

# US Regulation of Artificial Intelligence

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A summary is available [here](#)

## Abstract:

This study delves into the evolving landscape of artificial intelligence (AI) regulation in the United States. Examining federal bills (1973-June 2023), state bills (2019-April 2023), and executive orders (1994-July 2023), it scrutinizes the volume, targets, regulatory objectives, AI ethics themes, and partisan influences in bills of all statuses, passed, pending, and failed.

The research uncovers that AI regulation in the US is on the rise, with a marked increase in 2023. The government sector is the most common regulatory target, especially national security. Bills that target the government sector mostly recommend setting up committees and other organizational structures and writing reports and other documents. Almost no bills propose any restrictions on the government. Outside of the government, the most targeted sectors are HR, especially anti-discrimination in hiring decisions, and the financial sector, especially anti-discrimination in insurance underwriting. Law enforcement and criminal justice are conspicuously missing from the list of targeted sectors. Specific AI technologies don't get much direct attention, but the top ones are AI in social media algorithms and facial recognition. The top AI ethics themes were improving AI capabilities, fairness, and data rights. Three AI ethics themes notably absent are explainability, human autonomy, and risks related to Artificial General Intelligence (AGI). Democrats exhibit greater activity in introducing bills, emphasizing general AI ethics and fairness, whereas Republicans prioritize AI capabilities and data rights. Taking a global perspective, the US regulatory approach seems different from both the European Union's approach and the United Kingdom's approach.

## 1. Introduction

Regulation of artificial intelligence (AI) is emerging. While it is impossible to know for sure what the regulation would ultimately look like, we can learn a lot by examining what regulators are trying to accomplish. With that in mind, this paper studies trends in AI regulation efforts in the United States (US). It does so through a systematic analysis of federal bills (1973-June 2023), state bills (2019-April 2023), and executive orders (1994-through July 2023). The paper covers AI bills in all statutes, passed, pending, or failed, since all of them can teach us about what

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regulators are up to. Moreover, the paper supplements the bill analysis with an overview of selected related activities, such as city-level laws, lawsuits, and actions of federal agencies.

The analysis addresses the following topics: (i) How many AI bills and executive orders there are currently; (ii) How the volume of regulatory efforts has changed over time; (iii) Which sectors and technologies regulation efforts target; (iv) Which requirements regulators aim to put in place; (v) Which AI ethics themes regulators focus on; and (vi) Whether there is partisanship in AI regulation efforts.

The high-level findings are as follows. Overall, the analysis identified 83 federal and 232 state AI bills. These include 8 federal AI laws, 12 pending federal bills, 26 state AI laws, and 62 pending state AI bills. In addition, the analysis identified 3 AI executive orders. (You can find the definition of “AI bill” in the methodology section).

The volume of AI regulation efforts increased over time and spiked in 2023. On the state level, 87 bills were introduced between January-April 2023 alone, which is 60% of the total number of state AI bills found between 2019-2022. On the federal level, 14 bills were introduced between January-June 2023 alone, which is 20% of the total number of federal AI bills found between 1973-2022 (the first was in 2017).

The bills mostly target the public sector (73.5% of federal AI bills, 65.5% of state AI bills). Within the public sector, the most common targets are national security organizations, such as the Department of Defence and the military (18.1% of all federal AI bills). Other common targets of public sector bills are the National Institute for Standards and Technology (15.7% of federal AI bills) and the National Science Foundation (12% of federal AI bills). These public sector bills focus mostly on setting up organizational structures, such as committees and task forces, writing documents, such as guidelines and reports, and providing funding to improve AI capabilities. Almost no bills put any restrictions on the public sector.

The non-public sectors that bills target the most are HR (9.9% of state AI bills) and finance (6.5% of state AI bills). HR bills focus on preventing employment discrimination and transparency about using AI in the hiring process. Finance bills focus on preventing discrimination in underwriting, especially in insurance. Education and healthcare get some attention, too (3.9% and 2.6% of state AI bills, respectively). Education bills focus on funding activities to improve AI capabilities. Healthcare bills are very few. Some of them focus on patient rights in mental healthcare, and others aim to favor human decision-making.

Some bills target particular AI technologies (13.3% of federal AI bills, 6.5% of state AI bills). The most common are social media and other ranking algorithms, facial recognition, and generative AI. Social media bills focus on preventing surveillance and manipulation. Facial recognition bills aim to ban the technology. Generative AI bills focus on transparency and limiting immunity from liability. Biometrics and profiling got very little attention. Scraping and Artificial General Intelligence (AGI) got no attention. Having said that, note that additional technology-specific bills may fall outside the scope of the bills covered in this paper (see the methodology section for

details). Moreover, while the volume of bills targeting particular technologies is relatively low, other regulatory efforts, such as lawsuits and federal agencies' actions, target these and other technologies. The results section reviews some of these.

The most common AI ethics themes are improving AI capabilities and general AI ethics, which includes protecting civil rights, advancing American values, and general accountability. Other than these, the top themes are fairness, data rights, displacement, transparency, liability, political stability, and national security. Human oversight, a prominent AI ethics theme, got little attention. None of the bills focused on explainability, another prominent AI ethics theme.

Regarding partisanship, Democrats are generally more active in introducing AI bills than Republicans, although the gap is more pronounced on the state level. Further, the parties focus on different AI ethics themes. Democrat-related bills focus on general AI ethics, improving AI capabilities, and fairness. Republican-related bills are most focused on improving AI capabilities and data rights.

The structure of the paper is as follows: Section 2, the next section, explains the paper's methodology. Section 3 presents the analysis results. Section 4 summarizes the findings, adds context, highlights gaps in US AI regulation efforts, and briefly compares the US regulation efforts to those of the European Union and the United Kingdom. Readers primarily interested in the bottom line can skip directly to this last section. All the bills the paper curated and their annotations are available online.<sup>2</sup>

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<sup>2</sup> The repository of bills is available at <https://www.ravitdotan.com/us-ai-regulation>

## 2. Methodology

The analysis includes identifying US AI bills, annotating them, analyzing the annotations, and supplementing them with other regulatory activities. This section explains what went into each stage and discusses some of the limitations of this methodology.

### 2.1 Identifying AI bills

Identifying AI bills required sourcing and screening them. The process differed for each kind: state bills, federal bills, and executive orders.

The source of the state bills is the website of the National Congress of State Legislators (NCSL).<sup>3</sup> The NCSL repository presents two lists of bills related to AI: one covering 2019-08/2022 ([NCSL, 2022](#)) and the other covering January-April 2023 ([NCSL, 2023](#)). The 2023 list was accessed on June 2023, it was updated on July 20, but the new data is not included in this paper. The NCSL doesn't define what counts as an AI bill, but they do emphasize that they did not track specific AI-related technologies, such as facial recognition and autonomous vehicles. Overall, the two lists contain 266 bills. Of them, 34 bills appeared twice (the same bill number appeared in different years). I excluded them from the analysis, keeping the first appearance only, resulting in a list of 232 state AI bills.

The source of the federal bills is the website of the Congress Archive.<sup>4</sup> To find AI bills, I searched for legislation that contains at least one of the following terms: "artificial intelligence," "machine learning," "automatic decision system," or "algorithm" (I didn't include "data" as a search term because many data issues are unrelated to AI). The search took place on June 22, 2023, and covered legislation starting from 1973. It yielded 733 results. I downloaded the results into an Excel sheet and used Excel functions for screening. I excluded bills whose titles didn't include at least one of the following terms: "artificial intelligence," "AI," "machine learning," "ML," "automatic decision system," "algorithm," or "data." After this screening, 101 bills remained. Next, I reviewed the remaining bills manually and excluded false positives: bills with titles that contained one of the screening terms but were irrelevant. For example, I excluded a bill whose title contained the term "CHAIN," which includes the phrase "AI," but not in the sense of artificial intelligence. After screening out the false positives, the final list contained 83 federal AI bills.

The source of the executive orders (EOs) is the Federal Register,<sup>5</sup> which contains a list of all executive orders since 1994. I downloaded the full list on July 5, 2023. To find AI executive orders within the list, I used Excel functions to screen out EOs whose titles didn't include at least

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<sup>3</sup> NCSL tracked AI bills in two separate lists, one covering 2019-08/2022 ([NCSL, 2022](#)) and the other covering January-April 2023 ([NCSL, 2023](#)). The 2023 list was accessed on June 2023, it was updated on July 20, but the new data is not included in this paper.

