2023 State AI Legislation Summary*

State and Local Legislatures Escalate Focus on Artificial Intelligence (AI)

▪ State legislators introduced more AI-related bills—191—this year than in the previous two years combined, a 440% increase in the number of AI-related bills introduced in 2022.

▪ Bills focused on multiple aspects of AI, including regulating specific AI use cases, requiring AI governance frameworks, creating inventories of states' uses of AI, establishing task forces and committees, and addressing the state governments' AI use.

▪ Despite the 440% increase in bill introductions, only 29 bills (15%) passed at least one legislative chamber, and only 14 of those became law. BSA anticipates that the volume of AI bills will increase and the likelihood of bill passages will also increase.

▪ Connecticut, Florida, Illinois, Louisiana, Minnesota, Montana, Texas, Virginia, and Washington all passed AI legislation. California enacted legislation to conduct a survey of the state's use of high-risk AI.

▪ Most enacted bills were related to deepfakes, government's AI use, including law enforcement, and task forces/committees.

▪ Municipal interest in AI surged, too, as Boston, Miami, New York City, San Jose (CA), and Seattle all created regulations and guidelines on various aspects of AI, including generative AI, automated employment decision systems, and impact assessments. The National Association of Counties, especially, is taking a proactive approach to leading on AI policy.

2023 AI STATE LEGISLATION

KEY

| States With AI-Related Bills
| States Without AI-Related Bills

*As of 9/21/2023

2023 AI BY THE NUMBERS

191
AI-related bills

· · · ·

31
states with
AI-related bills

· · · ·

9
states enacted
AI-related laws

· · · ·

14
AI-related laws enacted

· · · ·

37
deepfake bills

· · · ·

6
deepfake laws

· · · ·

14
bills related to AI/ADS
in employment

· · · ·

4
generative AI bills

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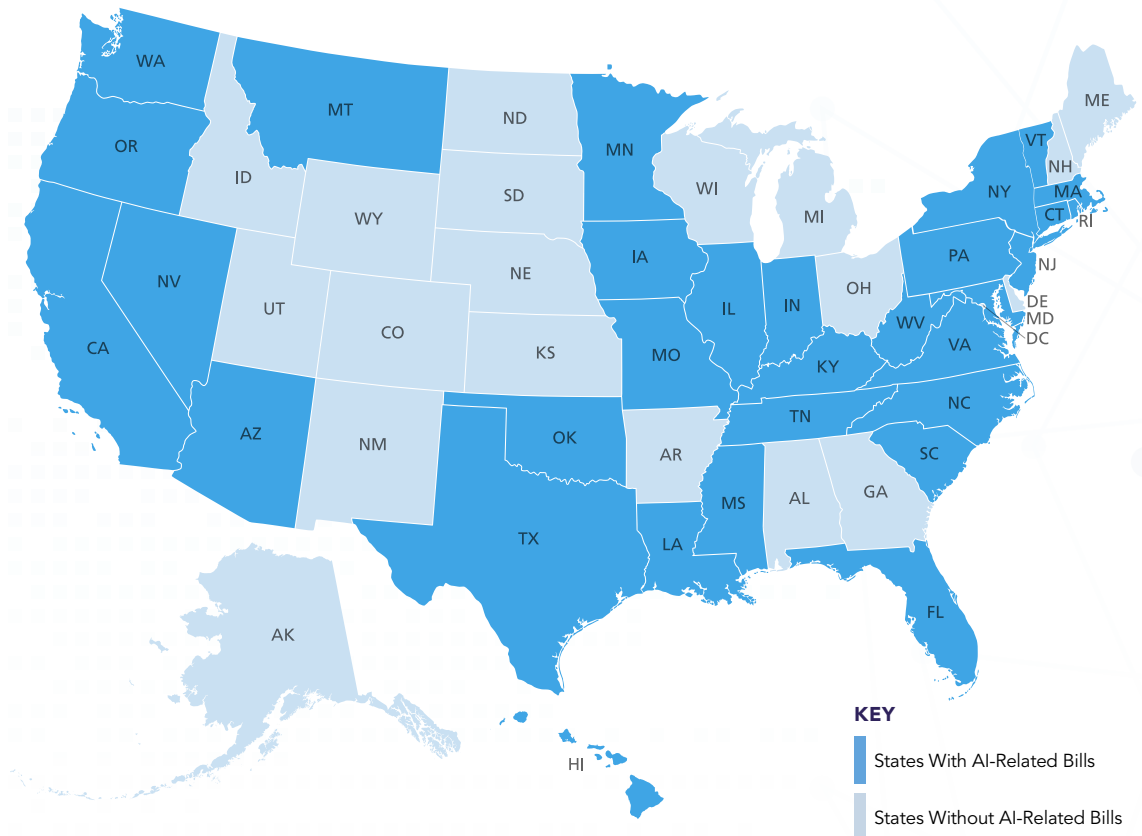
AI IN THE STATES

