

# 2024 State Policy Watchlist

```
mirror_mod.use_x = False
mirror_mod.use_y = True
mirror_mod.use_z = False
elif_operation = "MIRROR_Z":
    mirror_mod.use_x = False
    mirror_mod.use_y = False
    mirror_mod.use_z = True

#selection at the end -add ba
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modifier_ob.select=1
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```

# 2024 State Policy Watchlist

2024 has brought new or renewed attention to a variety of issues, including the influence of AI-generated deepfakes on elections, the effects of social media on young people, the introduction of climate disclosure legislation, the expansion of data privacy laws, and the rise in minimum wages, especially within specific industries. This report details these five policy areas in greater detail to help you stay informed.

## 1. More States to Push Laws Banning AI Election Deepfakes in 2024

Seven states have pending bills that ban AI-generated deepfakes in political campaigns to lessen the risks of misinformation during elections. However, disclosure measures differ from bill to bill.

## 2. Governors Keep Pushing Social Media Laws Despite Legal Setbacks

The tech industry challenges legislation that restricts social media usage in court. Despite legal setbacks, state leaders continue to propose bills to address rising mental health concerns and social media addictions.

## 3. California Climate Bills to Boost Efforts in NY, Other States

California Gov. Gavin Newsom signed first-in-the-nation legislation requiring private and public companies to disclose climate-related financial risks. New York lawmakers wrote a bill based on the Golden State's reporting requirements.

## 4. A Rise in State Online Consumer Data Privacy Laws

Three states will have comprehensive consumer privacy laws that go into effect in 2024. Although state privacy laws share a similar framework, there is variation in how compliance is enforced, what entities are covered or exempted, and how health and kids' data is handled.

## 5. Minimum Wage Hikes Primed for Ballot, Statehouse Battles in 2024

During the 2024 legislative cycle, an increasing number of blue and red states and jurisdictions are scheduling greater hourly pay, particularly for workers in the healthcare industry.

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## More States to Push Laws Banning AI Election Deepfakes in 2024

By Zach Williams  
December 22, 2023

- Five states have so far banned AI election deepfakes
- Roughly half of US to be covered if pending bills enacted

At least seven states will consider legislation in 2024 that would restrict the use of artificial intelligence in political campaigns as experts warn about a flood of misinformation affecting elections.

“There’s an urgent need for state action,” said Robert Weissman, president of the election advocacy group Public Citizen. “The most important thing is to establish the standard that deepfakes are impermissible in the election context.”

Pending bills would effectively ban AI-made deepfakes by requiring disclosures when the technology is used to make images, video, or audio of candidates. If enacted, such restrictions would affect roughly half of the US electorate. Deepfakes are images or videos of a person’s likeness or other related things that have been digitally altered in a bid to misrepresent what happened in reality.

All of the states with pending bills—which include New York, Florida, and Wisconsin—have competitive congressional races next year as lawmakers in other states consider proposals of their own.

Five states—California, Texas, Michigan, Washington, and Minnesota—already have such laws in place, with lawmakers in Sacramento contemplating additional action that could include a full ban on AI in political communications.

On the federal level, Congress has lagged on tackling the subject compared to the states. The Federal Election Commission, however, is currently considering rule changes that would ban federal candidates from using generative AI tools to misrepresent their rivals.

State legislative action next year could go further by banning such behavior in elections at the local, state, and federal levels while enacting broader restrictions on the use of artificial intelligence in campaigns.

“We’re very concerned about deepfakes, especially in this election cycle, very concerned,” said New York Assemblyman Clyde Vanel (D), who hails from a state where Republicans won several swing districts last year while capturing a narrow congressional majority.



## Range of Approaches

Bills in the seven states differ in important details, but they all aim to curb AI-made deepfakes by requiring content creators to reveal that election-related materials were made with the technology.

Washington is the only state with a deepfake law that applies year-round. That would change if legislation in Florida (SB 850), Wisconsin (SB 644), or New York (A7904 and SB 7592) moves as all those bills have similar provisions.

Lawmakers in New Hampshire (HB 1596), South Carolina (HB 4660), and New Jersey (AB 5510) have proposals that if enacted would only apply for the 90 days before an election. An Illinois bill (SB 1742) would impose a 30-day limit.

Another key difference among the various bills is who would fall under such measures and how they will be enforced.