<sup>4</sup> The Congress Archive is available at <https://www.congress.gov/>

<sup>5</sup> The Federal Register is available at <https://www.federalregister.gov/presidential-documents/executive-orders>

one of the following terms: “artificial intelligence,” “AI,” “machine learning,” “ML,” “automatic decision system,” “algorithm,” or “data” (these are the same screening terms I used for the federal bills’ titles). The screening yielded 3 executive orders.

## 2.2 Annotating bills

I annotated the bills for the following types of information: status, duplicates, targets, themes, requirements, and partisanship.

### **Status**

I annotated the bills into three statuses: passed, failed, and pending. The “passed” category includes bills that have been enacted directly or by inclusion in other bills that have been enacted. The “failed” category includes bills that were rejected by vote or didn’t even get a vote. In the US, a bill must pass in the same congressional session in which it is proposed. If it doesn’t get a vote during that time, it fails. Pending bills are all the rest. To determine a bill’s status, I used the data from the Congress Archive and NCSL, supplemented by data from the website GovTrack.<sup>6</sup>

### **Duplicate/Unique**

Legislators often introduce the same bill multiple times. One reason is that if a bill fails in one legislative session, it could be introduced again in a later session (with a different bill number). Another reason is that bills become laws only if they pass in two different legislative bodies – the Senate and the House of Representatives for federal laws and the state equivalents for state laws. The bills are introduced separately to each legislative body, with different bill numbers. I annotated a bill as a “duplicate” if there was a newer bill with the same or very similar title. I annotated the latest version as “unique.” In cases of ambiguity, I decided by examining the text of the bills.

### **Targets, themes, and requirements**

The targets of the bills are the things that bills require things from, such as sectors and technologies. The requirements are the things the bill prescribes, such as writing reports or putting restrictions in place. The themes are the AI ethics topics the bill addresses, such as data rights and fairness.

I annotated bills for targets, themes, and requirements using an annotation scheme that I developed in four inductive, iterative stages. In the first stage, I annotated the federal bills only. I reviewed each bill manually and wrote down the targets, themes, and requirements based on reading through the bill’s title, summary, and text. Categories emerged during that process. In the second stage, I switched to state bills. I reviewed each bill manually, annotated using the

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<sup>6</sup> GovTrack is available at <https://www.govtrack.us/>

categories I created in the previous stage, and revised the categories as needed. In the third stage, I went back and forth between the federal and state bills, each time annotating and revising the categories as needed until reaching saturation. In the fourth and final stage, I annotated all bills with the final scheme.

## **Partisanship**

Partisanship means affiliation with political parties. For federal bills, I determined partisanship by analyzing the list of congress members that sponsored each bill. If a bill was only sponsored by Democrats, I counted it as a Democrat bill. If it was only sponsored by Republicans, I counted it as a Republican bill. Otherwise, I counted it as a bipartisan bill. The data about the affiliation of the bills' sponsors came from the website GovTrack (already mentioned above).

For state bills, I determined the partisanship of a state using the state's electoral vote in the past three presidential elections (2020, 2016, 2012). I counted a state as Democratic-leaning if Democrats won the electoral vote in all three presidential elections. I counted a state as Republican-leaning if Republicans won in all three. Otherwise, I counted the state as a swing state. The data for these determinations came from the Federal Election Committee.<sup>7</sup>

## **2.3 Analyzing annotations**

All the analysis was done manually, using Google sheet functions only. The particulars of each analysis are explained below in the "Results" section.

## **2.4 Supplements**

Regulatory activity goes beyond executive orders, state bills, and federal bills. It also includes city bills, hearings, federal agency action, and litigation. The "Results" section mentions selected non-bill activities. I included activities that are prominent and important for contextualizing the results. Note that the paper doesn't include a systematic overview of non-bill activities. Many are not discussed here.

## **2.3 Limitations**

One limitation is the scope of what I call "AI bills." As mentioned above, my federal and EO search didn't include the term "data" and particular technologies such as facial recognition. Similarly, the state bills also do not track particular relevant technologies, as discussed above. Another limitation is the lack of systematic analysis of other regulatory activities.

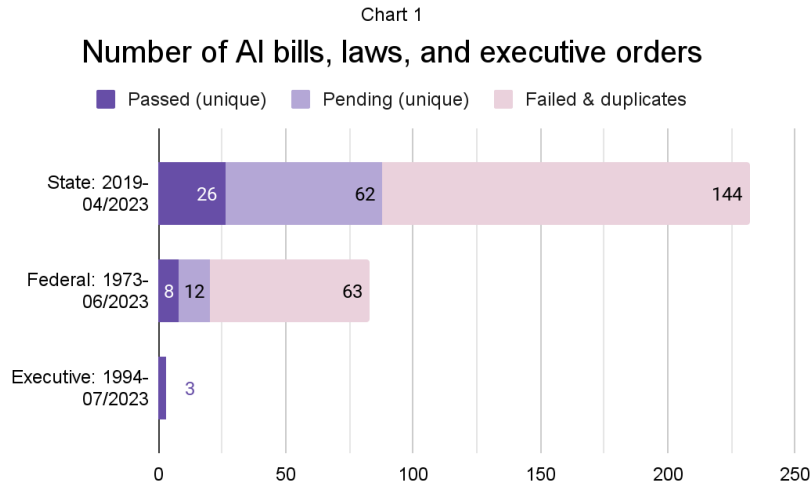
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<sup>7</sup> The Federal Election Committee data is available at <https://www.fec.gov/>

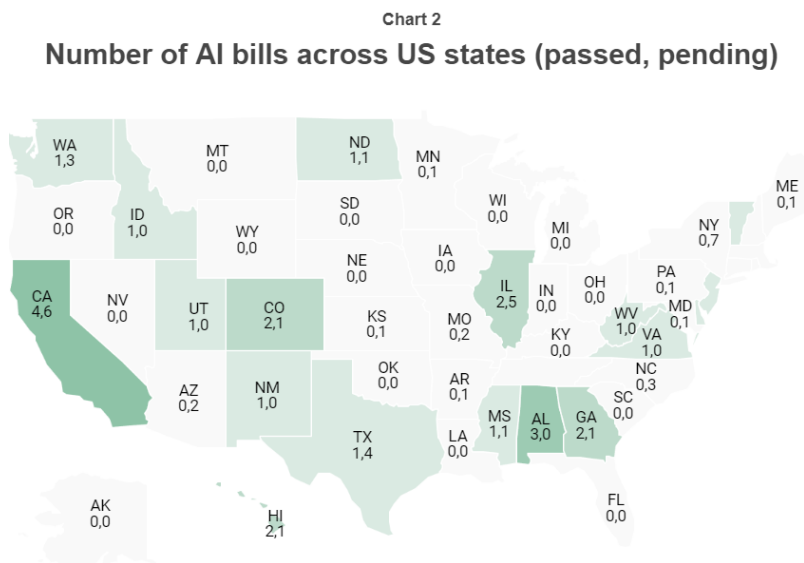
### 3. Results

#### 3.1. The number of bills, laws, and executive orders

Overall, I identified 3 AI executive orders, 83 federal AI bills, and 232 state AI bills. Of the federal bills, 53 are unique bills (the rest are duplicates, as explained in the methods section). Of those 53 unique federal AI bills, 8 have passed into law, and 12 are currently pending. Of the 232 state bills, 169 are unique bills, 26 have passed into law, and 62 unique bills are pending.



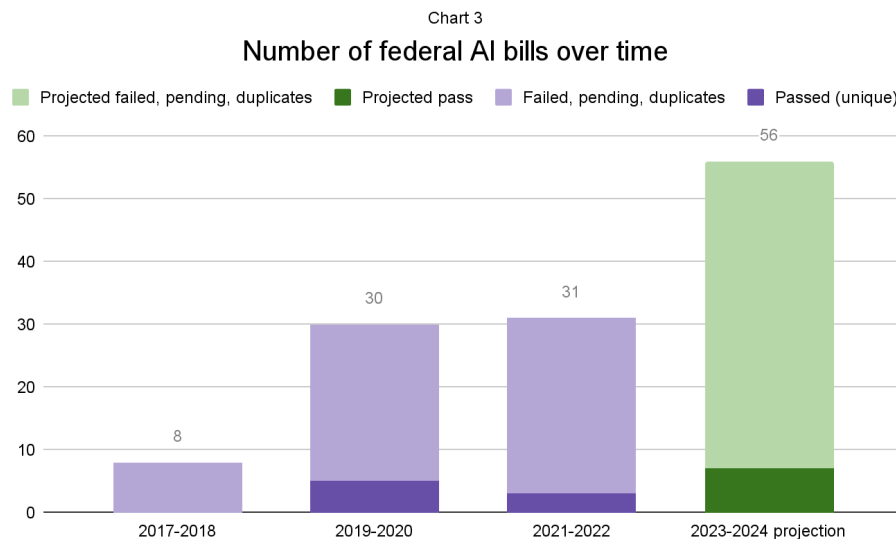
You can see the distribution of state bills across states in Chart 2 below. Each state is represented by its acronym, followed by the passed bills, then pending bills. For example, California passed 4 AI bills and has 6 pending. The color is darker the higher the sum of passed and pending bills. Puerto Rico is not represented on the map. It has one pending AI bill.



