

Artificial Intelligence and State Regulation: Lessons from Texas, Colorado, and Indiana

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Abstract

This article examines how three U.S. states regulate artificial intelligence (AI) in the absence of a comprehensive federal regulatory framework. Texas primarily focuses on data privacy and preventing harmful deepfakes. Colorado adopts a comprehensive approach, emphasizing transparency, consumer protection, and the prevention of algorithmic discrimination. Indiana focuses on deepfakes, government use of AI, and economic development. The author advocates for consistent regulations that balance innovation with public protection. Transparency, data privacy, fair decision-making, and ethical accountability are essential to maintaining public trust and ensuring the responsible development and use of AI.

Keywords: Artificial Intelligence (AI), AI regulation, data privacy, algorithmic discrimination, transparency.

A Introduction

Artificial intelligence, commonly referred to as “AI”, has rapidly transformed society’s views on the capabilities and limitations (or lack thereof) of technology. AI allows computers and machines to mimic human abilities such as learning, understanding, problem-solving, decision-making, creativity and independent functioning.¹ In 2023, North America emerged as a key market leader in AI, generating approximately \$97.25 billion in revenue.²

Despite the rapid growth and integration of AI across multiple sectors, the United States has not implemented a comprehensive federal regulatory system. However, in the 2024 legislative session, at least 45 states as well as Washington D.C., Puerto Rico and the Virgin Islands, have begun to enact their own legislation and regulations to address issues of privacy, disclosure requirements and holistic safety problems that grow alongside of AI’s development.³

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1 Cole Stryker, *What Is Artificial Intelligence (AI)?*, IBM (9 August 2024), <https://www.ibm.com/think/topics/artificial-intelligence>.

2 *Global Artificial Intelligence Market*, market.us (December 2024), <https://market.us/report/artificial-intelligence-market/#overview>.

3 *Artificial Intelligence 2024 Legislation*, NCSL (9 September 2024), <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2024-legislation>.

This article begins by providing an overview of different federal efforts towards regulating AI. It will then compare the legislative efforts in Texas, Colorado and Indiana, analysing both the scope and focus of their AI laws, as well as the underlying concerns that have shaped their regulatory landscapes. Each state's approach highlights unique perspectives and offers insights into the advantages and limitations of decentralized AI regulation in the United States.

Following this comparative analysis, this article will assess the broader implications of these state-level efforts. Through identifying effective regulatory strategies and highlighting areas of potential improvement, the article will promote foundational principles that should guide all states in crafting AI legislation, especially those with limited regulation. These principles aim to establish a regulatory baseline, ensuring that AI is developed and implemented responsibly and consistently across state lines while leaving room for state-specific adaptation. Ultimately, this research seeks to contribute to the ongoing dialogue on how best to balance innovation with protection in the era of AI.

B Overview of Federal AI Regulation in the United States

Although the United States has yet to provide holistic AI regulations for the nation, federal guidelines have begun to emerge, most prominently “The White House Executive Order on AI” signed by the Biden Administration in October 2023, and “The White House Blueprint for an AI Bill of Rights”.⁴

The White House's Blueprint for an AI Bill of Rights, published in October of 2022, provided a list of suggestions created by the White House Office of Science and Technology Policy.⁵ The OSTP collaborated with prominent human rights companies, academia figures, large companies such as Microsoft and Google and the public.⁶ This blueprint was one of the first progressions the Biden Administration made towards AI.⁷

The blueprint identified five principles to “guide the design, use, and deployment of automated systems to protect the American public in the age of artificial intelligence”: safe and effective systems, algorithmic discrimination, data privacy, notice and explanations of how automated systems are being used, and human alternatives, consideration and fall-back.⁸ The framework applied to systems that were “(1) automated [] and (2) ha[d] the potential to meaningfully impact the American public's rights, opportunities, or access to critical resources or services”.⁹ This overlapping framework was designed to provide safeguards against potential harms associated with AI systems by addressing individuals' rights, opportunities and access to potential resources.¹⁰

4 *AI Watch: Global Regulatory Tracker – United States*, White & Case (13 May 2024), <https://www.whitecase.com/insight-our-thinking/ai-watch-global-regulatory-tracker-united-states>.

