

# Artificial Intelligence in the Workplace

The Federal and State Legislative Landscape



# Artificial Intelligence in the Workplace: The Federal and State Legislative Landscape

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## Introduction

Artificial intelligence is significantly transforming many areas of our daily lives, from its use in health care and environmental sustainability to education, financial planning and governance. Among the many ways AI is likely to impact society, one of the most uncertain is its use in the workplace.

The concerns around AI in the workplace are largely centered on privacy, surveillance, bias in hiring decisions and performance reviews, and the effect of automation. AI technologies can collect employee data, including personal information, communications, browsing history and location data. The more data collected, the greater the risk of a data breach, which could result in the exposure of personal information. Employers can also use AI technologies to monitor employees' activities, communications and performance. This kind of surveillance could lead to a loss of privacy and create a workplace culture of mistrust. There is also the risk of bias in AI algorithms, which can exacerbate existing disparities if not addressed properly. Bias in AI algorithms in the workplace can manifest in various ways, potentially affecting hiring, promotions, performance evaluations and other employment-related decisions.

Workers are also concerned about how AI will impact their jobs. The Indeed job platform and hiring website examined how generative AI might affect jobs and the skills needed to perform them in its September 2023 report "[AI at Work](#)." The report found that "all jobs listed on the platform had skills that AI could either perform or augment. Nearly 20% of the jobs were considered 'highly exposed,' which means the technology is considered good or excellent at 80% or more of the skills that were mentioned in the job posting." The [Pew Research Center](#) found that in 2022, nearly 5.8 million women and 3.6 million men were employed in five occupations with job tasks facing heavy exposure to AI automation, including sales representatives, lawyers, couriers, accountants and other computer-related occupations.

AI, however, also provides benefits in the workplace. The technology can boost productivity by automating routine tasks and allowing employees to focus on the more complex aspects of their jobs. For example, AI technologies can manage customer service requests using chatbots, schedule appointments and even analyze large datasets. Moreover, AI not only improves productivity but can also lead to innovation and growth within companies and departments by augmenting existing jobs and creating new job categories.

This brief provides an overview of the new federal and state laws policymakers are considering to protect workers from the potential consequences of AI, while also enabling and advancing the additional workplace opportunities this technology can bring.

# Federal Actions

The Biden administration and Congress have introduced guidance, policies and legislation governing the use of AI in the workplace. These efforts seek to balance innovation and regulation, ensuring that businesses can leverage the benefits of AI without compromising workers' jobs, rights and safety. This balance is crucial for fostering technological advancement while protecting employees.

In October 2023, President Joe Biden issued an [executive order](#) calling for safe, secure and trustworthy development and use of AI. The order establishes new standards for AI safety and security, urges Congress to enact comprehensive privacy legislation to protect all Americans, promotes the creation and funding of research initiatives, and directs several actions to ensure the responsible and effective government use of AI.

With regard to supporting workers in the wake of AI advances, the order directs the Department of Labor to create [guidance](#) for developers and employers on the use of AI in hiring and employment practices, emphasizing the need for human oversight to prevent biases and discrimination. The department recently published its "[AI & Inclusive Hiring Framework](#)," which can help reduce unintentional bias on the part of employers who use AI hiring technology. The executive order also directs the Council of Economic Advisers to [report on the labor market effects of AI](#).

In Congress, Sens. Chuck Schumer (D-N.Y.), Michael Rounds (R-S.D.), Todd Young (R-Ind.) and Martin Heinrich (D-N.M.) are part of the Bipartisan AI Working Group, which released the report "[Driving U.S. Innovation in Artificial Intelligence: A Roadmap for Artificial Intelligence Policy](#)." This road map outlines a strategy for managing the continuous growth and impact of AI. Regarding the workforce, the road map discusses the need for upskilling programs to prepare workers for AI integration and to maintain job security.

Congress has not yet passed any legislation related to AI in the workplace, but a few bipartisan bills have been introduced.

The Technology Workforce Framework Act of 2024 ([S. 3792](#)), sponsored by Sens. Gary Peters (D-Mich.) and Eric Schmitt (R-Mo.), would direct the National Institute of Standards and Technology to develop an AI workforce framework and report to Congress on other critical or emerging technology areas that could benefit from workforce frameworks, with a focus on ensuring that the frameworks are useful for individuals from nontraditional backgrounds and education.