## 3.2. Bill introduction is accelerating

### Federal bills

The rate of introduction of federal AI bills is accelerating and spiked in 2023 (see the numbers per congressional session in Chart 3). The current Congress has already introduced 14 AI bills in its first six months. At this pace, the total number of federal AI bills in the current Congress will reach 56 by the end of its two years ( $=14*4$ ), almost doubling the number of AI bills introduced during the previous congressional session. In addition, in the previous two Congresses, about 13% of the AI bills have passed into law. If the same happens in the current congress, there will be 7 new federal AI laws by the end of 2024 (13% of 56), doubling the total number of federal AI laws.



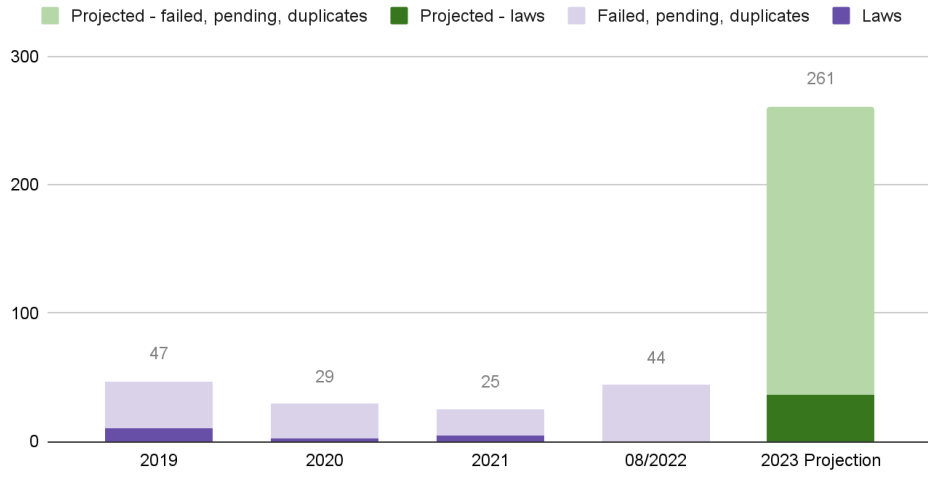
### State bills

Similar to federal bills, the introduction of state AI bills increased over time and spiked in 2023 (see the numbers in Chart 4). States introduced 87 AI bills between January-April 2023 alone. If the same pace continues, by the end of 2023 states will have introduced 261 AI bills ( $=87*3$ ). This is about 4.5x more than the number of AI bills introduced in 2022 (44) and more than all state AI bills introduced between 2019-08/2022 (145 bills). As of June 2023, six of the state AI bills became laws. On average, 13.7% of the AI bills pass each year. If the same happens in 2023, there will be 36 new state AI laws by the end of 2023. This is 1.8x more than all laws passed in 2019-2022 combined (20).



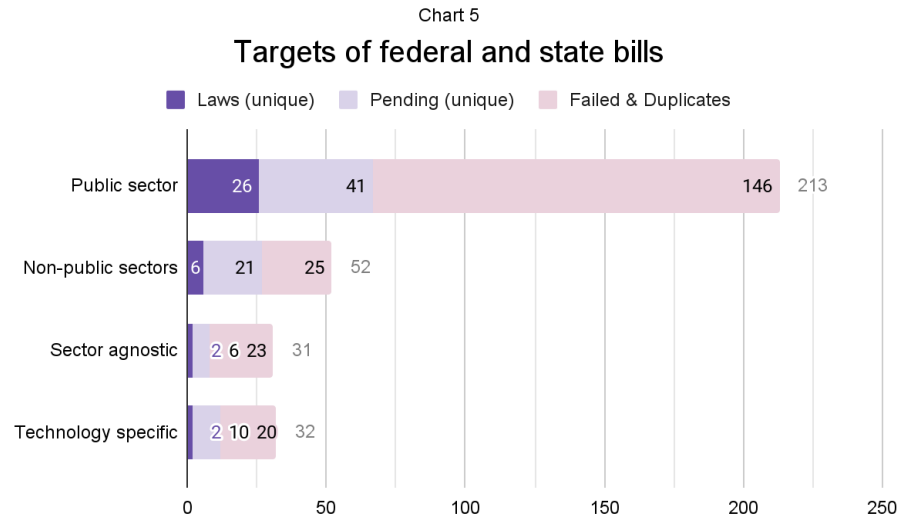
Chart 4

### Number of state AI laws and bills over time



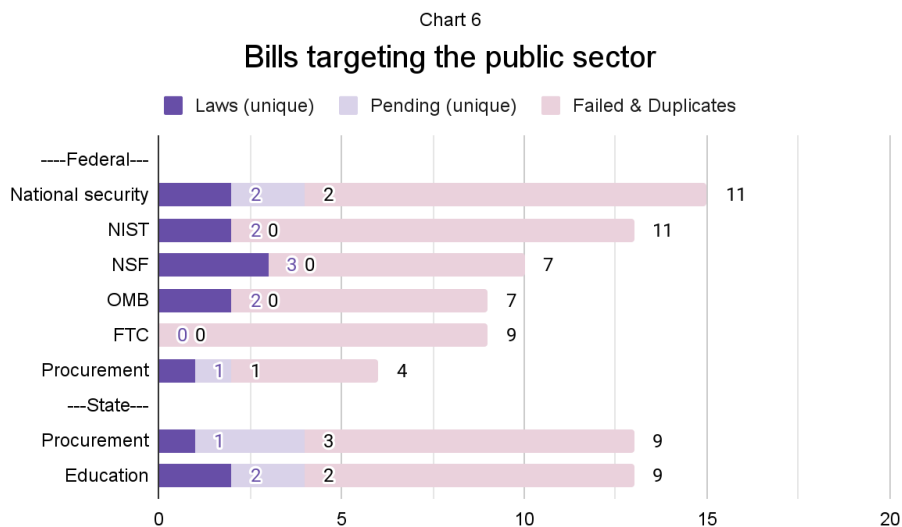
### 3.3. Targets

The targets of bills are the things that the bills regulate, i.e., the things to which the bills prescribe requirements. In Chart 5, you can see how many bills target the public sector, how many target non-public sectors, how many are sector-agnostic, and how many target particular technologies. Below I expand on each category.



#### 3.3.1. Public sector

Within the public sector, federal bills mostly target specific federal agencies. State bills target state-level organizations or activities. You can see the most common public-sector targets in Chart 6, and they are further discussed below.



## **National security**

National security organizations, such as the Department of Defense (DOD) and the military, are the largest group that federal bills target. These bills typically aim to improve the AI capabilities of national security organizations (62.5% of the bills that target national security organizations). A few also aim to promote AI ethics topics, most commonly general AI ethics (4 unique bills).

The activities these bills prescribe are writing guidelines and reports and conducting structural changes, such as setting up committees or appointing personnel. Only two federal bills mandate a restriction, both proposing the same law: The “Block Nuclear Launch by Autonomous Artificial Intelligence Act of 2023”, which prohibits using federal funds for launching nuclear weapons by autonomous systems that are not subject to meaningful human control ([S. 1394](#) and [H.R. 2894](#), both pending).

## **NIST**

The National Institute for Standards and Technology (NIST) is a part of the Department of Commerce. Its mission is to promote American innovation and industrial competitiveness. Bills that target NIST typically prescribe structural changes, such as establishing committees, and writing guidelines and reports. All these bills aim to improve AI capabilities. Some also aim to promote AI ethics topics, most commonly general AI ethics (3 unique bills) and displacement (3 unique bills).