5 Ellen Glover, *AI Bill of Rights: What You Should Know*, BuiltIn (19 March 2024), <https://builtin.com/artificial-intelligence/ai-bill-of-rights/>.

6 *Ibid.*

7 *Ibid.*

8 *Blueprint for an AI Bill of Rights*, The White House (accessed 16 December 2024), <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.

9 *Ibid.*

10 *Ibid.*

A year after the Blueprint was published, on 30 October 2023, the United States made a significant stride in the United States' acknowledging the necessity of a federal oversight surrounding AI development and use.¹¹ The Executive Order ("EO") on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence begun by noting that

Harnessing AI for good and realizing its myriad benefits requires mitigating its substantial risks. This endeavor demands a society-wide effort that includes government, the private sector, academia, and civil society,

stating that the safe development and use of AI was "the highest urgency".¹² The EO established a national framework for the ethical and secure development of AI.¹³ It prioritized civil rights concerns, national security and overall public trust.¹⁴ The Biden Administration also called federal agencies to work together to research and create guidelines surrounding AI research, data privacy, risk mitigation and ethical considerations.¹⁵

More specifically, the EO mandated that large-scale AI developers must share safety test results and notify the federal government if any of their training models could pose risks to national security, economic stability or public health.¹⁶ The National Institute of Standards and Technology was called to establish strict standards and testing protocols to address cybersecurity and hazardous materials threats, while the Department of Homeland Security will oversee infrastructure applications and launch an AI Safety and Security Board.¹⁷ The EO also aimed at protecting against risks from using AI in biological synthesis, protecting Americans from being defrauded by AI-generated content, while using the AI itself to find any vulnerabilities in software.¹⁸

Acknowledging that AI heightens risks to individual privacy, the EO promoted bipartisan legislation on data privacy.¹⁹ The EO accelerated the development of cryptographic techniques that allow AI to operate while safeguarding the privacy of training data.²⁰ It also mandated the evaluation of federal agencies' data collection practices, particularly regarding personally identifiable information obtained from

11 Brian Sathianathan, *The Evolution of AI Regulation Locally, Nationally and Internationally*, Forbes (23 May 2024), <https://www.forbes.com/councils/forbestechcouncil/2024/05/23/the-evolution-of-ai-regulation-locally-nationally-and-internationally/>.

12 *Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, The White House (30 October 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>.

13 *Ibid.*

14 *Ibid.*

15 *Ibid.*

16 *FACT SHEET: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence*, The White House (30 October 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/fact-sheet-president-biden-issues-executive-order-on-safe-secure-and-trustworthy-artificial-intelligence/>.

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

20 *Ibid.*

data brokers.²¹ In order to prevent AI-driven algorithmic discrimination in sectors such as housing, healthcare and criminal justice, federal agencies were instructed to provide guidance to landlords, benefits programs and contractors on avoiding discriminatory practices via AI tools.²² Furthermore, the EO addressed use of AI in healthcare, workplace and education systems.²³

Federal and state legislation surrounding AI will continue to develop and be debated in the indefinite years to come. Some bipartisan federal proposed laws being discussed include the SAFE Innovation AI Framework, the REAL Political Advertisements Act, the Stop Spying Bosses Act, and the AI Research Innovation and Accountability Act.²⁴ Moreover, in 2023, states introduced almost 200 AI-related bills, but only around a dozen of them were passed.²⁵ In 2024, state houses have begun debating over 400 new AI bills.²⁶ Almost half of those revolve around “deepfakes”, where AI will generate pornographic content using well-known figures.²⁷ Other bills regulate chatbots such as GPT to prevent spreading of harmful information.²⁸ These state bills have attempted to regulate “smaller slices” of AI.²⁹

C Case Study: Texas

Texas served as one of the first states to address deepfakes in electoral contexts, passing Senate Bill 751 in 2019, which criminalized the creation and distribution of deceptive deepfake videos intended to influence elections or harm candidates within 30 days of an election.³⁰ Texas passed two more deepfake bills in 2023.³¹ Although since quiet on specific regulations, Texas’s plan to become a leader of AI regulation is depicted through its creation of an Artificial Intelligence Advisory Council and discussion of the Texas Responsible AI Governance Act.³²

Recognizing the potential for significant electoral interference, Texas introduced Senate Bill 761 in 2019 that criminalized the creation and distribution of fabricated video content designed to harm political candidates or sway election outcomes.³³ This legislation specifically targeted deceptive videos, or “deepfakes”, published within a month of an election, defining deepfakes as digitally manipulated media that falsely portrays real individuals performing actions that never actually occurred.³⁴

21 *Ibid.*

22 *Ibid.*

23 *Ibid.*

24 *AI Watch*, *Supra* note 4.

