Artificial Intelligence and Health Care: Update on State Legislative Trends

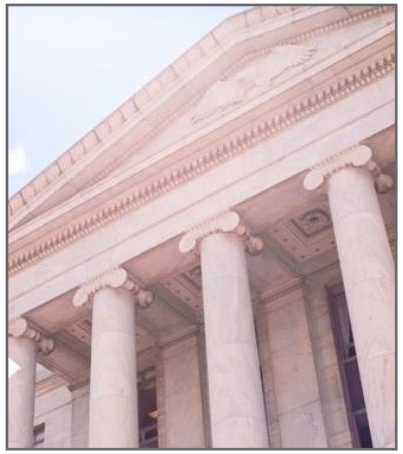
May 16, 2024

Sarah Jaromin, Policy Associate, NCSL

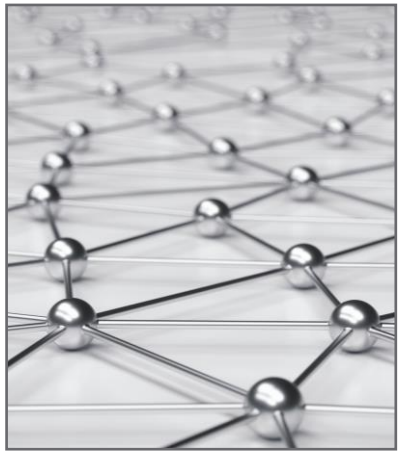
Agenda

HEALTH CARE APPLICATIONS

LEGISLATIVE THEMES



STATE LANDSCAPE



ADDITIONAL RESOURCES

AI as an Emerging Health Topic

JAMA Forum

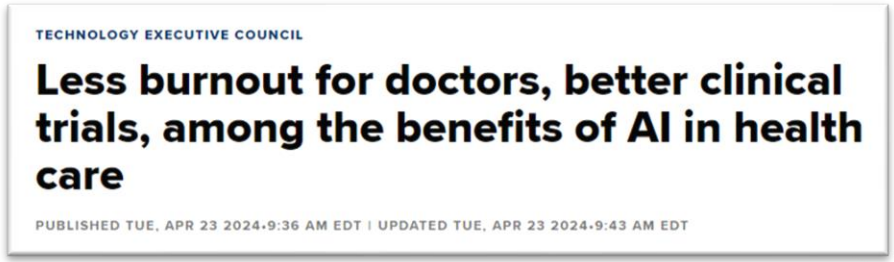
March 7, 2024

Denial—Artificial Intelligence Tools and Health Insurance Coverage Decisions

Michelle M. Mello, JD, PhD, MPhil[1,2]; Sherri Rose, PhD[2]

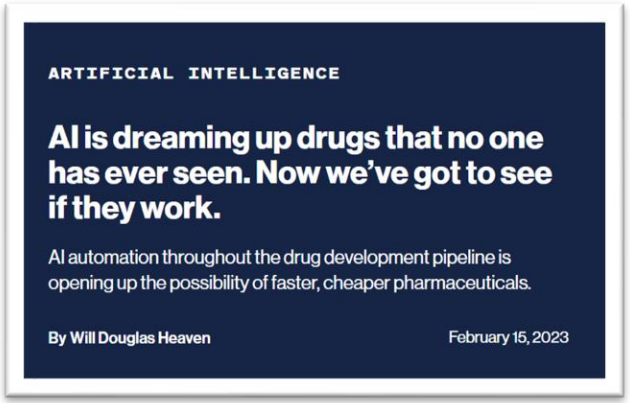
Author Affiliations | Article Information

JAMA Health Forum. 2024;5(3):e240622. doi:10.1001/jamahealthforum.2024.0622


TECHNOLOGY EXECUTIVE COUNCIL

Less burnout for doctors, better clinical trials, among the benefits of AI in health care

PUBLISHED TUE, APR 23 2024•9:36 AM EDT | UPDATED TUE, APR 23 2024•9:43 AM EDT


ARTIFICIAL INTELLIGENCE

AI is dreaming up drugs that no one has ever seen. Now we've got to see if they work.