## **Research and Education**

Research and education get attention in the form of federal bills that target the National Science Foundation and state bills that target universities and K12 schools. All of these bills aim to improve AI capabilities. They seek to do so by promoting activities such as increasing funding for AI research and educational programs, establishing new initiatives, and revising curricula. For two examples, see [H.R. 3844](#), which requires the NSF to award grants to AI researchers (failed), and [2021 MS HB 633](#), which directs the Mississippi Department of Education to include AI and other topics in the K12 curriculum (passed). No bills mandate restrictions on AI research and education.

## **OMB**

The Office of Management and Budget (OMB) oversees the implementation of the President’s vision across the executive branch, including the other federal agencies mentioned in this section. Overall, 9 federal bills target OMB. All of them focus on improving AI capabilities, and 8 also focus on general AI ethics issues. The main activities they prescribe are structural changes, writing guidelines and reports, and training.

## FTC

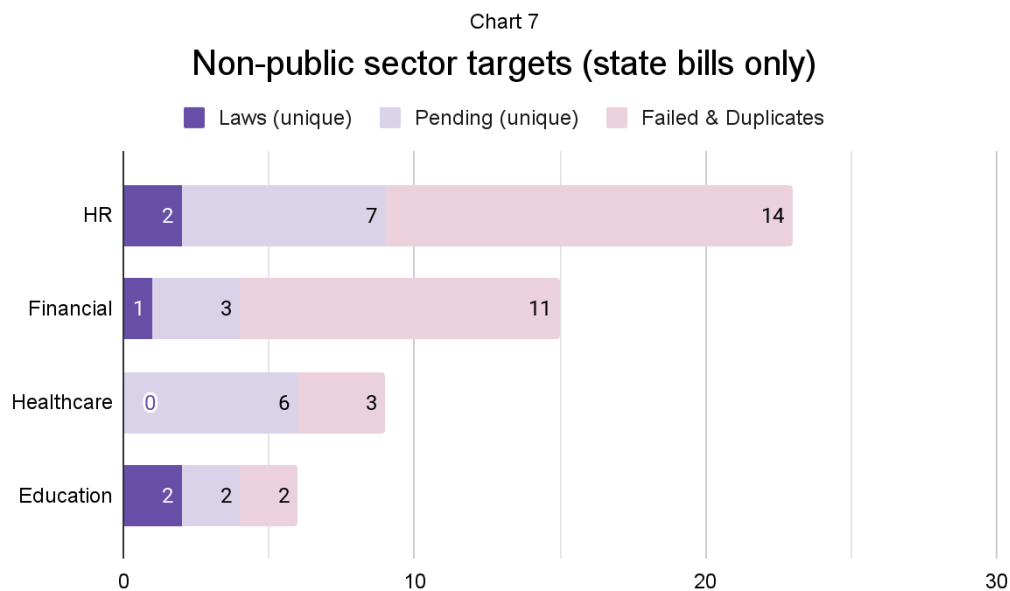
The Federal Trade Committee (FTC) enforces civil antitrust law and promotes consumer protection. Out of the 9 bills targeting the FTC, 8 prescribe restrictions and 7 prescribe oversight (all failed). The top themes these bills promote are improving AI capabilities, general AI ethics, data rights, and fairness. For example, the American Data Privacy and Protection Act (federal bill [H.R. 8152](#), failed) establishes requirements for data handling and puts the FTC and the attorney general in charge of enforcing them.

## Procurement

AI procurement in public administration gets attention in federal bills, state bills, and one executive order. The bills typically prescribe guidelines and restrictions on AI procurement, such as prohibiting purchasing AI systems that discriminate, requiring audits and impact assessments, and setting up registries for AI systems used in public administration. For example, [EO 13960](#) establishes guidelines for using, developing, and procuring AI in the federal government. These include reliability, understandability, accountability, and transparency. The one federal law on AI procurement, [AI Training Act](#), requires that procurement personnel get training on AI capabilities, opportunities, and risks.

### 3.3.2. Non-public sectors

Only state bills target specific non-public sectors. You can see the distribution in Chart 7 and it is discussed below.



## Human Resources (HR)

The most common topics in HR AI bills are preventing discrimination in AI-assisted hiring decisions and transparency about the usage of AI in the hiring process. For example, The states of New York and New Jersey are currently considering bills that require disparate impact assessments before using AI in hiring decisions, as well as notifying applicants about the use of AI ([2023 NY S 5641](#), [2022 NJ S 1926](#), and [2022 NJ A 4909](#), all pending). These bills echo the most well-known effort in this area, New York City's "Automated Employment Decisions" law ([Local law 144 of 2021](#), passed).

In addition to bills, the Equal Employment Opportunity Commission (EEOC) is active in preventing AI discrimination in hiring. The EEOC activities include signing a joint statement with other agencies announcing that they will apply general non-discrimination laws on AI ([Chopra et al. 2023](#)), releasing guidance on assessing adverse impact when using AI in employment decisions ([EEOC, 2023](#)), and launching the Artificial Intelligence and Algorithmic Fairness Initiative.<sup>8</sup>

## Financial sector

AI bills that target the financial sector focus on preventing discrimination in insurance underwriting decisions. So far, only one has passed into law: Colorado's [2021 CO S.B. 169](#), which requires insurers to test their AI systems for discrimination and take corrective actions. New Jersey and Rhode Island are currently considering insurance anti-discrimination bills, [2022 NJ A 537](#) and [2023 RI H 5734](#), respectively.

In addition to bills, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC) have repeatedly expressed their commitment to applying general laws on AI in the financial sector. Their activities include signing the joint statement mentioned above ([Chopra et al. 2023](#)), emphasizing the enforcement of non-discrimination laws in financial services, and releasing multiple statements on the topic on their own. For example, FTC statements on AI include Atelson ([2023](#)), Jillson ([2021](#)), and Smith ([2020](#)). The CFPB statements include a statement on the use of chatbots in banking ([CFPB, June 2023](#)), a statement on AI in home appraisals ([Chopra, June 2023](#)), and a general statement ([CFPB, April 2023](#)).

## Healthcare

Healthcare bills require oversight of AI usage and patient prioritization. For example, Illinois' Safe Patient Limits Act ([2023 IL H 3338](#) and [2023 IL S 2314](#), pending) prohibits replacing the judgment of nurses with AI recommendations. To give another example, two of the six unique healthcare bills pertain to mental health. These are Texas' [2023 TX H 4695](#) and Massachusetts' [2023 MA H 1974](#) (both pending). Massachusetts' bill requires that mental healthcare patients

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<sup>8</sup> The initiative is available at <https://www.eeoc.gov/newsroom/eeoc-releases-new-resource-artificial-intelligence-and-title-vii>

must provide informed consent to using AI in their treatment and that AI systems used in mental health care must be designed to prioritize patient well-being. Texas' bill requires that the state approve the AI and that a mental health professional (a human) be available to the patient when the patient receives services from the AI system. No other healthcare AI bills touch on topics such as patient and well-being. No bills touch on non-discrimination and explainability.

## **Education**

State AI bills on education typically prescribe providing funding for AI education and setting up AI educational programs, especially in state universities. The theme they focus on the most is improving AI capabilities. For example, Utah's [2020 UT SB 96](#) (passed) establishes a deep technology talent initiative within higher education. The only bill which proposes a restriction is New York's [2023 NY A 4534](#) (pending), which requires that school administrations install AI-supported security cameras where appropriate, in consultation with the local police department. The only bill that touches on fairness is California's [2019 CA S 444](#) (failed), which authorizes UC Berkeley and UC Irvine (two state universities) to participate in a research program to develop AI solutions to address issues of access to justice.