Legislation focused on multiple topics. In 2023, only bills in DC and California attempted to create a comprehensive AI regulatory framework. More often this year, states introduced legislation to regulate a specific aspect of AI, including government use, deepfakes, employment, and generative AI. However, most often, states sought to study AI and related topics through committees, task forces, and inventories that examine the state's current use of AI. Notably, Massachusetts and New York legislators introduced legislation written with generative AI to regulate generative AI, as a way to illustrate the need for AI regulation. In late summer 2023, California's Governor also issued an executive order to inventory and create procurement guidelines for generative AI for the state.

Interest in impact assessments. More broadly, California became one of the first states to introduce legislation focused on requiring impact assessments for certain types of AI systems, although such legislation may be more common in 2024. Discussions of impact assessments are expected to continue in states like Massachusetts, New Jersey, New York, and Washington.

Privacy bills address AI. Legislators also considered AI as part of a broader focus on privacy issues. BSA expects intersections between privacy and AI legislation to continue into 2024 and beyond.

More working groups and studies. Connecticut and Texas enacted legislation to inventory the states' use of AI. Additionally, five states' legislatures established working groups and committees to study AI, including in Connecticut. Illinois, however, will focus on both the benefits and challenges of generative AI. In addition, third-party groups like the National Conference of State Legislatures have established focused working groups on the topic of AI policy.

Transparency a focus. Bills aimed at enhancing transparency about the use of AI were also introduced. Several states, including Massachusetts, introduced bills requiring the disclosure of automated decision making or use of AI. Connecticut and Texas introduced bills to require a business to disclose the use of facial recognition for the purpose of identifying a customer.

Momentum on deepfakes. Deepfake bills increased by 50% from last year. About 16% of deepfake bills were enacted, one of the highest for any BSA-tracked issue. All the deepfake bills introduced in 2023 were related to specific topics, such as sexually explicit or political material.

California regulatory agencies address AI. The California Privacy Protection Agency (CPPA) is in the process of developing new regulations that will address a range of issues including automated decision systems, privacy impact assessments, and cybersecurity audits. BSA submitted comments in a preliminary consultation period in March 2023 and will continue to engage in the regulatory process. In addition, the California Civil Rights Council (CCRC) is seeking to regulate automated decision making in relation to employment decisions, although its efforts have been delayed. BSA anticipates that this process will continue through fall 2023 and into 2024.

LOCAL ACTION

Municipalities Take Action

Similar to the states, several large municipalities across the country continue to consider best practices related to AI and automated decision making. The rules for New York City Local Law 144, which regulate automated employment decision tools through bias audits, went into effect on July 5, 2023. BSA actively participated in the rulemaking process in 2023. San Jose introduced an AI review framework and algorithm register this year, the first for a city of its size in the United States.

Cities Create Generative AI Guidance

Boston released guidance on generative AI, which includes principles on accuracy and transparency. Seattle also adopted a generative AI policy in May 2023.

BSA anticipates that in 2024, local jurisdictions will continue to explore AI regulations, including on generative AI and AI's impact on civil rights, especially if states and federal governments do not regulate. Legislators in some states may also look to these municipal efforts when introducing AI legislation or regulations, such as when Washington state introduced generative AI regulations that were very similar to the Seattle guidelines.