The Wisconsin bill would apply to candidates, parties, and political committees, while bills in other states apply to anyone who distributes election materials that use

generative AI. South Carolina and New Hampshire's measures would specifically add corporations.

The New Jersey bill would potentially allow any "registered voter" to sue for "injunctive or other equitable relief" along with political candidates, who also would be able to take action under measures being considered in South Carolina and New Hampshire.

Lawmakers in New York, Florida, Illinois, and Wisconsin are considering tasking government bodies with enforcing rules under their measures to be considered.

The Illinois bill would apply to anyone who fails to disclose the use of an AI-created deepfakes created to "influence the result of an election" rather than one targeting a candidate specifically like bills in other states.

A key thing to watch in the year ahead will be likely court challenges to the growing number of state laws that target artificial intelligence in political campaigns, according to Hannah Miller, an election attorney with Wiley Rein LLP in XWashington. "There really remains to be seen whether these laws are going to hold up constitutionally in court," Miller said.



# Governors Keep Pushing Social Media Laws Despite Legal Setbacks

By Brenna Goth  
January 11, 2024

- Tech industry successful in initial challenges to laws
- Governors prioritize new online restrictions this year

Proposals to limit how teens use social media are gaining bipartisan traction with governors and state legislators as the tech industry, so far successfully, tries to stave off such regulation through the courts.

Governors in New York, Virginia, and Idaho called for online restrictions this year to address youth mental health, social media addiction, and other concerns. Bills filed in Florida, Wisconsin, Missouri, and elsewhere would impose requirements specific to young users.

New York Gov. Kathy Hochul (D) said in her Tuesday State of the State speech that the Empire State will “tackle the scourge of social media that has harmed so many young minds.” She’s backing youth privacy legislation as well as efforts to restrict teen access to social media feeds deemed addictive.

Social media restrictions face a formidable legal opponent in NetChoice, a tech industry group with members including Google, Meta Platforms Inc., and TikTok Inc. Through the courts, the group has halted implementation of such laws in Arkansas, Ohio, and California. The organization’s most recent success came Tuesday when a federal judge paused the Ohio social media law that would have taken effect Jan. 15.

Proposals debated in statehouses and Congress aim to boost protections for youth online beyond the Children’s Online Privacy Protection Act, a decades-old federal law that covers kids up to age 13. Social media companies point to their existing safety features and parental controls and note that teens benefit from online communities and connection.

Under such political pressure, NetChoice launched a campaign this week to encourage “constitutionally-appropriate” policy solutions, such as education for parents on existing social media safety tools. Meta on the same day announced new teen protections that include removing certain types of content for users under 18, such as posts about self harm.

Public pressure on social media companies has mounted over the past year through multi-state lawsuits, bad headlines, and regulatory action, said Niki Christoff, founder and CEO of the D.C.-based consultancy Christoff & Co.

Companies are facing heightened frustration from parents battling the addictive design of the platforms used by their children, she said.

"The action we are going to see is in the states, and I do think you're seeing states start to take matters into their own hands when it comes to the harm that we all know kids are facing by using these social media apps," Christoff said.

## Governors Seek Laws

Federal social media regulation would be preferable to state laws, but states have the responsibility to step in when kids are being harmed, said Ohio Lt. Gov. Jon Husted (R), who backed the state's law requiring parental permission for youth under 16 to create social media accounts.

Lawmakers elsewhere should move forward with their proposals despite the legal challenges, he said.

"We're not going to see any change at the federal level unless the states lean in, and you've got to start the legal process and the legislative process now," Husted said. "We all better do this sooner rather than later. We're losing a generation of kids to this."

No state law enacted to regulate teen social media use has gone into effect, while efforts in Congress have stalled. NetChoice has had preliminary success in three lawsuits that raise First Amendment concerns—a challenge to California site design requirements and Ohio and Arkansas laws requiring parental permission for teens to create social media accounts.

"Ideally, lawmakers realize that banning speech is not the answer," said Carl Szabo, vice president and general counsel for NetChoice.

NetChoice is also suing over Utah social media restrictions that are set to take effect in March, though a federal judge has yet to decide whether to block enforcement of that law. LGBT, digital rights, and other groups also warn of harmful consequences of limiting teens online.

Despite the legal setbacks, state leaders elsewhere are undeterred in proposing their own youth safety measures.