Peters and Young also introduced the Workforce DATA Act ([S. 2138](#)). The bill, which was highlighted in the Senate's Bipartisan Working Group road map, would authorize the Bureau of Labor Statistics, among other agencies, to record the effect of automation on the workforce and measure those trends over time, including job displacement, the number of new jobs created and the shifting in-demand skills.

# State Actions

States are also considering approaches to address the use of AI in the workplace.

## BIAS AND DISCRIMINATION

States have enacted legislation to address potential biases in AI technologies used for hiring employees, conducting employee evaluations and other employment decisions. For example, Illinois enacted the [Artificial Intelligence Video Interview Act](#) in 2019, which requires employers who use AI to analyze video interviews to provide notice to the applicant, obtain their consent and offer an explanation of the technology used. Amendments to the [Illinois Human Rights Act](#) add protections for applicants against discrimination while using AI in recruitment, hiring, promotion, professional development and other employment decisions. New Jersey and [Vermont](#) introduced similar legislation in recent years. [Maryland](#) enacted a bill in 2020 to prohibit an employer from using facial recognition during an applicant's interview for employment, unless the applicant provides consent. [Colorado](#) enacted a risk-based AI law in 2024 that prohibits algorithmic discrimination in consequential decision-making, including employment decisions.





## DATA PRIVACY

At least 15 states have enacted comprehensive consumer data privacy laws with elements such as disclosure, notification, retention, right to opt out and securing data. In some states, consumer data privacy laws are applicable in employment decision-making scenarios; in other cases, they provide protection for employees while they are working.

## EMPLOYMENT DECISIONS

Consumer data privacy laws passed in [Connecticut](#), [Florida](#), [Indiana](#), [Montana](#), [Texas](#) and [Virginia](#) protect consumers during decisions that produce “legal or similarly significant effects,” including decisions that result in the provision or denial of employment opportunities, as well as decisions such as those related to housing, mortgages and access to banking.

## SECURED EMPLOYEE DATA

Some state data privacy laws include protection of employment data. For example, [California’s consumer data protection law](#) protects state residents’ personal information, including employment-related data. In contrast, [Colorado’s law](#) does not include employees or job applicants in the definition of “consumer,” though it does require employers to protect employee information, such as Social Security numbers and financial data, by implementing security measures to prevent unauthorized access.

## SURVEILLANCE

AI surveillance tools are increasing being used in workplaces. These tools can enhance efficiency and security, but also raise concerns about privacy, employee autonomy and potential misuse. While many states are debating how to address the use of surveillance tools, some have long-standing laws related to employee surveillance. In both [Connecticut](#) and [Delaware](#), employers must obtain consent from employees before monitoring them, unless there are reasonable grounds to believe an employee is violating the law or creating a hostile work environment. These laws also include prohibitions of surveillance in areas like re-

strooms and breakrooms. In [West Virginia](#), any electronic surveillance device or system for monitoring or recording the activities of employees in a locker room, shower room or restroom is prohibited. In [California](#), an employer is prohibited from making an audio or video recording of an employee in the locker room, restroom or any room designated for changing clothes.

## IMPACT STUDIES

States are also studying the potential impacts of AI, including how the new technology will affect the workforce, individual employees and their safety. [Delaware](#) created a commission to identify the general and high-risk uses of generative AI within the state's executive, legislative and judicial branches. [Pennsylvania](#) created an advisory committee to study AI and its potential impacts across different sectors of the economy. [Oregon](#) appropriated funds to the University of Oregon to research the potential workforce impacts from automation and AI across the state's key economic industries.

## UPSKILLING, EDUCATION AND TRAINING FOR THE AI WORKPLACE

The integration of AI in the workplace has raised concerns about potential job displacement, as machines take over tasks that were previously done by humans. AI can threaten job security and exacerbate economic inequality for lower-income workers whose skills become obsolete. Even more troublesome is data from a [report](#) released this year by McKinsey and Co. demonstrating that Black Americans are overrepresented in roles most likely to be taken over by automation, including four of the top five occupations at risk of automation: office support, production work, food services, and mechanical installation and repair.

