, Biden administration agency heads for the Federal Trade Commission, the Equal Employment Opportunity Commission, the Consumer Financial Protection Bureau, and the Civil Rights Division of the Department of Justice, released a joint statement to make it clear that their respective agencies intended, "to enforce their respective laws and regulations to promote responsible innovation in automated systems."[137] They identified several of the tools they had to do so, including broad-based consumer protections (such as unfair and deceptive practices law), civil rights policies, antitrust policies, and sector-targeted regulations. In a notable New York Times op-ed that same year, Lina Khan, then chair of the Federal Trade Commission (F.T.C.), said that, "The F.T.C. is well equipped with legal jurisdiction to handle the issues brought to the fore by the rapidly developing A.I. sector."[138]

Many of these federal policies have state level compliments.[139] This was made clear by a detailed 2024 memorandum issued by the Massachusetts Office of the Attorney General, that "existing state consumer protection, anti-discrimination, and data security laws apply to emerging technology, including AI systems, just as they would in any other context."[140]

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[134] Adam Thierer, "Governing Emerging Technology in an Age of Policy Fragmentation and Disequilibrium," American Enterprise Institute, April 2022, https://platforms.aei.org/can-the-knowledge-gap-between-regulators-and-innovators-be-narrowed.
[135] Diane Stopyra, "The Wild West of AI," *UD Magazine*, November 26, 2024. https://www.udel.edu/udaily/2024/august/ai-regulation-wild-west-greg-dobler.
[136] Adam Thierer, "The Many Ways Government Already Regulates Artificial Intelligence," *Medium*, June 2, 2023. https://medium.com/@AdamThierer/the-many-ways-government-already-regulates-artificial-intelligence-74941254ed8d.
[137] U.S. Federal Trade Commission, "FTC Chair Khan and Officials from DOJ, CFPB and EEOC Release Joint Statement on AI," April 25, 2023. https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-chair-khan-officials-doj-cfpb-eeoc-release-joint-statement-ai.
[138] Lina Khan, "We Must Regulate A.I. Here's How," *New York Times*, May 3, 2023. "https://www.nytimes.com/2023/05/03/opinion/ai-lina-khan-ftc-technology.html.
[139] J. Scott Babwah Brennen, Kevin Frazier, and Anna Vinals Musquera, "Are Existing Consumer Protections Enough for AI?" *Lawfare*, September 3, 2025. https://www.lawfaremedia.org/article/are-existing-consumer-protections-enough-for-ai.
[140] Massachusetts Office of the Attorney General, "AG Campbell Issues Advisory Providing Guidance On How State Consumer Protection And Other Laws Apply To Artificial Intelligence," April 16, 2024. https://www.mass.gov/news/ag-campbell-issues-advisory-providing-guidance-on-how-state-consumer-protection-and-other-laws-apply-to-artificial-intelligence.

This is why analysts have argued that, while AI is new, "the laws that govern it don't have to be," and that "the best AI law may be the one that already exists."[141]

The sensible perspectives articulated by these Democratic officials make it clear that AI policy need not be hyper-partisan. Over the past three decades, there has been more common ground on tech policy than many today realize. For example, the Clinton administration's 1997 Framework for Global Electronic Commerce outlined a flexible policy vision for the digital economy that relied on pro-innovation policies bolstered by existing consumer protections.[142] More recently, Jason Furman, Chairman of the White House Council of Economic Advisers during the Obama administration, outlined a set of principles for "How to Regulate AI without Stifling Innovation."[143] Furman stressed the need to balance benefits and risks while ensuring that existing regulations were not hindering progress or protecting incumbents. However, he also explained how gaps can be filled by leaning on existing laws and regulatory bodies rather than creating a new superregulator or burdensome rules.

By tapping these approaches and existing legal tools, states can develop bipartisan policies that are pro-innovation, pro-consumer, and pro-safety in character.

Four Constructive Ideas for New AI Policies

While there are many problematic AI regulations pending in the states today, there are also some bright spots that follow sound principles of AI governance. Over the past two years, for example, the American Legislative Exchange Council (ALEC) adopted four pieces of model state legislation that offer lawmakers good starting points for addressing complex and fast-moving AI policy issues.