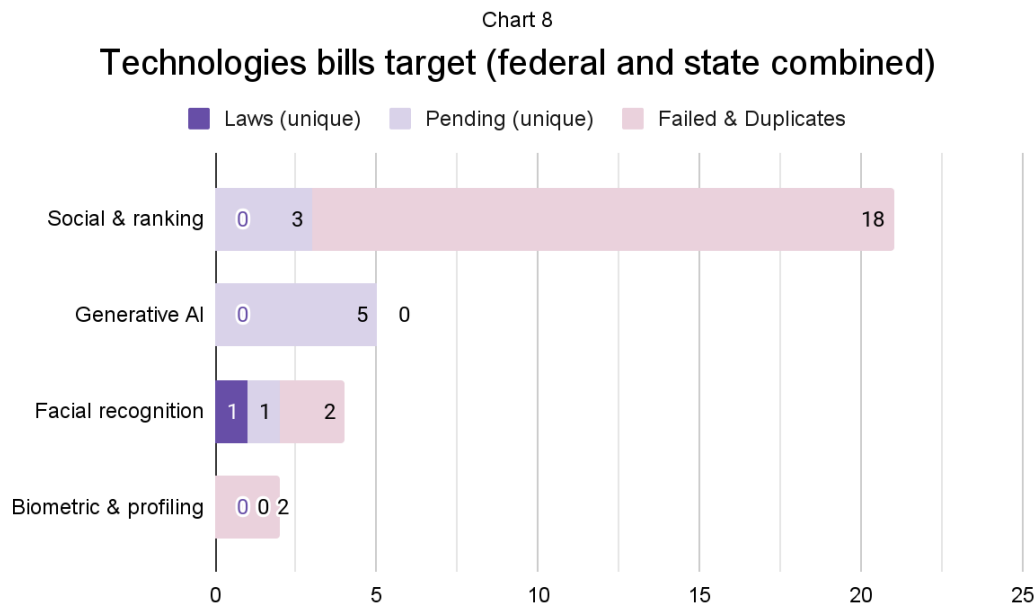
### **3.3.3. Sector agnostic**

Agnostic bills apply to all sectors. Bills in this category mostly focus on data rights, fairness, transparency, and improving AI capabilities. The main activities they prescribe are putting in place restrictions and oversight. For example, New Jersey's [2022 NJ S 3714](#) (pending) establishes requirements for the disclosure and processing of personally identifiable information. North Dakota's [2023 ND H 1361](#) (passed) determines that AI doesn't count as a legal person. Oklahoma's [2021 OK H 3011](#) (failed) forbids anyone from willfully developing an algorithm that is harmful to human life.

### 3.3.4. Technologies

Relatively few of the AI bills and laws target particular technologies. You can see the distribution of the most common technologies in Chart 8 and it is discussed below.

The low number of technology-specific bills may be misleading. First, these bills may fall outside the scope of this paper, as discussed in the methodology section. Second, other regulation-related activities do target particular technologies. These include various activities of federal agencies, litigation and court rulings, and city laws. I review some of them below too, including activities related to scraping, which is not represented in bills at all.



#### Social media and ranking algorithms

Bills in this category mostly propose restrictions on social media platforms. Their topics include protecting children, preventing discrimination, protecting data rights, transparency, liability, and combating surveillance and foreign intervention.

One example is the pending federal bill “ANTI-SOCIAL CCP Act” (stands for “Averting the National Threat of Internet Surveillance, Oppressive Censorship and Influence, and Algorithmic Learning by the Chinese Communist Party Act,” [H.R. 1081](#) and [S. 347](#)). As the name suggests, the Act proposes protections to prevent foreign intervention through social media. To give another example, the federal bill called the “DATA Act” ([S. 688](#), pending) requires ranking platforms to provide notice and obtain users’ consent to present ranked content.

Social media platforms have also received attention from federal agencies and courts. For example, in 2021, the Department of Justice (DOJ) sued Meta (then Facebook) for violating the

Fair Housing Act. The DOJ alleged that Facebook’s algorithms wrongfully discriminate when making decisions on who sees housing ads. The parties settled in June 2022, and Meta agreed to stop using the allegedly discriminatory tool ([DOJ, 2022](#)).

## **Generative AI**

Five unique bills aim to regulate Generative AI. Some of the bills pertain to transparency, discrimination, and other risks. For example, the most ambitious bill is Massachusetts’ [2023 MA S 31](#) (pending), which calls for a list of protections, such as prohibiting discrimination, requiring impact assessments, protecting data rights, and marking content as AI-generated.

Liability is another prominent theme, and the focus of attention in that area is [Section 230](#) of Title 47 of the United States Code. Section 230 grants internet platforms immunity from liability for the content hosted on the platform. For example, recently, the Supreme Court ruled that Reddit, the social media platform, is not liable for child porn hosted on the platform due to section 230 ([Chung, 2023](#)). Some argue that generative AI should not be protected under section 230. For example, federal bill [S.1993](#) (pending) requires waiving the 230 immunity for generative AI. If the bill were to pass, companies that make chatbots would be liable for content such as hate speech or defamatory statements that their chatbots produce.

Beyond bills, generative AI receives attention from federal agencies and lawsuits. The topics include copyright, IP, misinformation, and consumer protection. For example, The US Copyright Office argues that AI-generated content is not copyrightable because copyright protection can be granted only to content created by humans ([CSR, 2023](#)). The US Patent and Trademark Office refuses to issue patents for AI-generated inventions, and the Supreme Court affirmed their refusal ([Brittain, 2023](#)). At least three pending lawsuits argue that training on copyright-protected content, which is common in generative AI platforms, violates copyright law.<sup>9</sup> Last, the FTC has launched an investigation against OpenAI to determine whether they violate consumer protection laws by generating statements that are “false, misleading, disparaging or harmful” ([Zakrzewski, 2023](#)).

## **Facial recognition**

Three unique bills touch on facial recognition. All of them are state bills that seek to ban facial recognition entirely or in particular use cases. The only one that has passed so far is Maine’s [MRS Title 25, §6001](#), which prohibits the local government from using facial recognition state-wide, except in very limited law-enforcement circumstances. In contrast to the low activity on the federal and state levels, at least 17 cities banned facial recognition in local government, including San Francisco CA, New Orleans LA, Portland OR, Portland ME, Boston MA, and Pittsburgh PA ([Sherad and Schwartz, 2022](#)).

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<sup>9</sup> The three lawsuits, all filed in 2023 and currently pending, are ([Andresen, McKernan, and Ortiz vs. Stability AI, Midjourney, and Deviantart](#)), ([Getty Images vs. Stability AI](#)), and ([Kadary, Silverman, and Golden vs. Meta](#))



## Biometric & profiling

Only two unique bills touch on biometric and profiling technologies directly. One is Washington's [2019 WA H 2644](#) (failed) which prohibits AI profiling in public places, and the other is Data Protection Act of 2021 (federal bill [S.2134](#), failed), which categorized large-scale profiling and processing of identifying biometric information as high-risk practices which require oversight.

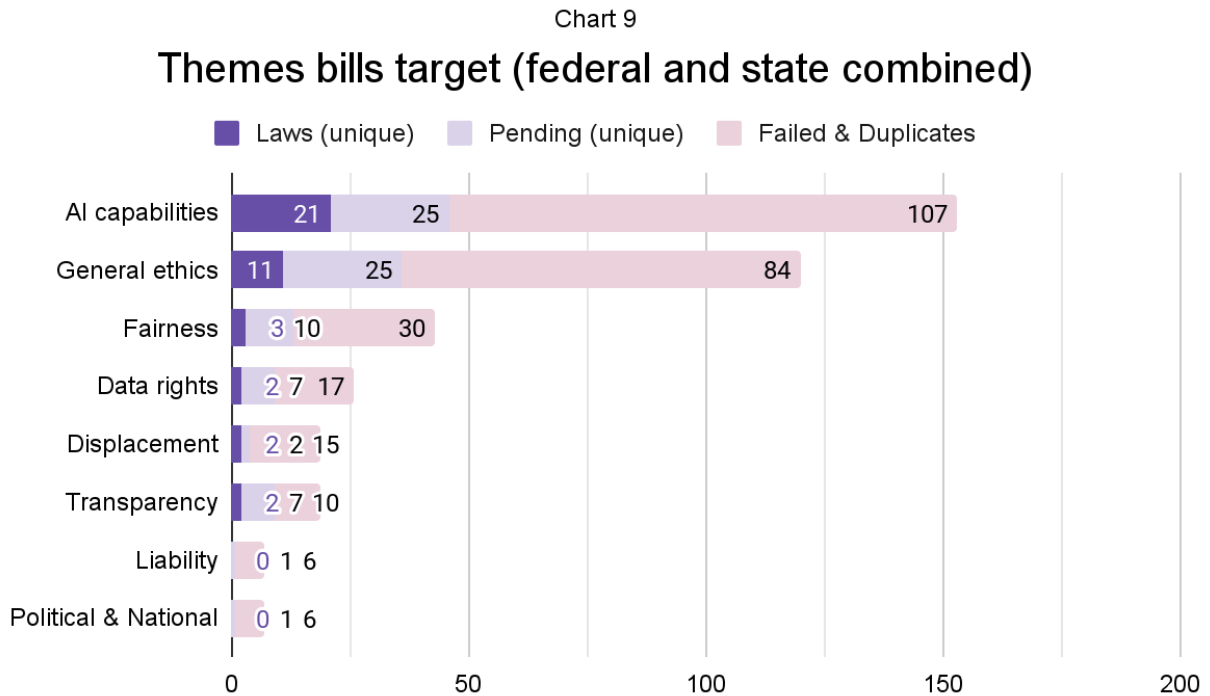
## Scraping

Scraping is the practice of downloading masses of data from online repositories. Since training AI algorithms typically requires mass data, many AI companies scrape to get their data. No bills attempt to forbid or regulate scraping.