25 Nick Sherman, *AI Regulations Around the World*, Mind Foundry (25 January 2024), <https://www.mindfoundry.ai/blog/ai-regulations-around-the-world>.

26 *Ibid.*

27 *Ibid.*

28 *Ibid.*

29 *Ibid.*

30 *Texas*, Multistate.AI (accessed 16 December 2024), <https://www.multistate.ai/ai-policy-overview-texas>.

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

Building upon these initial protections, Texas expanded its regulatory framework in 2023 with two additional laws, Senate Bill 1361 and House Bill 2700, addressing the particularly harmful realm of sexually explicit deepfake content.³⁵ These new statutes established criminal penalties for both the production and distribution of deepfake images or videos that sexually exploit individuals, with particularly stringent provisions protecting minors from such digital violations.³⁶

June 2023, Texas Governor Greg Abbott signed the House Bill 2060 to establish the Artificial Intelligence Advisory Council.³⁷ The advisory council consisted of seven members from academia, ethics, AI system experts, law enforcement, and one member of the House and Senate, tasked with “studying and monitoring AI systems developed or deployed by states agencies as well as issuing policy recommendations regarding data privacy and preventing algorithmic discrimination”.³⁸ The author of the bill, Representative Giovanni Capriglione, noted that

Typically, traditionally technology has really gone and disrupted lower skilled employees. But with high tech artificial intelligence systems, we’re looking at mid-to-high level skilled individuals who are going to be displaced by this.³⁹

House Bill 2060 aimed to create a future-focused framework for assessing AI on state agencies and the members of the public and then helping Texas make informed decisions of the extent AI can be used with or without human oversight.⁴⁰

In April 2024, the Texas House of Representatives created a Select Committee on Artificial Intelligence and Emerging Technologies to “the ways AI is integrated into our everyday lives and the potential security risks that come along with the emerging technology”.⁴¹ The Committee’s first report was commanded to submit an initial report by 16 May 2024, and the review must outline: the current usage of AI by public and private actors; the impact of AI on various sectors of society; identifying policy considerations; and formulating recommendations for legislative, regulatory, policy and/or remedial actions to address the aforementioned issues.⁴²

The Texas Responsible AI Governance Act (“TRAIGA”), drafted and ready for the 89th Legislative Session, is Texas’s most comprehensive framework yet in

35 *Ibid.*

36 *Ibid.*

37 *Gov. Abbott Signs Bill to Establish an Artificial Intelligence Advisory Council*, Texas Standard (10 July 2023), <https://www.texasstandard.org/stories/ai-artificial-intelligence-advisory-council-texas-greg-abbott-house-bill-hb-2060/>.

38 *Artificial Intelligence in the States: Emerging Legislation*, The Council of State Governments (6 December 2023), <https://www.csg.org/2023/12/06/artificial-intelligence-in-the-states-emerging-legislation/>.

39 *Gov. Abbott Signs*, *Supra* note 37.

40 *The AI Advisory Council: What You Need to Know*, Texas 2036 (accessed 16 December 2024), <https://texas2036.org/posts/the-ai-advisory-council-what-you-need-to-know/>.

41 *Texas House Committee Investigates AI & Its Impact*, Texas AFT (3 May 2024), <https://www.texasaft.org/uncategorized/texas-house-committee-investigates-ai-its-impact/>.

42 Elizabeth Hadley, Sergio Cavazos and Demetrius McDaniel, *Texas House Speaker Creates Select Committee on AI and Emerging Technologies*, Greenberg Traurig (15 April 2024), <https://www.gtlaw->

addressing the governance of AI.⁴³ If passed, TRAIGA would take effect on 1 September 2025, potentially positioning Texas as a leader in state-level AI regulation, due to its thoroughness.