On the other hand, AI will create new roles requiring different types of skill sets that workers can learn through upskilling programs and other development opportunities. For example, as AI technologies evolve, there will be a growing demand for professionals with AI-related skills, such as AI researchers, machine learning engineers, data scientists and AI ethicists. Both government and industry are exploring new ways to mitigate negative consequences for the workforce and seeking strategies to fill the new roles created to respond to AI. The federal government, states, educational institutions and private industry are taking varied approaches to mitigate negative impacts and optimize potential opportunities.

The Biden administration is pushing for more skills-based hiring, which has made lifting education requirements for AI-related jobs more common. This approach recognizes that practical experience and specialized skills can be as useful as formal degrees in AI-related fields. The administration created [AI.gov](#), which focuses on promoting AI-related career opportunities in the U.S. government and building AI governance structures within federal agencies. The site highlights the administration's efforts to ensure safe, secure and trustworthy AI, and help individuals explore AI career paths.

The Office of Personnel Management issued new skills-based hiring [guidance](#), focused on hiring AI professionals. The Office of Management and Budget and the General Services Administration have launched a [pilot program](#) offering free AI training for federal employees. Moving forward, the agencies will continue to provide AI training modules for federal staff, tailored to meet the needs of various agencies. The Office of Management and Budget aims to ensure that AI technologies are used safely, securely and effectively to enhance government operations and service delivery.

States have started to propose and enact laws to protect employees from job displacement resulting from AI and to help grow an AI workforce. In the 2024 legislative session, [Maryland](#) created a program to increase access to high-quality job training. [California](#) introduced a bill to create a pilot program to aid individuals who are unemployed because of automation or AI. [New Jersey](#) created a tax credit for AI companies that create new jobs. In contrast, a bill was introduced in [New York](#) to disqualify entities from receiving the state's film production tax credit if they used AI to displace workers.

Various corporations, labor unions, higher education institutions and nonprofit organizations are working together to create sustainable systems for AI use in the workplace. One of the most notable partnerships is between [Microsoft and the AFL-CIO](#) trade union. This partnership aims to ensure that AI technology is developed and used in ways that incorporate the perspectives of workers and labor unions, mitigating risks

and enhancing benefits for the workforce. The partnership will create formal learning opportunities for workers and students to help with the transition to an AI-powered workforce. Partnerships like this can help to ensure that workers are not only prepared but integral to the future of technology and AI adoption.

With the use of AI expanding, [Intel](#) is working with over 110 community colleges and other education partners to roll out an AI education workforce program to help students learn how AI works and develop skills around its use. Intel also has a course designed for working professionals, which teaches workers how to use AI in project management and other professional environments. In addition, companies like [IBM](#) are [offering upskilling programs](#) to help students and adults gain the skills necessary to secure jobs, advance in the workplace and stay competitive in a rapidly advancing industry.

The Massachusetts Institute of Technology is spearheading work on AI and workforce issues in academia through its [Task Force on the Work of the Future](#). The task force released one of the first academic reports, "[The Work of the Future](#)," on the possible impacts of AI on workers and the workforce, as well as possible solutions. MIT's research included numerous considerations for policymakers as AI replaces certain work. More recently, the university launched its [Shaping the Future of Work Initiative](#), which focuses more specifically on changing educational systems and emphasizing the inequitable impacts of AI on low-wage workers.

Finally, Jobs for the Future, one of the biggest workforce nonprofits, created the [Center for Artificial Intelligence & the Future of Work](#). In late 2023, the center released its report "[The AI-Ready Workforce](#)," detailing the need for durable, human skills in the age of AI as well as the importance of preparing society and institutions for the increased use of the technology.

## Conclusion

AI technologies are rapidly advancing, and their integration into various aspects of society by governments, private industries and individuals is becoming increasingly prevalent. To balance the benefits of AI with workplace challenges, federal and state policymakers must carefully consider their approaches. Key areas of focus should include reducing bias, maintaining data and personal privacy, and developing strategies to mitigate job loss while enabling access to new opportunities. By addressing these critical areas, leaders can ensure that the integration of AI technologies fosters a more equitable, secure and prosperous future for all.

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