AI automation throughout the drug development pipeline is opening up the possibility of faster, cheaper pharmaceuticals.

By Will Douglas Heaven February 15, 2023

DECEMBER 14, 2023

Delivering on the Promise of AI to Improve Health Outcomes

BRIEFING ROOM • BLOG

Lael Brainard, National Economic Advisor
Neera Tanden, Domestic Policy Advisor
Arati Prabhakar, Director of the Office of Science and Technology Policy

REPORT | FEBRUARY 22, 2023 SHARE

60% of Americans Would Be Uncomfortable With Provider Relying on AI in Their Own Health Care

Yet many see promise for artificial intelligence to help issues of bias in medical care

BY ALEC TYSON, GIANCARLO PASQUINI, ALISON SPENCER AND CARY FUNK

The Washington Post
Democracy Dies in Darkness

BUSINESS

In a first, FDA authorizes AI-driven test to predict sepsis in hospitals

By Daniel Gilbert and Rachel Roubein

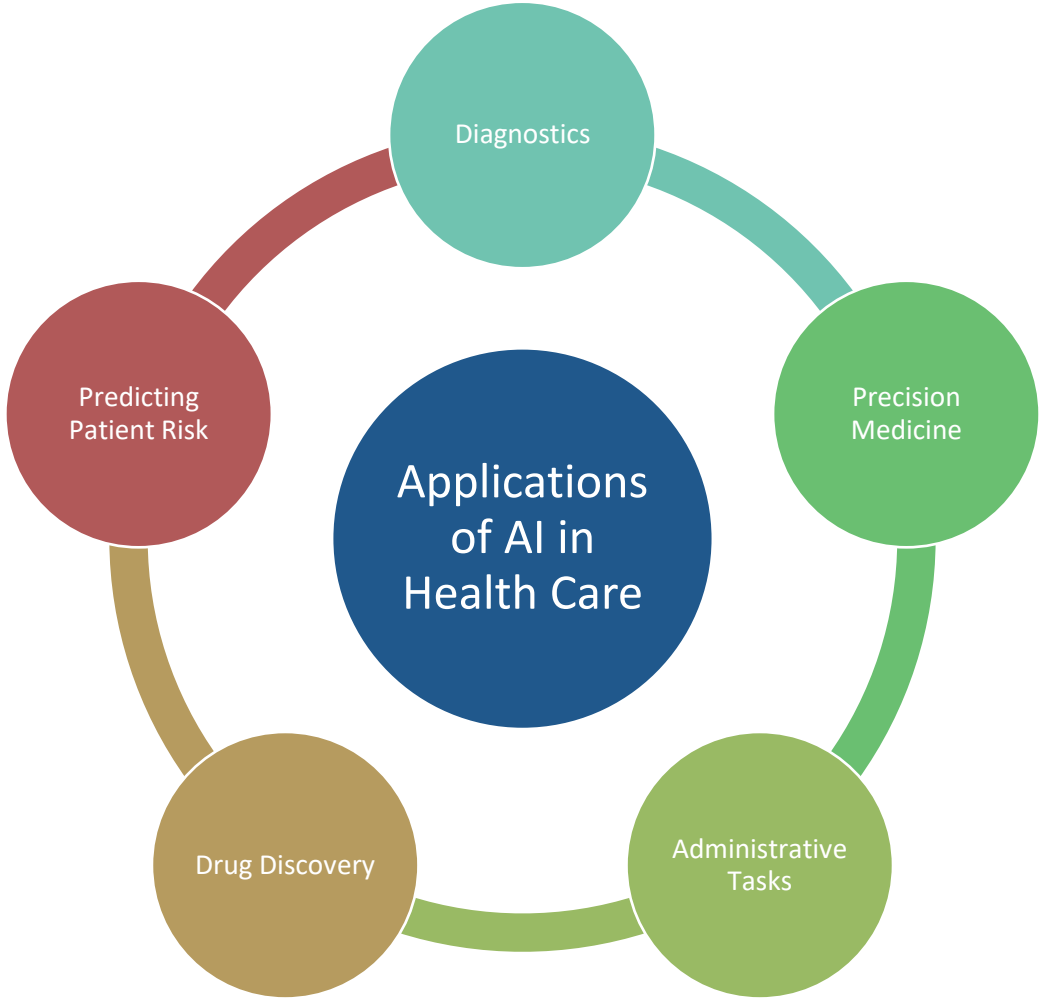
Updated April 3, 2024 at 5:31 p.m. EDT | Published April 3, 2024 at 12:02 p.m. EDT