TRAIGA focuses on high-risk industries such as employment, healthcare, finance and criminal justice.⁴⁴ These industries must provide “detailed impact assessments” that would “evaluate risks of algorithmic discrimination, cybersecurity vulnerabilities, and transparency measures”.⁴⁵ The bill also would create an Artificial Intelligence Council designated to regulate the industry.⁴⁶ Because Texas leads as the ninth-largest economy and is a hub for technology companies, TRAIGA aims to promote the state as an ethical innovator in providing clear governance frameworks across industries alike.⁴⁷

D Case Study: Indiana

Indiana’s limited AI regulation did not begin developing until 2023, when the Interim Commerce and Economic Development Interim Study Committee was directed to study AI’s risks and benefits.⁴⁸ Indiana has since enacted several laws and bills regarding AI in 2024, including: House Bill 1047, House Bill 1133 and Senate Bill 150.⁴⁹ Indiana’s bills centre around the usage of “deepfakes” and government usage.⁵⁰ Furthermore, Indiana has implemented an internal AI policy for state agencies,⁵¹ and the Indiana Office of Technology is said to be currently working on a comprehensive AI policy to cover the use of AI systems in the Indiana government.

House Bill 1047, informally referred to as “Indiana’s AI Revenge Porn Law”, targets the usage of deepfake images, similarly to the initiatives of Texas in curbing deepfakes.⁵² If an individual is found to have distributed content or images of someone in a sexually or intimately way when consent was not given, that individual could be convicted of a Class A misdemeanour, resulting in to a possible punishment of up to one year in prison and fines up to \$5,000.⁵³ The bill specifies this is a

techventureviews.com/2024/04/texas-house-speaker-creates-select-committee-on-ai-and-emerging-technologies/.

43 *Texas Lawmakers Face Decision on Comprehensive AI Regulation*, Texas Policy Research (5 December 2024), <https://www.texaspolicyresearch.com/texas-lawmakers-face-decision-on-comprehensive-ai-regulation/>.

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 *Indiana, MultiState.AI* (accessed 16 December 2024), <https://www.multistate.ai/ai-policy-overview-indiana>.

49 *Ibid.*

50 *Ibid.*

51 *State of Indiana Policy: Artificial Intelligence*, Indiana Office of the State Chief Data Officer (accessed 18 December 2024), <https://www.in.gov/mp/cdo/files/State-of-Indiana-Artificial-Intelligence-Policy.pdf>.

52 Brian Beltz, *Indiana AI Revenge Porn Law*, Wruble Law (2 June 2024), <https://wrublelaw.com/blog/indiana-ai-revenge-porn-law/>.

53 *Ibid.*

misdeemeanour if someone “create[s] or distribute[s] digital images, intimate photographs, or videos of others through the use of design editing tools, AI, computer software programs, or other applications”.⁵⁴ The only exceptions to this revenge porn bill is if the content was distributed for the purpose of securely storing or backing up data, or if the distribution was a means of reporting the criminal activity to investigators or law enforcement officials.⁵⁵

House Bill 1133, “Use of digitally altered media in elections”, was authored by Representative Julie Olthoff.⁵⁶ The bill focused on election integrity and ensuring voters can make informed decisions based on the content they are seeing.⁵⁷ The bill required that any campaign communication which depicts fabricated media showing a candidate must disclaim explicitly “Elements of this media have been digitally altered or artificially generated.”⁵⁸ The bill did not outright prohibit any fabricated media but, instead, mandates that any political communications that employ AI to create altered representations of an individual’s speech, appearance or conduct without their consent must include a clear disclaimer indicating that the content has been modified.⁵⁹ If such a disclaimer is missing, the affected individual has the right to pursue legal action, seeking damages, attorney fees and injunctive relief to address the harm caused by the altered media.⁶⁰ However, an outright ban was not issued, due to Olthoff’s concerns on banning this type of media could raise First Amendment issues.⁶¹