1. *Model State Artificial Intelligence Act*: In 2024, ALEC formulated a baseline AI model bill that proposes the creation of an Office of Artificial Intelligence Policy and tasks it with a few basic responsibilities:[144]
    - identifying regulatory barriers to AI development, recommending regulatory proposals to remove or avoid such barriers, and identifying regulatory gaps where existing law is insufficient;
    - conduct an inventory of AI technology use by state agencies, as well as an inventory of existing state regulation of AI technology to inform policymakers;
    - administer an Artificial Intelligence Learning Laboratory Program to convene key stakeholders, produce findings and recommendations for legislation and regulation of specific AI uses, and grant temporary regulatory mitigation to Learning Laboratory participants.

[141] Tyler Tone, "AI is new — the laws that govern it don't have to be," *FIRE Newsdesk*, March 28, 2025. https://www.thefire.org/news/ai-new-laws-govern-it-dont-have-be; and Will Rinehart, "The Best AI Law May Be One That Already Exists," *AEIdeas*, February 03, 2025, https://www.aei.org/articles/the-best-ai-law-may-be-one-that-already-exists.
[142] "The Framework for Global Electronic Commerce," *The White House, 1997*, Last visited February 11, 2026, https://clintonwhitehouse4.archives.gov/WH/New/Commerce.
[143] Jason Furman, "How to Regulate AI without Stifling Innovation," *Wall Street Journal*, November 21, 2024. https://www.wsj.com/opinion/how-to-regulate-ai-without-stifling-innovation-regulation-eu-licensing-a2f0d8af.
[144] American Legislative Exchange Council, "Model State Artificial Intelligence Act," August 30, 2025, https://alec.org/model-policy/model-state-artificial-intelligence-act.

2. "*Technology-Neutral Anti-Discrimination Clarification Act*": This model reaffirms that "discrimination based on protected characteristics is unlawful whether it occurs in housing, employment, public accommodations, education, credit, or any other context covered by state civil-rights statutes." At its core, the model legislation reaffirms that illegal content is illegal regardless of the technology used to break the law. Reiterating in plain text that new technology does not "confer legal immunity," the model bill prioritizes technology neutrality, ensuring that all technologies compete to fill market needs on a level playing field.
3. "*Artificial Intelligence Tax Non-Discrimination Act*": This model bill builds on the principle that policymakers should seek to adopt clear and simplified tax policies, while also avoiding technological distortion or discrimination relative to other technologies and sectors. "Tax policy must remain neutral toward the mode of delivery or technological implementation of services," this model law states. Accordingly, the measure, "prohibits discriminatory tax measures unfairly targeting artificial intelligence, algorithms, and automated decision systems, including taxes on computing power, a remote-only access sales tax, differential treatment of AI subscriptions, differential treatment of AI-derived income, and any other discriminatory tax as defined." The model act notes that such "discriminatory taxes on AI products and services levied by federal, state, and local governments would distort the market, stifle innovation, and undermine American competitiveness."
4. "*Right to Compute Act*": This model bill would clarify that the traditional rights citizens already enjoy also include, "a fundamental right to own and make use of technological tools, including computational resources. Any government restrictions on the lawful use of computational resources—including but not limited to hardware, software, algorithms, machine learning, cryptography, platforms, services, and quantum applications—must be narrowly tailored and demonstrably necessary to fulfill a compelling government interest." In April, Montana became the first state to adopt a Right to Compute Act, which drew bipartisan support.[145] New Hampshire and Ohio have also considered similar measures.

The ALEC model bills offer a solid foundation for state AI policymakers—with many states moving from foundation building to policy construction. Some states have already taken other positive steps to address AI policy.

Case Study 1: Montana Right to Compute and the Benefits of Future Forward Governance

Montana has long been a thoughtful visionary for flexible frameworks for technological governance. In 2009, the Montana legislature created the Montana Digital Academy (MTDA), which has evolved to include the "frontier learning lab"—a statewide initiative to connect educators, administrators, and public schools with necessary resources to prepare students for an increasingly tech-intensive workforce.[146]

[145] Taylor Barkley, "Safeguarding Computational Liberty in America," *James Madison Institute*, December 11, 2025, https://jamesmadison.org/safeguarding-computational-liberty-in-america.
[146] Jason Neiffer and Frontier Learning Lab, "*Welcome to the Frontier Learning Lab*," July 30, 2025, https://frontierlearninglab.substack.com/p/welcome-to-the-frontier-learning-c14.