67% of Americans support greater regulation of emerging AI technologies to ensure safe and effective use.

Applications of Artificial Intelligence in the Health Care Sector

Promising Applications:

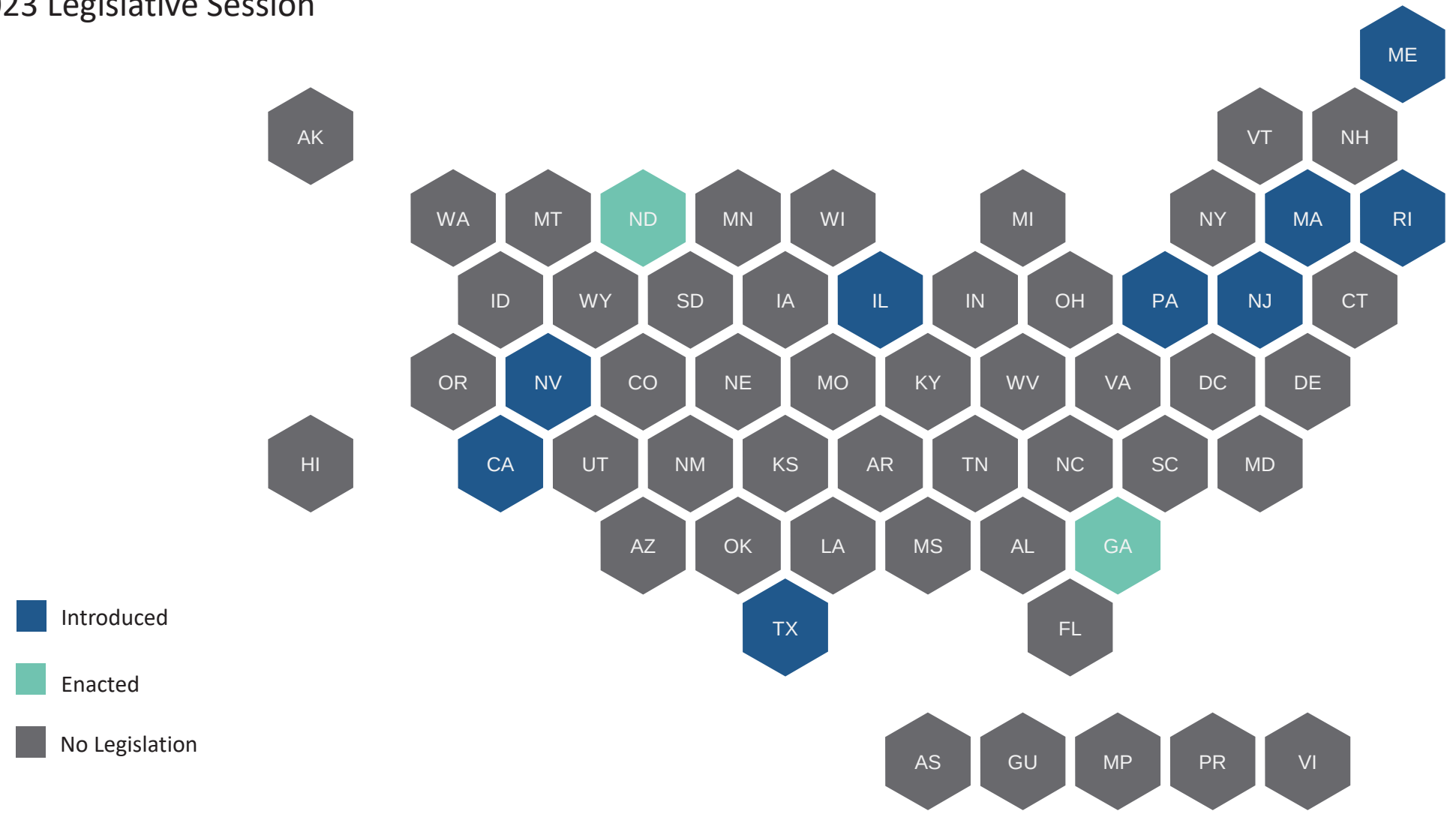
- The FDA has approved AI-assisted tools to help detect cancers of the brain, breast, lung, prostate, skin and thyroid.
- Generative AI developed six potential novel antibiotics for resistant bacterial strains.
- An AI tool, Predictive Optimal Trees in Emergency Surgery Risk (POTTER), can accurately predict 30-day outcomes in patients undergoing emergency general surgery.