Finally, Indiana Senate Bill 150 was adopted, which created a task force to establish a task force to evaluate and analyse the implementation of AI technology within state agencies.⁶² The bill was implemented to create a task force to study AI, identify risks, collaborate with the three branches and report on the research conducted.⁶³ The task force was created and co-chaired by Representative Matt Lehman.⁶⁴

Indiana has begun eagerly implementing AI into its government systems. Indiana’s Chief Information Office Tracy Barnes reported on three: Pivot, an

54 *Ibid.*

55 *Ibid.*

56 Marilyn Odendahl, *Growing Threat: Indiana Legislature Moves to Curb AI in Political Ads but Effort May Do Little to Stop Deep Fakes* (accessed 18 December 2024), <https://indianacitizen.org/growing-threat-indiana-legislature-moves-to-curb-ai-in-political-ads-but-effort-may-do-little-to-stop-deep-fakes/>.

57 *Ibid.*

58 H.E.A. 1133, 123d Gen. Assemb., Reg. Sess. (Ind. 2024).

59 *Ibid.*

60 *Ibid.*

61 *Ibid.*

62 Josh Asplund, *Indiana Senate Bill 150 Establishing a State AI Task Force Is Poised to Become Law*, *Economic Digest* (7 March 2024), <https://indianaeconomicdigest.net/MobileContent/Most-Recent/Adams/Article/Indiana-Senate-Bill-150-establishing-a-state-AI-task-force-is-poised-to-become-law/31/247/116037>.

63 DeMarion Newell, *Indiana Senate Advances AI and Cybersecurity Task Force Bill on Unanimous Vote*, *The Statehouse File* (4 March 2024), https://www.thestatehousefile.com/politics/indiana-senate-advances-ai-and-cybersecurity-task-force-bill-on-unanimous-vote/article_485bc024-da89-11ee-ba9a-1380354ce80f.html.

64 Leslie Bonilla Muniz, *Indiana Tech, Privacy Chiefs Talk Benefits and Concerns in State AI Usage*, *Indiana Capital Chronicle* (22 August 2024), <https://indianacapitalchronicle.com/2024/08/22/indiana-tech-privacy-chiefs-talk-benefits-and-concerns-in-state-ai-usage/>.

employment resource recommendation search engine, an internal security log reader, and a chatbot for state government websites.⁶⁵ Pivot uses data collected from agencies involved, in education, training and employment and then provides that comparative information to people searching for work.⁶⁶ Pivot works similar to companies such as Glassdoor, helping jobseekers easily compare different employment opportunities based on wages and personal needs.⁶⁷ The agency chatbot assists the public in asking questions and receiving answers from state government websites.⁶⁸ Although internet protocol addresses and general locations are tracked, the chatbot does not require any login or identification.⁶⁹ Furthermore, these government usages of AI must adhere to the State of Indiana Policy for State Agency Artificial Intelligence Implementations.⁷⁰

Indiana has an eye towards continuing to use generative AI, with Barnes specifically mentioning “state enterprise-wide user productivity functions, like email summarization and calendar review, as well as AI-generated voice technology to help answer Hoosier questions” and “tools for monitoring video cameras, reviewing documents and translating content”.⁷¹ The Indiana Department of Education took AI outside of its internal department and granted nearly \$2 million to a pilot program, allowing 36 districts to test an AI program to help with planning lessons subjectively for each student, offering feedback and tutoring.⁷² Additionally, Microsoft announced an investment of \$1 billion into a data facility in Northwest Indiana.⁷³ Engineers, IT professionals, site managers and more similar positions will open as the campus assists in powering the Microsoft Cloud, necessitated through the growing popularity of cloud computing and AI.⁷⁴ Indiana Governor Eric Holcomb stated:

Indiana is committed to being a central hub in the global economy of the future, and this latest announcement ensures Hoosier communities and talent will be key to widespread advancements in cloud and artificial intelligence technology.⁷⁵

The rapid integration and investment into AI in the Indiana legislature shows the trend towards an even more robust usage of AI in both the public and private sectors.

⁶⁵ *Ibid.*

⁶⁶ Colin Wood, *Indiana's New AI Projects Advertise Importance of Data Quality*, State Scoop (17 September 2024), <https://statescoop.com/indianas-ai-workforce-pivot-data-quality/>.