In the frontier learning lab, teachers are given access to statewide workshops, an AI Help Desk to answer questions with a quick turnaround, and a curated directory of AI, virtual reality, and augmented reality tools aligned with classroom needs.[147] Meanwhile, in 2024, the Frontier Institute, a Montana-based think tank, began charting a bold vision for how policy changes today could secure a better future for Montana by mid-century. The project became known as "Montana 2050 Project," where key state-level policy reforms to AI, data centers, critical minerals, and cryptocurrency could shepherd in a more abundant and prosperous Montana by 2050.[148]

As a part of that bold vision, Montana introduced and passed Right to Compute, which was the first piece of legislation introduced to ensure state residents could use AI and other forms of algorithmic commerce as a tool unless the state created a "narrowly tailored" law necessary to address a "compelling government interest." In April 2025, Montana Governor Greg Gianforte signed the state's historic Right to Compute Act into law after "strong bipartisan votes,"[149] creating a leadership role for Montana in setting a vision for computational freedom and expression in the digital era.[150]

Following Montana's lead, New Hampshire, Ohio, South Dakota, and South Carolina have all introduced Right to Compute bills, with New Hampshire proposing to enshrine the freedom to "freely access, use, and employ computation resources" as an amendment to their state constitution.[151] The Ohio legislature has rightly proposed a similarly defined Right to Compute Act, with scholars at The Buckeye Institute explaining that bill will "help attract skilled workers, retain talented graduates, leverage the state's energy advantages, and mitigate investor risk in AI."[152] In his testimony to the Ohio Technology & Innovation Committee, Buckeye Senior Fellow, Greg Lawson, detailed how AI laws in California and the European Union are giving technology innovation advantages to adversarial nations like China, and how Ohio's iteration of Right to Compute can chart a different course of regulatory certainty with Ohio-specific provisions that prevent a patchwork of burdensome local AI rules and mandates.[153]

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[147] "Montana Digital Academy Launches Frontier Learning Lab: A Bold Step Toward AI and XR-Powered K-12 Classrooms," *Fox8*, July 30, 2025, https://fox8.com/business/press-releases/ein-presswire/835550495/montana-digital-academy-launches-frontier-learning-lab-a-bold-step-toward-ai-and-xr-powered-k-12-classrooms/.

[148] Tanner Avery, "Montana 2050: Data Center," *Frontier Institute*, March 5, 2024, https://frontierinstitute.org/reports/montana-2050-data-centers/.

[149] Taylor Barkley, "Safeguarding Computational Liberty in America," *James Madison Institute*, December 11, 2025, https://jamesmadison.org/safeguarding-computational-liberty-in-america/.

[150] "Frontier Institute Statement in Support of the Right to Compute Act," *Frontier Institute press release*, February 4, 2025, https://frontierinstitute.org/frontier-institute-statement-in-support-of-the-right-to-compute-act/; Tanner Avery, "What Should Freedom-Loving States Do About Internet Content?" *Frontier Institute*, February 19, 2025, https://frontierinstitute.org/what-should-freedom-loving-states-do-about-internet-content/; and Tanner Avery, "Montana 2050: Artificial Intelligence," Frontier Institute, April 2, 2024, https://frontierinstitute.org/reports/montana-2050-artificial-intelligence/.

[151] New Hampshire Legislative Service Request, "CACR 6 - As Introduced," February 9, 2025, https://gc.nh.gov/lsr_search/billText.aspx?id=828&type=4; and Bruce Gil, "Right-to-Compute Laws Are Spreading Across the US, as Electricity Bills Skyrocket, *Gizmodo*, February 2, 2026, https://gizmodo.com/right-to-compute-laws-are-spreading-across-the-us-as-electricity-bills-skyrocket-2000716730.

[152] Aswin Prabhakar, "A Smart AI Rule to Run in the AI Race," *Center Square*, November 21, 2025, https://www.buckeyeinstitute.org/blog/detail/a-smart-ai-rule-to-run-in-the-ai-race.

[153] Greg Lawson, "Positioning Ohio as a National Leader in AI," Interested Party Testimony, *Ohio Technology and Innovation Committee*, October 28, 2025, https://www.legislature.ohio.gov/legislation/136/hb392/committee.