2023 & 2024 State Legislation

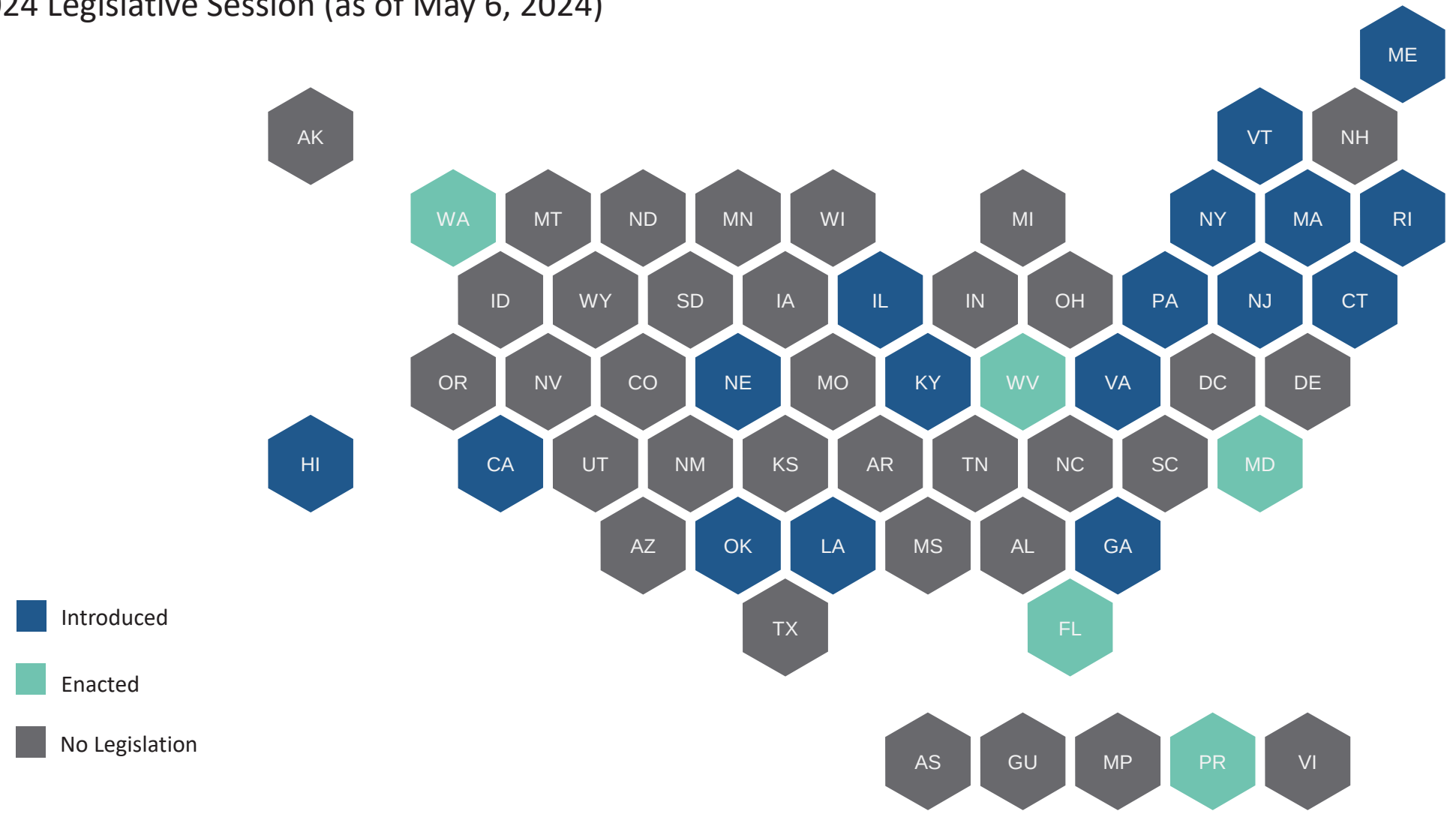
Health Artificial Intelligence Legislation