⁶⁷ *Ibid.*

⁶⁸ Muniz, *Supra* note 64.

⁶⁹ *Ibid.*

⁷⁰ *State of Indiana Policy*, *Supra* note 51.

⁷¹ Muniz, *Supra* note 64.

⁷² Aleksandra Appleton, *Indiana Schools Embrace AI, but Seek to 'keep humans in the loop'*, Chalkbeat (17 June 2024), <https://www.chalkbeat.org/indiana/2024/06/17/students-use-ai-pilot-programs-in-class/>.

⁷³ *Gov. Holcomb Announces Plans for New \$1B Microsoft Data Center in Northwest Indiana*, Indiana for the Bold (4 June 2024), <https://iedc.in.gov/events/news/details/2024/06/04/gov-holcomb-announces-plans-for-new-1b-microsoft-data-center-in-northwest-indiana>.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

E Case Study: Colorado

Colorado has trail-blazed the path towards regulation of AI, creating the first comprehensive legislation addressing high-risk uses of AI.⁷⁶ Although other states may have proposed similar frameworks, Senate Bill 205 stands as one of the “most ambitious piece[s] of legislation”.⁷⁷

Colorado’s deepfake and revenge porn regulations were enacted under Senate Bill 11 and House Bill 1147, which dictated that revenge porn applied to both real and simulated images and requires a disclaimer if any political deepfake media is used in an election period.⁷⁸ Additionally, Colorado created its own Artificial Intelligence Task Force in House Bill 1468.⁷⁹ The Task Force aims to explore and develop protections for both consumers and workers in an increasingly AI-driven landscape.⁸⁰ It will comprise 26 carefully selected members, reflecting a deliberate effort to ensure diverse representation, drawing members from various sectors including governmental entities, academic institutions, businesses specializing in AI and biometric technologies, and different community organizations.⁸¹ With four legislative members included, the group is designed to provide a balanced and informed perspective on the complex challenges posed by emerging AI technologies.⁸²

On 8 May 2024, Colorado’s state legislature approved SB 205, a ground-breaking bill targeting the prevention of discrimination caused by high-risk AI systems.⁸³ If signed by Governor Jared Polis, it will make Colorado the first state to enact comprehensive AI legislation, potentially setting a benchmark for businesses across the nation.⁸⁴ The bill introduces substantive requirements for “developers” and “deployers” of AI systems that influence critical decisions in areas like employment, education, housing and healthcare.⁸⁵ These requirements emphasize risk management, transparency and the prevention of algorithmic discrimination.⁸⁶ Developers must document and disclose potential risks, system limitations and training data details, while deployers are tasked with conducting risk assessments, monitoring systems post-deployment and offering remedies for adverse consumer

76 Heather Curry, *2024 State Summary on AI*, Business Software Alliance (22 October 2024), <https://techpost.bsa.org/2024/10/22/2024-state-summary-on-ai/#:~:text=Colorado%20passed%20comprehensive%2C%20first%2Din,data%20provenance%20and%20digital%20replicas>.

77 *Colorado*, Multistate.AI (accessed 16 December 2024), <https://www.multistate.ai/ai-policy-overview-colorado#:~:text=AI%20systems%20that%20interact%20with,right%20to%20cure%20any%20violations>.

78 *Ibid.*

79 *Ibid.*

80 *Ibid.*

81 *Ibid.*

82 *Ibid.*

83 Kirk Nahra, Arianna Evers, Nancy Stephen and Timothy Kolankowski, *Colorado State Legislature Passes AI Bill With Potential to Broadly Regulate AI*, WilmerHale (17 May 2024), <https://www.wilmerhale.com/en/insights/blogs/wilmerhale-privacy-and-cybersecurity-law/20240517-colorado-state-legislature-passes-ai-bill-with-the-potential-to-broadly-regulate-ai>.