South Carolina marries it's Right to Compute bill with a June 2024 proposal to create an AI strategic plan focused on balancing citizen safeguards alongside the adoption and integration of AI technologies across state governments.[154] The two-pronged South Carolina approach is worthwhile insofar it not only provides innovators regulatory space to meet consumer demand with new and different AI products, but also in that it encourages "pilot projects" and establishes a "fit-for-purpose" AI governance framework to provide guidance and foster interdisciplinary partnerships. South Carolina's proposed pilot projects and collaborations point to another fruitful form of state AI policymaking: sandboxes.[155]

Case Study 2: Utah's Novel Approach to Regulatory Co-learning in the Intelligence Era

Sixteen states have enacted legislation to create regulatory sandboxes—which are controlled regulatory and consumer-facing environments where approved innovators are given room to experiment under the watchful eye of jurisdictional regulators.[156] Of these sixteen sandboxes, five have created so-called "universal" sandboxes open to all industries, including the AI industry generally. Utah led the country by creating the Office of Artificial Intelligence Policy, first-of-its-kind AI-specific sandbox—specifically defined as a "learning laboratory"—taking an approach to AI governance that is in many ways unique to traditional state sandboxing efforts. Whereas traditional state-level sandboxes extend all-or-nothing waivers—essentially imperfect permission slips to market access—Utah's approach to learning laboratories creates a co-learning regulatory paradigm between innovators and policymakers that much more closely resembles policy incubators where participants may negotiate "regulatory mitigation agreements."

As a part of these agreements, participants can negotiate case-specific contracts with certain relaxations of state statutory law in ways that are at the discretion of the state's Office of Artificial Intelligence Policy, which was established to administer the learning laboratory program as a part of Utah Artificial Intelligence Policy Act (SB 149) in 2024.[157] The office, which is part of the Utah Department of Commerce, takes a consumer-first, pro-innovation approach to policy collaboration by clearly establishing that businesses cannot blame AI for causing consumer harm but also by creating light-touch regulatory frameworks that promote market experimentation and innovation.[158]

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[154] South Carolina Department of Administration, "South Carolina State Agencies: Artificial Intelligence Strategy," June 2024, https://admin.sc.gov/sites/admin/files/Documents/OED/Final%20SC%20AI%20Strategy.pdf.

[155] Beth Do and Stacey Gray, "Balancing Innovation and Oversight: Regulatory Sandboxes as a Tool for AI Governance," *Future of Privacy Forum Blog*, August 4, 2025, https://fpf.org/blog/balancing-innovation-and-oversight-regulatory-sandboxes-as-a-tool-for-ai-governance.

[156] Kevin Schmidt, "A Roadmap for Regulatory Reform: Proven Tools, Emerging Trends, and Model Policies to Cut Red Tape and Restore Accountability in State Governments," *American for Prosperity*, August 22, 2025, https://americansforprosperity.org/policy-corner/reg-reform/.

[157] Utah State Legislature, "S.B. 149 Artificial Intelligence Amendments," Last visited January 21, 2026, https://le.utah.gov/~2024/bills/static/SB0149.html.

[158] Nate Karren, "What the federal government can learn from the Mountain West in AI regulation," *Desert News*, February 21, 2025, https://www.deseret.com/opinion/2025/02/21/mountain-west-utah-ai-regulation-policy.

This novel approach to AI regulation shows early signs of promise. While many other states are advancing mental health chatbot bans and otherwise creating more regulations for mental health companies trying to fill the market needs to match consumers with affordable therapy, Utah has taken a different tack. In 2025, the Utah legislature passed a more balanced approach with its Artificial Intelligence Amendments (HB 452) reflecting the findings of a year-long study conducted by the newly created Office of Artificial Intelligence. This approach to AI mental health therapy focuses on consumer protection, transparency, and privacy, where risk is determined by the extent to which mental health chatbots fall short of clinical best practices and the effectiveness of licensed mental health therapists.[159] In other words, Utah compares mental health chatbots to human error, not utopian visions of a hypothetical world that does not exist.

Utah's novel approach to AI innovation has included many decisions to allow businesses to fill market needs with AI products and services. The AI office, for example, extended a year-long trial period to the mental health chatbot company, ElizaChat.[160] Under "demonstration agreements" with the Utah Office of Artificial Intelligence, the dental care company, Dentacor, was cleared to test "AI-enabled radiograph diagnostic tools."[161] Then in January 2026, Utah announced a new pilot program with AI health vendor Doctronic "to give patients with chronic conditions a faster, automated way to renew medications" on the firm's autonomous AI health platform.[162]

Of course, the Utah approach is not without risk. Some fear that regulatory sandboxes will expose consumers to product defects and insufficiently vetted services. It is true that not every unintended consequence can be anticipated and averted, but Utah balances the innovation and safety tradeoff better than most. In fact, companies that enter the sandbox or engage in regulatory mitigations agreements must still operate under the watchful eye of expert regulators. In that sense, they are more closely monitored than many companies that jump through the standard hoops of the regulatory process. The far bigger concern is that the collaborative effort will over-empower favored technocrats to recommend excessive changes to statutory law well beyond their level of expertise, including on issues where definitive conclusions cannot be reached.