In Virginia, Gov. Glenn Youngkin (R) asked legislators Wednesday to send him a bill prohibiting tech companies from selling children's data and said last month that he will push a proposal to limit access to TikTok by youth under 18.

Idaho Gov. Brad Little (R) asked lawmakers during a Jan. 8 address "to pass meaningful reform, like legislative bodies

in Arkansas and Utah and other states, to better protect our children from the harms of social media." Legislation introduced in Florida would ban social media accounts by youth under 16.

## Industry Favors Digital Education

The cases wending their way through the courts may provide a road map for other states wanting to enact their own laws. California could be a bellwether over its law regulating age appropriate site design that was the "biggest swing for the fences" when it comes to online child privacy acts, said Alfred Brunetti, data privacy principal at Porzio, Bromberg & Newman, P.C.

"If that's going to wind up getting trimmed down to a certain degree, I think that's going to be informative for some of the other states," he said.

Ohio tried a different path with its focus on social media parental consent, which faces similar arguments of First Amendment violations in court. Husted said the law is narrowly tailored to avoid overreaching and imposes limits for youth under 16 that are easy for companies to comply with.

"We want to just solve the problem that we're trying to solve without infringing on commerce or freedom or anything else," Husted said.

Utah will vigorously defend its social media laws against the NetChoice litigation, Gov. Spencer Cox (R) said at a December news conference. There may also be some legislative changes to the requirements this year, he said.

Taxpayers, though, will ultimately be the ones "to pay the bill for all the lawsuits and all of the losses from these failed laws," Szabo said.

NetChoice is looking to move beyond the courthouse battles. Its new policy campaign proposes enacting a federal data privacy law—which is unlikely in the short term—prosecuting more child sexual abuse material offenses, and educating individuals and families about digital safety and existing security features online.

"Teaching teenagers and parents how to use these tools is the better and more effective approach," Szabo said.



## California Climate Bills to Boost Efforts in NY, Other States

By Brenna Goth  
October 6, 2023

- Thousands of companies to fall under California measures
- New York could add enforcement power, bill sponsor says

California's first-in-the-nation measures requiring companies to disclose financial risks related to climate and report greenhouse gas emissions could embolden other states to take similar action in an effort to address climate change.

The two bills approved by California lawmakers—which Gov. Gavin Newsom (D) has said he'll sign—come as states have differed in their approaches to regulating the use of environmental, social, and governance factors by businesses. Red states have enacted laws this year barring ESG considerations in pension and other government decisions while blue states have focused largely on transparency and reporting measures.

The California bills have a broad reach and the potential to affect a wide variety of companies, regardless of where they're located, said Stephanie Hurst, a partner in the corporate and securities practice at Mayer Brown LLP. The ESG actions could also influence legislation in other states, which have previously followed California on environmental issues, she said.

"States are starting to look to California in this space as a model," Hurst said.

New York could be an early test case with bills in the state Senate and Assembly modeled on the California emissions reporting requirements. The legislation is primed for success following the West Coast action, said state Sen. Brad Hoylman-Sigal (D), the Senate bill sponsor.

"I don't think New Yorkers like to be outclassed by anyone, especially on issues as important as the climate crisis," he said.

### 'Complicated' Disclosures

The California measures are expected to apply to thousands of public and private companies. They go further than disclosure requirements under consideration by the US Securities and Exchange Commission.

The emissions reporting bill (S.B. 253) would require companies doing business in California with more than \$1 billion in revenue to report direct emissions from



operations and indirect emissions from energy use starting in 2026. Reporting on emissions from a company's supply chain and other sources outside its direct control would start in 2027.

"That's where it gets to be very, very complicated," said Morris DeFeo, partner and chair of the corporate department at Herrick, Feinstein LLP.

The risk disclosure bill (S.B. 261) would apply to companies doing business in California with more than \$500 million in revenue. They would report climate-related financial risks every two years starting on or before Jan. 1, 2026.

The bills, which aim to increase the information available to investors and the public, will already have a national impact, said Steven M. Rothstein, managing director of the Ceres Accelerator for Sustainable Capital Markets. Ceres is a nonprofit focused on business sustainability that backed the California bills.

California ranks among the world's largest economies, and companies throughout the country would fall under the legislation. Ceres isn't prioritizing the passage of similar bills elsewhere, Rothstein said, noting states can take other actions to address climate change.

"Additional states could lead to a patchwork and inconsistencies," he said. "So we do not think, at this point, additional state legislation on climate disclosure is important."