84 *Ibid.*

85 *Ibid.*

86 *Ibid.*

decisions.⁸⁷ A general provision mandates that businesses inform consumers when interacting with AI, except where the use is obvious.⁸⁸

SB 205 further exempts small businesses and systems adhering to federal standards under specific conditions, offering flexibility for smaller entities while maintaining robust consumer protections.⁸⁹ Enforcement authority resides with the state attorney general, who can also require businesses to disclose risk assessments and compliance measures.⁹⁰ Businesses demonstrating adherence to recognized risk management frameworks can invoke an affirmative defence in enforcement cases.⁹¹ Expected to take effect on 1 February 2026, the bill reflects broader global and federal efforts, including the European Union's Artificial Intelligence Act and the Federal Trade Commission's initiatives, to regulate AI and address its risks.⁹² If enacted, SB 205 could influence legislative approaches to AI governance across the United States.⁹³

F Recommendations

Texas, Colorado and Indiana have all taken different approaches to begin regulating AI, but which one should be followed? The recent Pew Research Center surveys reveal a growing caution among Americans toward AI, with 52% expressing more concern than excitement about its integration into daily life.⁹⁴ While general awareness of AI is high – 90% have heard at least a little about it – fewer Americans possess a nuanced understanding of its specific applications.⁹⁵ Demographics such as age, education level and gender influence familiarity, with younger, college-educated men more likely to recognize AI's uses.⁹⁶ Generative AI tools like ChatGPT have captured public attention, but only a minority of adults (18%) and teens (19%) report using them, often for research rather than creative tasks like essay writing.⁹⁷

Despite concerns, Americans see AI's potential for efficiency, such as performing household chores and reducing racial bias in hiring or healthcare.⁹⁸ Nonetheless, scepticism persists regarding AI's impact on jobs, privacy and unintended consequences.⁹⁹ Broad public support exists for stronger regulation, with many worried that oversight will fall short.¹⁰⁰ Overall, while Americans

87 *Ibid.*

88 *Ibid.*

89 *Ibid.*

90 *Ibid.*

91 *Ibid.*

92 *Ibid.*

93 *Ibid.*

94 Michelle Faverio and Alec Tyson, *What the Data Says About Americans' Views of Artificial Intelligence*, Pew Research Center (21 November 2023), <https://www.pewresearch.org/short-reads/2023/11/21/what-the-data-says-about-americans-views-of-artificial-intelligence/>.

95 *Ibid.*

96 *Ibid.*

97 *Ibid.*

98 *Ibid.*

99 *Ibid.*

100 *Ibid.*

appreciate AI's practical benefits, their unease reflects a desire for thoughtful, human-centred integration and cautious adoption to mitigate risks.¹⁰¹

Public perception of AI reveals a pressing need for thoughtful and responsive state regulation, reflecting both optimism and apprehension about the technology's role in society.¹⁰² A significant majority of individuals – more than two-thirds – believe that AI should be regulated; this highlights a clear demand for government oversight and accountability.¹⁰³ As the study indicates, nearly half of respondents look to the government or supranational bodies to “take the lead in ensuring accountability” within the AI industry.¹⁰⁴ This underscores the public's trust in formal regulatory systems over self-regulation by private entities, which could otherwise create conflicts of interest. To address this, states should develop their own comprehensive AI regulations that align with the federal government's Executive Order blueprint, which outlines principles for safe, accountable and ethical AI development. By doing so, states can ensure that their regulatory frameworks address local needs while maintaining consistency with federal standards, fostering both public trust and a unified approach to AI governance.

One key area for regulation involves addressing the knowledge gap between AI's presence and its perceived societal impact. While three-quarters of respondents understand AI conceptually, only 14% believe they have encountered it directly, and a mere 2% think AI is already affecting society.¹⁰⁵ This discrepancy suggests that many people are unaware of how deeply AI is integrated into their daily lives. States could mandate transparency measures, such as labelling AI-powered services or requiring clear disclosures about the use of personal data. This would help bridge the gap between public knowledge and the technology's real-world applications, ensuring that individuals are aware of their interactions with AI systems.

Privacy and data protection also emerge as critical concerns. Over half of respondents either did not know if AI would use their personal data or mistakenly believed it would not.¹⁰⁶ Additionally, half expressed discomfort with the idea of their personal data being used by AI for task performance.¹⁰⁷ States should prioritize legislation that explicitly governs data usage by AI systems, mandating robust safeguards against misuse and requiring informed consent from individuals. Such policies would not only protect users but also bolster public trust in AI.