2023 Legislative Session



Health Artificial Intelligence Legislation

2024 Legislative Session (as of May 6, 2024)



Legislative Themes

Who Does The Policy Regulate?

Developers

Deployers

- Health Plans
- Clinical Users (Health Facilities, Providers, etc.)

Legislative Themes

State Legislative Examples

State Legislative Examples

Study Committees or Task Forces

Florida (SB 7018)

Enacted: Creates the Health Care Innovation Council to discuss innovations in technology, workforce and service delivery models that can be exhibited as best practices, implemented or scaled to improve the quality and delivery of health care.

Washington (SB 5838)

Enacted: Establishes a task force to assess current uses and trends and make recommendations to the legislature regarding guidelines and legislation for the use of AI systems.

State Legislative Examples

Responsible Use

New York (SB 7543)

Pending: Requires an impact assessment for any automated decision-making system being utilized by a state agency. The assessment must test for accuracy, fairness, bias and discrimination.

Oklahoma (HB 3577)

Pending: Requires insurers to submit artificial intelligence-based algorithms and training data sets that are being used in the utilization review process to the Department of Transparency.

State Legislative Examples

Patient Notification

Massachusetts (HB 1974)

Pending: Requires that providers who wish to deliver mental health services using AI seek approval from the relevant professional licensing board and obtain informed consent from the patient.

Pennsylvania (HB 1663)

Pending: Provides for health insurer disclosure of the use of AI-based algorithms in the utilization review process to any health care provider, covered person and the general public.

State Legislative Examples

Practitioner Monitoring or Validation

Georgia (HB 887)

Pending: Requires any coverage determination decision from the use of AI shall be "meaningfully reviewed" by an individual who has the authority to override said AI.

Louisiana (HB 916)

Pending: States that a health care entity shall not make any decision regarding the care of patients based solely on the results derived from AI. The provider shall have the authority to override any decision.

State Legislative Examples

Creating Standards for Developers and/or Deployers

Illinois (HB 1002)

Pending: Requires hospitals using any diagnostic algorithm to first confirm that it has been certified by the Department of Public Health and Department of Innovation & Technology.

Virginia (HB 747)

Pending: Creates standards for developers of high-risk AI systems. Developers must disclose certain information to each deployer.

NCSL RESOURCES

- Artificial Intelligence 2024 Legislation (ongoing)
- State of Play: An Inside Look at Artificial Intelligence Policy and State Actions (2024)
- Common Themes Emerge in State AI Legislation (2024)
- Artificial Intelligence 2023 Legislation (2023)
- Approaches to Regulating Artificial Intelligence: A Primer (2023)
- Legislation Related to Artificial Intelligence (2022)
    - Includes legislation from 2019-2022.

Reach out anytime!