However, prominent lawsuits argue that scraping violates privacy laws. The case of Clearview.ai is one example. Clearview scrapped billions of images to build a facial recognition platform that allows users to upload a person's photo and get other photos of the same person. Clearview was fined and even outlawed for privacy violations worldwide (e.g., [NOYB, 2023](#), [Lomas, 2023](#), and [Mac, 2021](#)). In the US, the ACLU Illinois chapter sued Clearview for violating Illinois' Biometric Information Privacy Act (BIPA) by scraping. The parties have reached a settlement that prohibits Clearview from selling its platform to most private entities nation-wide, bars Clearview from selling its data to any entity in Illinois for five years, and allows any Illinois resident to block their facial data from Clearview's database ([ACLU, 2022](#)). A similar California lawsuit was recently filed against OpenAI. The lawsuit compares OpenAI to Clearview and argues that OpenAI's scraping violates California's privacy laws ([Class action vs. OpenAI, 2023](#)).

### 3.4. AI ethics themes

AI ethics themes are the AI impacts that bills target. In Chart 9 you can see the list of top themes and how many bills touch on each theme (federal and state AI bills combined). Below I expand on each one, from most to least common.



#### Improving AI capabilities

Improving AI capabilities is by far the most common theme. It includes empowering individuals, businesses, and government organizations to use AI to enhance their work. The most common activities that bills in this theme recommend are organizational changes, such as establishing committees, and writing documents, such as guidelines and reports. For example, federal bill [S. 2904](#) (enacted) requires that the Department of Defense review potential AI applications and establish metrics to monitor their adoption. To give another example, Connecticut's [2019 CT H 6187](#) (failed) requires conducting a study to learn how AI can be used to modernize the state's economy.

One of the three AI executive orders touches on this theme as well. It is [EO 13859](#), titled "Maintaining American Leadership in Artificial Intelligence" (Signed by President Trump, February 2019). This EO highlights that US leadership in the AI industry is paramount to the economic and national security of the US. The means the EO prescribes to maintain leadership include promoting technological breakthroughs in the federal government, academia, and industry.

## General AI ethics

The “general AI ethics” theme is the second most common, with a big gap from the next on the list. In addition to bills, two of the three AI EOs also belong to this theme ([EO 13859](#) and [EO 13960](#)). Some items in this theme highlight general terms, such as “AI ethics,” “AI accountability,” “AI risks,” “civil rights,” and “American values.” Other items in this theme name a wide range of specific AI ethics topics but don’t especially highlight anyone in particular. The commonly prescribed activities are organizational changes, such as establishing committees, and producing reports (like the previous category).

A prominent federal bill in this category is the Algorithmic Accountability Act ([S. 1108](#), [H.R. 2231](#), [S. 3572](#), and [H.R. 6580](#), all failed). This bill requires companies to conduct impact assessments of automated systems and provides the FTC substantive guides and means for enforcement (for more details, [Wyden 2022](#)). To give another example, Alabama’s [2019 AL SJR 71](#) (enacted) establishes a committee to review and advise about “all aspects of the growth of artificial intelligence and associated technology,” this includes “their effect on society and the quality of life in a manner consistent with our American values and for the benefit of Alabama citizens.”

## Fairness

Fairness bills focus on detecting bias and preventing discrimination. The sectors these laws focus on the most are HR and insurance. The most common activities they prescribe are putting restrictions and oversight in place. In particular, many of these bills require that companies conduct bias assessments and report the results to the authorities or the public. For example, as discussed above, New York and New Jersey are considering requiring disparate impact assessment when using AI for hiring decisions ([2023 NY S 5641](#), [2022 NJ S 1926](#), and [2022 NJ A 4909](#), all pending).

## Data rights

Data rights include privacy, consent before data collection, access to one’s data, the ability to delete one’s data, etc. These bills are typically sector agnostic and apply to all organizations that handle data. The most common activity these bills prescribe is establishing restrictions on the companies that collect and process the data. For example, the “SAFE DATA Act” (federal bill [S.2499](#), pending) establishes various data-processing requirements, including transparency and limits on data collection.

## Political stability and national security

Bills in this theme are concerned with topics such as protecting political institutions and guarding against foreign interventions. For example, Arizona’s [2023 AZ S 1565](#) (waiting governor’s approval) determines that machines and software used in elections cannot utilize AI. To give

another example, as discussed above, the “ANTI-SOCIAL CCP Act” (federal bill [H.R. 1081](#), pending) puts restrictions on social media to prevent foreign adversaries from using them to “surveil Americans, gather sensitive data about Americans, or spread influence campaigns, propaganda, and censorship.”

Two of the three AI executive orders touch on this theme as well. One of them is [EO 14034](#) titled “Protecting Americans' Sensitive Data From Foreign Adversaries” (signed by Biden, June 2021). This EO revokes three previous EOs signed by Trump, [EO 13942](#), [EO 13943](#), and [EO 13971](#), which forbid transactions with Chinese social media companies, such as TikTok and WeChat. Biden’s order revokes the prohibition and instead orders federal agencies to conduct a rigorous study of the risks that such platforms pose to American national security, foreign policy, and economy.

## **Displacement**

Bills in this theme are about the possibility that AI adoption would result in the loss of jobs. All of them are directed at the government and require setting up committees and preparing reports to understand how AI might impact jobs. For example, the AI JOBS Act of 2022 (federal bill [H.R. 6553](#), failed) directs the Department of Labor to prepare and submit to Congress a report on artificial intelligence and its impact on the workforce.

## **Transparency**

Transparency bills require that organizations divulge certain information, either to the regulator or to the public. The bills are typically sector agnostic and prescribe restrictions or oversight. For example, Massachusetts’s Information Privacy Act ([S. 46](#) and [H. 142](#), both failed) requires that organizations disclose whether they are using automated decision systems.

## **Liability**

Only federal activity promotes liability bills, and all of them are aimed at social media, ranking platforms, or generative AI. They seek to limit the immunity from liability these platforms get under section 230, which was discussed above. All of these bills failed to pass except one that is currently pending: [S. 1993](#), which seeks to limit the immunity of generative AI.

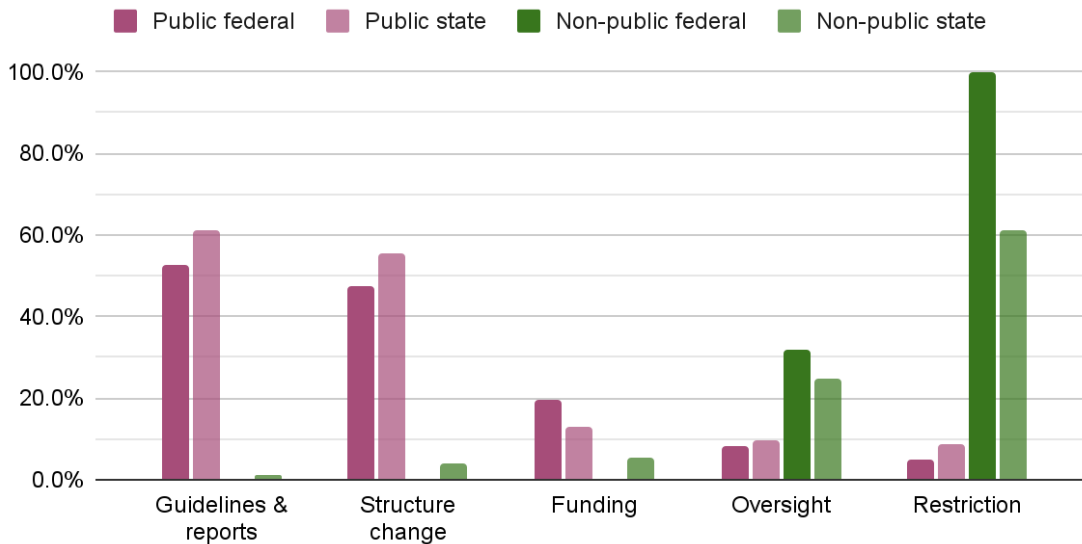
### 3.5. Requirements

The bills prescribe various requirements. The top requirements are structural changes such as establishing committees or initiatives, writing documents such as guidelines or reports, allocating funding, requiring oversight, and putting restrictions in place.