Other states have also considered sandbox approaches. In 2024, Delaware formed the Delaware Artificial Intelligence Commission, tasked with making recommendations to the state General Assembly on AI use by state agencies.[163]

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[159] Logan Kolas and Pablo Garcia Quint, "First, Do No Harm: How California Chatbot Regulations Threatens Mental Health," *American Consumer Institute*, September 30, 2025, https://www.theamericanconsumer.org/2025/09/first-do-no-harm-how-california-chatbot-regulation-threatens-mental-health/.

[160] Ibid.

[161] Aaron Mak, "Trump is All-in on AI Sandboxes. Do They Work?" *Politico*, July 24, 2025, https://www.politico.com/newsletters/digital-future-daily/2025/07/24/trump-is-all-in-on-ai-sandboxes-do-they-work-00475337.

[162] Utah Department of Commerce, "Utah and Doctronic Announce Groundbreaking Partnership for AI Prescription Medication Renewals," January 6, 2025, https://commerce.utah.gov/2026/01/06/news-release-utah-and-doctronic-announce-groundbreaking-partnership-for-ai-prescription-medication-renewals.

[163] Briana Hill, "New Delaware AI Commission Aims to Harness Emerging Tech," *Spotlight Delaware*, July 29, 2024, https://spotlightdelaware.org/2024/07/29/delaware-ai-commission/.

Not all sandboxes are the same, but the research shows that sandboxes create regulatory environments that attract capital by clarifying regulations in industries where rules and laws are often opaque and confusing.[164] And by gathering information during the application process, regulatory sandboxes also provide valuable information to policymakers looking to reform prohibitively distortionary legal codes. Policymakers that limit their sandbox authority to only administrative rules should therefore consider expanding these supervised environments—especially those designed around AI—to give sandbox-established AI commissions the power to relax conflicting statutory requirements temporarily.

Conclusion

Many state legislatures have interpreted the inability of Congress to thus far craft a national AI governance framework as a green light to enact a complex patchwork of parochial regulations. As New York Internet and Technology Committee Chair Kristen Gonzalez argued after Congress failed to include any AI pre-emption language in the National Defense Authorization Act (NDAA), "[States] really have a mandate now to use our power that we protected as states to regulate this technology and be idea beds for what could become comprehensive federal legislation."[165]

With Congress appearing gridlocked on federal AI policy, state attempts to supply Congress more ideas by passing additional AI laws has backfired. Rather than lead the way with prudent and responsible policymaking, states have instead created a regulatory briar patch of clumsily drafted rules and regulations, chock-full of vague definitions, open-ended mandates, and counterproductive dictums. The *AI Terrible Ten* outlines the worst of the bunch, but they just scratch the surface.

The costs of this patchwork of contradictory policies will grow as states pass additional AI laws. Congress should—and must—pass a pre-emptive AI law to combat that uptick, but history shows that federal lawmakers will struggle to compromise on legislative language, and will take time doing so.[166] And, as state laws calcify, opposition to pre-emptive language will grow and make the job of Congress even more difficult. That is why states must instead adopt permissive, not restrictive, policy frameworks that are clear, consistent, and pro-consumer. America will not lead the AI revolution if innovators are burdened by costly and confusing patchworks of technocratic red tape.

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[164] Giulio Cornelli, Sebastian Doerr, Leonardo Gambacorta, and Ouarda Merrouche, "Inside the Regulatory Sandbox: Effects on Fintech Funding, Bank for International Settlements," *working paper No. 901*, November 3, 2020, https://www.finextra.com/finextra-downloads/newsdocs/work901.pdf ; and Jayoung James Goo and Joo-Yeun Heo, "The Impact of the Regulatory Sandbox on the Fintech Industry," with a *Discussion on the Relation between Regulatory Sandboxes and Open Innovation, Journal of Open Innovation: Technology, Market, and Complexity*, June 19, 2020, https://www.sciencedirect.com/science/article/pii/S2199853122004383.

[165] Austin Jenkins, "State Lawmakers Gear Up for AI Regulation Battles in 2026," *Pluribus News*, November 20, 2025, https://pluribusnews.com/news-and-events/state-lawmakers-gear-up-for-ai-regulation-battles-in-26/.

[166] Kevin Frazier and Adam Thierer, "Congress Should Lead On AI Policy, Not The States," *Law 360*, February 4, 2026, https://www.law360.com/articles/2434753.

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