Sarah Jaromin

Policy Associate, Health

EMAIL sarah.jaromin@ncsl.org

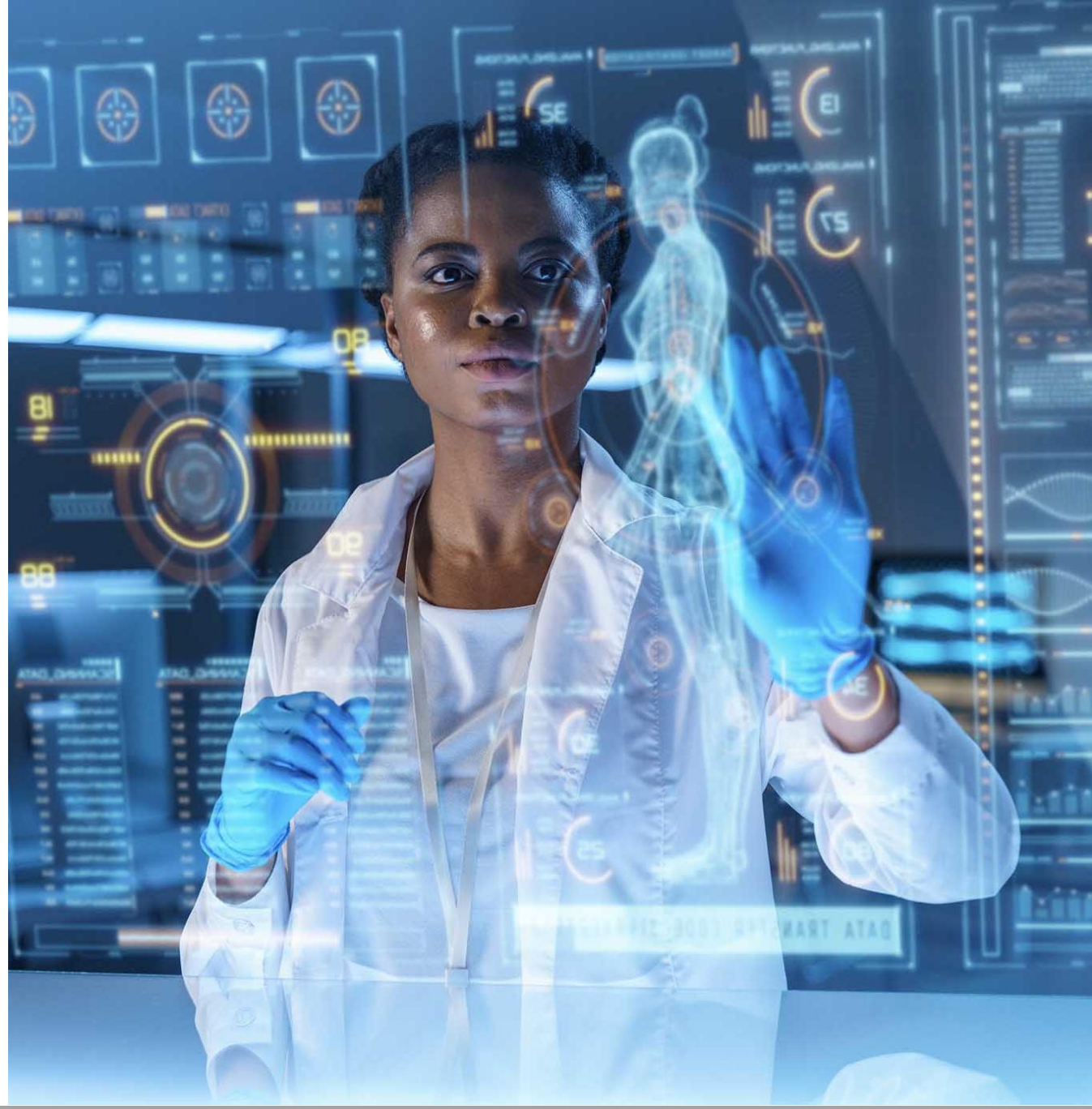
PHONE 303.856.1406

WEB www.ncsl.org

Discussion Questions

Legislators & Legislative Staffers: Did your state consider any legislation this session related to artificial intelligence?

For Sponsors: Did your organization monitor any legislation relating to AI this past legislative session?



2024 Legislative Summit

NCSL LEGISLATIVE SUMMIT 24 LOUISVILLE | KY

Aug. 5-7, 2024