The analysis reveals that bills intended specifically for the public sector focus on prescribing structural changes and writing guidelines and reports. Bills that are agnostic or intended for other sectors tend to prescribe restrictions and oversights. In Chart 10, you can see the percentage of bills prescribing each type of requirement. For example, 60% of state bills and 100% of federal bills that target non-public sectors prescribe restrictions (the two rightmost bars).

Chart 10

#### Bill requirements by sector

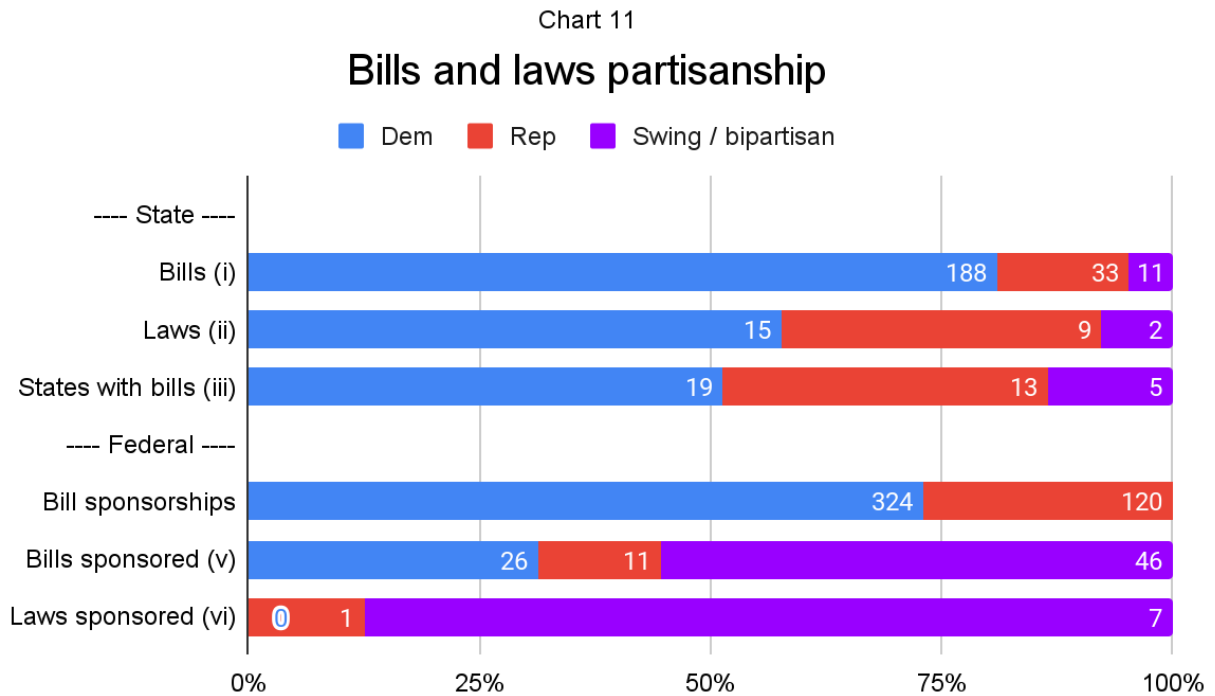


### 3.6. Partisanship

The analysis reveals differences between how US Democrats and US Republicans approach AI regulation. First, democrats are more involved in AI regulation efforts, especially at the state level. Second, the parties focus on different AI ethics themes.

#### Involvement in AI regulation efforts

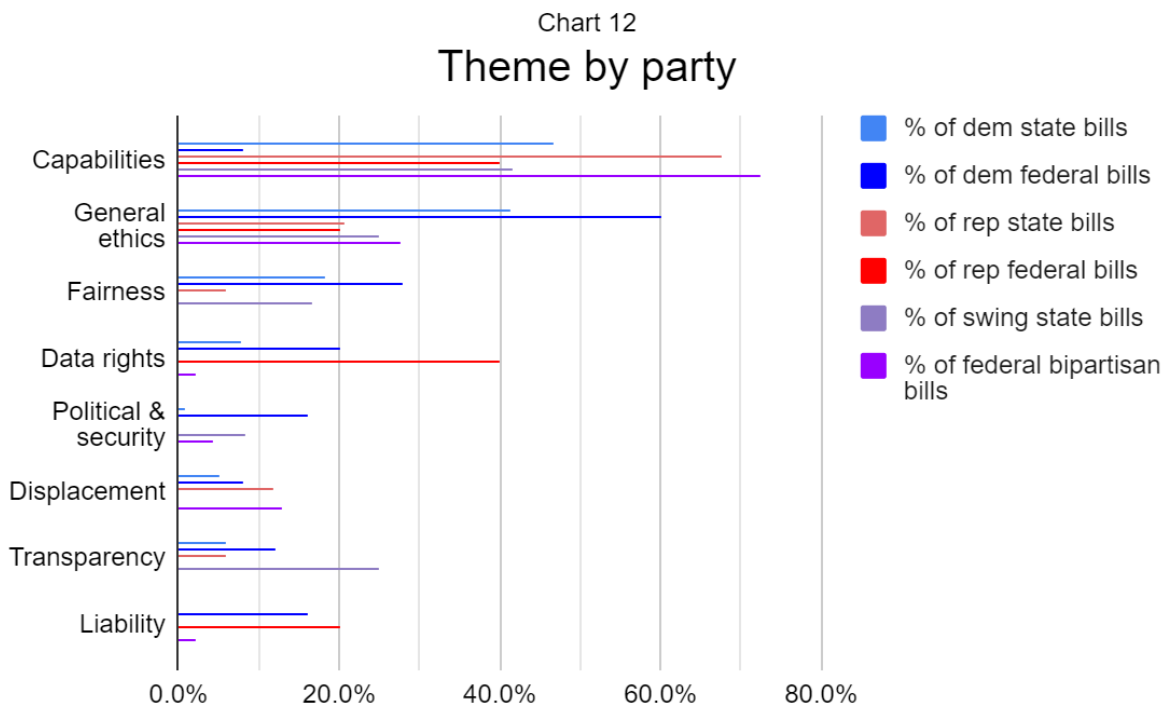
Democrats are more involved in AI regulation efforts on the state level. As you can see in Chart 11: (i) Most of the state AI bills have been introduced in Democratic-leaning states; (ii) Most of the AI laws have passed in Democratic-leaning states; and (iii) Most of the states that have introduced AI bills are Democratic-leaning. You can also see in Chart 11 that Democrats are dominant on the federal level in the sense that (iv) more Democrats sponsor AI bills and (v) of the bills that were sponsored only by one party, more were sponsored by the Democratic party. However, there is relative parity in the sense that (v) most of the federal AI bills received bipartisan support and (vi) almost all federal AI laws received bi-partisan sponsorships.



## Differences in AI ethics themes

To examine partisanship in AI ethics themes, I calculated how many bills of each kind are focused on each theme. For example, in Democratic-leaning states 41.4% of the bills touch on general ethics, and so do 60% of the federal bills that were sponsored only by Democrats. In contrast, in Republican-leaning states 20.6% of the bills touch on general ethics, and of the federal bills sponsored only by Republican 20% touch on general ethics.

As you can see in Chart 12, the analysis indicates that there is partisanship in focus on AI ethics themes. Democrat-related bills tend to focus most on improving AI capabilities, general ethics, and fairness. Republican-related bills tend to focus most on improving AI capabilities and data rights.



## 4. Summary and Discussion

This paper aims to analyze trends in US AI regulation efforts. The analysis includes federal and state bills in all statutes, passed, pending, and failed, as well as executive orders and selected other activities. The analysis reveals what regulators are trying to accomplish and what falls between the cracks. This section summarizes the findings, highlights gaps, and briefly compares US efforts to other jurisdictions.