Employment concerns further illustrate the necessity of thoughtful regulation, particularly regarding potential discrimination risks posed by AI systems. While respondents acknowledged workplace benefits – such as saving time and reducing errors – a significant number were apprehensive about job automation, particularly

101 *Ibid.*

102 Chris Holder and Vik Khurana, *Artificial Intelligence: Public Perception, Attitude, and Trust*, Bristows (27 September 2018), <https://www.bristows.com/viewpoint/articles/artificial-intelligence-public-perception-attitude-and-trust/>.

103 *Ibid.*

104 *Ibid.*

105 *Ibid.*

106 *Ibid.*

107 *Ibid.*

in traditional blue-collar roles.¹⁰⁸ Beyond automation, AI systems used in hiring, promotions and workplace monitoring can inadvertently perpetuate or exacerbate biases, disproportionately affecting marginalized groups. To address these issues, states should implement regulations requiring transparency in AI decision-making processes and mandating regular audits to identify and mitigate discriminatory outcomes. Drawing inspiration from the Biden administration's Blueprint for an AI Bill of Rights, states could enforce standards to ensure fairness and equity in AI applications, such as explicit guidelines for avoiding algorithmic bias and protections for affected workers. Additionally, states could mandate workforce transition programs, focusing not only on reskilling but also on ensuring that new opportunities created by AI are accessible to all individuals, regardless of race, gender or socioeconomic status. By prioritizing these measures, states can foster workplace environments that leverage AI's benefits without compromising equity and fairness.

Finally, the public's expectations regarding AI accountability emphasize the importance of ethical oversight. Nearly half of respondents believe AI will have a negative effect on society, and 47.4% advocate for some form of industry self-regulation.¹⁰⁹ To address these concerns, states could establish their own AI councils, comprising leaders from diverse sectors such as academia, AI development, data science and civil rights organizations. Drawing inspiration from initiatives like those in Texas, these councils would provide a multidisciplinary approach to AI governance, ensuring that policies reflect a balance of technical expertise, ethical considerations and public interests. By fostering collaboration among stakeholders, states can create frameworks that combine governmental oversight with industry-led ethical initiatives. This dual approach would allow for flexible innovation while maintaining public trust through enforceable ethical standards tailored to the unique needs and priorities of each state.

In sum, public perception calls for comprehensive AI regulation that prioritizes transparency, privacy, employment stability and ethical accountability. By addressing these concerns, states can ensure that AI develops in ways that align with societal values and public trust, paving the way for its responsible integration into everyday life.

G Conclusion

Texas, Colorado and Indiana offer distinct yet insightful approaches to regulating AI, each reflecting the unique priorities and concerns of their respective jurisdictions. Texas's emphasis on privacy, Colorado's balanced focus on innovation and consumer protection, and Indiana's prioritization of economic development and workforce readiness underscore the diverse paths states have taken in navigating the challenges and opportunities posed by AI. These approaches highlight both the potential benefits and inherent limitations of a decentralized regulatory framework in addressing the multifaceted impacts of AI technology.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

To harmonize these efforts and ensure a coherent national strategy, states must adopt foundational principles such as those outlined in the U.S. Government's AI Blueprint for an AI Bill of Rights. These principles emphasize "safe and effective systems, algorithmic discrimination, data privacy, notice and explanations of how automated systems are being used, and human alternatives, consideration, and fallback".¹¹⁰ By anchoring their laws in these principles, states can establish a baseline of ethical and effective AI governance, enabling responsible development and implementation across sectors.

Moreover, aligning state laws with these foundational principles fosters interstate consistency and supports the broader goal of integrating AI into all sectors of society without compromising public trust or safety. As states continue to develop their AI regulatory landscapes, they must strive to balance innovation with protection, ensuring that the transformative potential of AI is realized responsibly and equitably across the nation. This unified yet adaptable approach is critical for navigating the complexities of the AI era and maintaining the leadership of the United States in this rapidly evolving field.

110 *Blueprint for an AI Bill of Rights*, The White House (accessed 16 December 2024), <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.