There are also still unknowns about the California measures. The California Air Resources Board would

be responsible for adopting regulations, and Newsom has indicated there could be future legislative changes.

"Before we see other people jumping into the fray on new statutes, let the laboratory percolate a little more in California," said Andy Jack, partner at Covington & Burling LLP.

## State Action

Passing a similar emissions reporting measure in New York, though, would add to the penalties and enforcement power against companies that don't comply, Hoylman-Sigal said. A successful law could also cover big companies that aren't operating in California, he said. The New York bills have yet to receive the consideration of a full chamber in a two-year legislative session.

Hoylman-Sigal went to law school with one of the California bill authors, state Sen. Scott Wiener (D), and said the two have previously collaborated on shared legislative priorities.

Some of "the more activist states" will likely follow California's approach, DeFeo said, but it's unlikely "that every state or even a majority of states will follow suit."

"Some states will take the point of view that they don't want to go down that road because they want to differentiate themselves from the regulatory burden imposed by states like California," DeFeo said. "I also think that there are going to be some states that would say we don't want to necessarily incur the costs at the public level of having to monitor compliance with all this."

Elsewhere, Democratic-led states considered narrower approaches to climate risk and transparency this year. In Colorado, the Public Employees' Retirement Association will have to report annually on financial risks related to climate change under a new law.

Illinois enacted a law requiring investment managers working with public pension funds and agencies to disclose how they integrate sustainability factors such as greenhouse gas emissions in their decisions. A new Minnesota law requires banks and credit unions with more than \$1 billion in assets to submit a climate risk disclosure survey each year.

A bill introduced this year in New York would require climate-related financial risk reporting by certain financial institutions.

Outside of the US, companies are navigating additional climate reporting requirements, including in the European Union. Companies can't take an "ostrich in the sand" approach to carbon accounting, Jack said.

"Ostrich behavior is no longer going to work," he said.



# The Rise in State Online Consumer Data Privacy Laws: Explained

By Brenna Goth  
Aug. 2, 2023

- Laws boost control over personal information
- Companies must keep up with changing mandates

Residents of roughly a quarter of US states will soon have new control over how companies collect and use their personal information after a busy year for passage of additional comprehensive consumer privacy laws.

Seven states enacted broad data privacy rights for individuals in recent months, such as the right to know what information a company is collecting and the ability to opt out of certain uses of data. An eighth measure, in Delaware, is awaiting action by the governor. The spurt of new state laws more than doubles the number passed in earlier years, led by California in 2018.

The legislative action reflects growing bipartisan concern about the lack of control over online privacy in the absence of a federal law. The state measures are similar in scope but different in their specifics, forcing companies to monitor and comply with a patchwork of different rules.

## 1. When and where do the laws take effect?

Broad consumer privacy laws are already in effect in California, Virginia, Colorado, and Connecticut. Utah's law takes effect at the end of 2023.

The bulk of newly enacted privacy laws in Florida, Oregon, Texas, and Montana become effective throughout 2024. In 2025, the laws in Iowa and Tennessee will go into effect.

Indiana's law comes online in 2026. The effective date of Delaware's measure depends on if and when it's enacted.

## 2. What do the laws do?

The laws apply to entities that target residents of a state and meet specific thresholds, usually based on revenue or the number of consumers subject to data collection or processing. The measures require more transparency from companies about what information is collected and how it's used.

Most laws also create similar data privacy rights for consumers, including the right to access their data, correct inaccuracies, and delete personal information. The laws provide consumers more say over whether they want their data sold or processed for targeted advertising.

Some laws, such as in Florida and Oregon, create specific requirements for the handling of the data of a minor or information deemed sensitive.



“The major components of the laws are the same,” said Tara Cho, partner and chair of the privacy and cybersecurity practice at Womble Bond Dickinson LLP. “There’s this focus on consumer rights and the ability to have autonomy over your own personal data.”

### 3. How do the state laws compare to each other?

Most state privacy laws follow a similar framework and leave enforcement to state attorneys general. California’s approach diverges and is the only state to create a new privacy agency to oversee its law, the California Privacy Protection Agency.

Other details differ throughout the country, such as what entities are covered or exempted by the laws. Florida’s new law, for instance, targets Big Tech companies while states elsewhere are taking a broader approach.