### **Early stage, accelerating, but is it too slow?**

AI regulation in the US is at an early stage but is quickly accelerating. Whether this pace is sufficient to protect the interests of US Americans and others who may be affected is yet to be seen. It depends, among other things, on the nature of the bills that will pass, their enforcement, the enforcement of non-AI-specific laws on AI (such as non-discrimination and copyright laws), and the effects of AI regulation in the European Union, the United Kingdom, and other countries. Having said that, there is room for concern that US regulation is too slow, given that AI technologies are so powerful, for better or worse.

### **Public sector focus**

The public sector is the largest group that AI bills target. Within the public sector, the largest group is national security of organizations. Other targeted groups are NIST, NSF, OMB, and procurement. Most public-sector-facing regulation focuses on improving AI capabilities and general AI ethics topics. The activities it prescribes are mainly structural changes and creating guidelines and reports.

Almost no bills aim to put restrictions on the public sector. In practice, some restrictions may come from guidelines that committees create. Yet, given the nature of the activities of the public sector, the lack of attempts to put restrictions in place is concerning. For example, the analysis found only one attempt to restrict AI in national security: the bill to forbid launching nuclear missiles without human oversight ([S. 1394](#) and [H.R. 2894](#), both pending). However, AI in national security activities may cause immense harm in numerous other ways that regulation can prevent.

### **Non-public sectors: Mostly HR and finance**

The sectors that get the most attention outside the public sector are HR and finance (especially insurance). These bills mostly prescribe restrictions and oversight to avoid discrimination. In addition, a few bills attempt to regulate healthcare and education (especially facilitating improving AI capabilities).

Given that HR and finance bills emphasize fairness issues, it is striking that healthcare and education bills do not. Both healthcare and education are prone to discrimination which can be amplified through AI-assisted decisions, such as patient care decisions and college admission



decisions. In addition, in healthcare, the lack of bills that touch on issues such as patient well-being and agency is striking given the nature of the field.

Moreover, law enforcement and criminal justice administration are conspicuously missing from the list of sectors legislators are trying to regulate. The analysis found only two bills: Justice in Forensic Algorithms Act (federal bill [H.R. 2438](#), failed) which aims to establish standards for using AI in forensic software, and Texas' [2023 TX S 2085](#) (pending) which aims to fund AI-enabled victim notification systems. This low activity in the law enforcement sector is concerning, given the potential for harm reflected in multiple well-known AI scandals in this area. Examples include alleged discrimination in the COMPAS recidivism algorithm ([Angwin et al., 2016](#)) and alleged inaccuracy in ShotSpotter's gunshot noise detection algorithm ([Burke et al., 2022](#)). Moreover, the low activity in law enforcement stands in sharp contrast to the EU AI Act, the flagship AI regulation of the European Union, which AI usage in this area to be high risk and proposes heavy regulations..

### **Technologies targeted: Social, Generative, Facial recognition**

The technologies that bills target the most are social media and ranking algorithms, generative AI, and facial recognition are the technologies that get the most attention. A couple of bills target profiling and biometrics. Scraping and general artificial intelligence are two technologies missing from this list.

As discussed above, bills that target particular technologies may fall outside the scope of bills reviewed in this paper because this paper excluded bills that do not contain terms explicitly related to AI. In addition, some of these technologies get regulatory attention in other ways. For example, pending lawsuits claim that AI training scraping violates privacy and copyright laws.

Having said that, the low number of bills on profiling and biometrics is surprising, given how much attention these technologies received elsewhere. In the European Union, these are among the most discussed technologies, with regulators setting intentions to outlaw certain use cases as part of the EU AI Act. In addition, the lack of attention to Artificial General Intelligence (AGI) is also notable, given that some groups of AI professionals are vocal about threats related to it. For example, OpenAI's CEO, Sam Altman, released a statement in February 2023 about AGI ([Altman, 2023](#)).

### **AI ethics themes**

The top AI ethics themes are improving AI capabilities and general AI ethics. After that, the dominant themes are fairness, data rights, displacement, transparency, liability, and political stability and national security.

Three prominent AI ethics themes missing from this list are explainability, human autonomy, and risks related to AGI (sometimes called "existential risks"). No bills explicitly focused on explainability and AGI (However, the CFPB ([April 2023](#)) does address explainability). Only two

unique bills address issues of related to human oversight: the federal act to prohibit nuclear launches without human oversight, ([S. 1394](#) and [H.R. 2894](#), both pending), and Illinois' Safe Patient Limits Act ([2023 IL H 3338](#) and [2023 IL S 2314](#), pending), which prohibits replacing the judgment of nurses with AI recommendations.

## Partisanship

There is partisanship in AI regulation efforts. First, Democrats are more active in promoting AI regulation, especially at the state level. Second, the parties focus on different AI ethics themes: Democrats focus most on improving AI capabilities, general AI ethics, and fairness; Republicans focus most on improving AI capabilities and data rights.

The dominance of Democrats in promoting AI regulation is striking because AI is not an inherently partisan topic. AI is a technology that impacts everyone and touches on topics that each party traditionally cares about. Moreover, the Democrat dominance means that Republican values are underrepresented and their impact on the steering of this powerful technology may be inhibited.

## Comparison the the EU and UK

The European Union (EU) and the United Kingdom (UK) have distinct approaches to AI regulation. The EU is in favor of laws that target AI as a technology. Their flagship proposed law, the EU AI Act, takes a risk-based approach. The bill aims to protect fundamental human rights by dividing AI applications into risk categories and establishing different rules for each category (read more about the Act on the Act's website<sup>10</sup>). The UK disagrees with this approach. They believe that general AI regulation, like the EU AI Act, may inhibit innovation. Instead, they believe that AI regulation should be context-specific. Moreover, they believe that regulation may not always be the right tool to support innovation. They suggest that regulation should be supplemented by tools such as assurance techniques, voluntary guidance, and technical standards (for more on their approach, see Department for Science, Innovation and Technology & Office for Artificial Intelligence, [March 2023](#)).

US regulation efforts contain strands that echo both approaches. On the one hand, some bills seem to echo the EU approach. For example, the Data Protection Act of 2021 (federal bill [S 2134](#), failed) proposes a risk-based approach for AI regulation. Another example is the Algorithmic Accountability Act of 2022 (federal bill [H.R. 6580](#), failed). While the Algorithmic Accountability Act doesn't propose a risk-based approach, it does prescribe measures for all AI. On the other hand, some bills seem to echo the UK's context-sensitive approach. For example, 24.6% of state bills target particular sectors. In addition, the White House recently announced that they secured voluntary AI ethics commitments from several big tech companies ([The White House, July 2023](#)).

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<sup>10</sup> The website of the EU AI Act is available at <https://artificialintelligenceact.eu/>

Compared to the EU's and UK's approaches, the US approach seems decentralized. There doesn't seem to be a unified approach going through the efforts. This decentralization may create challenges for interoperability. For example, bills typically provide their own definitions of concepts such as artificial intelligence or automatic decision systems, and these definitions may conflict. Moreover, the requirements of AI laws in different states may conflict, making compliance challenging due to the global nature of AI operations and deployment.

The decentralization may be a symptom of the early stage of the regulation efforts, and some recent developments may be the beginning of a unified approach. One is the White House's "A Blueprint for an AI Bill of Rights" ([The White House, October 2022](#)). This document is a set of voluntary principles to guide the design and development of AI issued by the White House. It includes the following principles: (i) Safe and effective systems; (ii) Algorithmic discrimination protections; (iii) Data privacy; (iv) Notice and explanation; and (v) Human alternatives, consideration, and fallback. Another initiative is the SAFE Innovation Framework by Chuck Schumer, the Senate Majority Leader ([Schumer, June 2023](#)). This initiative includes five policy objectives: (i) Security, (ii) Accountability (including misinformation, bias, copyright, IP, and liability), (iii) Foundations, (iv) Explain, and (v) Innovation (to maintain US leadership in AI).

These initiatives focus on the impacts of AI systems, including potential harms and opportunities. They seem different from the EU and UK's approaches: they do not highlight risks as much as the EU risk-based approach. And they do not highlight context-sensitivity and fears of inhibiting innovation as much as the UK's approach. Like most US AI bills, they belong in the "general AI ethics" and "capabilities" themes. These initiatives may signal that the US is forming an approach different from the EU and the UK: an approach based on rights, impacts, or principles.

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