Consumer advocacy groups have pointed to laws in Indiana and Iowa as friendlier to businesses based on

factors such as how certain data uses are narrowly defined while consumer rights were curtailed. In contrast, Oregon was lauded for stronger consumer protections that require companies to recognize browser privacy signals.

The state laws also differ in how prescriptive they are to adhere to compliance. Businesses should start by determining what data they have and why they have it before considering the nuances of each state, said Cinthia Granados Motley, director of the global data privacy and information security practice group at Dykema Gossett PLLC.

“Definitely having a holistic approach is the best way to go with these myriad of emerging laws that are popping up,” she said.

### 4. Are businesses ready to comply?

Companies working internationally are already familiar with privacy requirements in Europe, California, and elsewhere. However, more regional businesses may soon be subject to a state privacy law for the first time.

About 60% of executives of companies with US operations viewed tracking data privacy legislation and state law differences as a challenge, according to a recent survey by Womble Bond Dickinson. Many of the state laws include temporary provisions to inform companies of violations and provide time to fix them without penalty.

“I feel like, in a sense, everyone is building the airplane while we’re flying it just based on the rapid speed at which these laws are being enacted,” said Cho, one of the authors of the survey report.

### 5. Are states addressing other privacy issues?

State legislatures enacted privacy laws beyond broad consumer protections this year. Health data and online safety for kids were a particular focus.

New laws in states such as Utah bring their own compliance questions. Measures aimed at children on social media require age verification in some cases, raising privacy considerations around the collection of sensitive data.

“It’s still early days for these laws and there are more unknowns than knowns, including whether they’ll withstand court challenges, how they’ll be enforced, and whether they’ll be preempted by federal legislation,” Noah Bialos, senior counsel at Perkins Coie LLP, said in an email.



# Minimum Wage Hikes Primed for Ballot, Statehouse Battles in 2024

By Chris Marr  
December 26, 2023

- **Voters in Michigan, Ohio could decide \$15 wage proposals**
- **Business group wary of job-specific raises copying California**

Legislative and ballot fights over higher minimum wages will span a mix of red and blue states across the country in 2024, as worker advocates seek to emulate and expand on victories to boost pay for hourly workers.

The push to mandate a \$15 minimum continues in states that haven't reached that level, including ballot proposals that could go before Ohio and Oklahoma voters next November, plus dueling court fights in Michigan over a previous 2018 ballot initiative and a new one proposed for 2024.

But in deeper blue states that have already enacted a \$15 minimum, new proposals and automatic inflation-based increases are carrying the wage floors higher, as with a California ballot measure that would move the state to an \$18 minimum by 2026 if voters approve it. Hawaii's state legislature last year became the first to enact an \$18 minimum wage, set to phase in gradually by 2028.

California also added a new wrinkle to the issue this year, enacting industry-specific hourly minimums of \$20 for fast-food workers and \$25 for workers in health-care facilities,

legislative deals that were seen as wins for the Service Employees International Union.

"It's a new tactic from labor," to push for legislation mandating industry-specific wage increases, said Tim Goodrich, vice president of state government relations at the National Federation of Independent Business.

"We are very concerned that is going to spread to other blue states that are labor friendly," Goodrich added, noting that Maine and Massachusetts lawmakers have introduced bills proposing health-care-specific minimum wages.

State and local governments have dominated the policy action around minimum wage for at least the past decade, as the federal minimum has remained at \$7.25 since 2009. Minimum-wage workers are scheduled to get greater hourly pay in more than 20 states and roughly 40 cities and counties in 2024.

Sen. Bernie Sanders (I-Vt.) has proposed a nationwide \$17 minimum wage but has faced resistance, including from some Democrats in Congress.



The steady stream of state and local wage increases is challenging for employers to manage, especially for small businesses that might still be struggling with staffing shortages and recently high inflation, Goodrich said.

### To \$15 And Beyond

But progressive policy groups such as the National Employment Law Project contend that the wage increases haven't been sufficient for workers to keep up with inflation.

That includes in New York, where this year's legislation to raise the wage floor to \$17 downstate and \$16 upstate by 2026 has drawn criticism for not going far enough.

Those \$16 and \$17 floors "may be sufficient in very low cost of living areas, but certainly not in New York," said Yannet Lathrop, NELP senior researcher and policy analyst. The group is urging state lawmakers to revisit the wage law in 2024, and particularly to repeal the "off ramp" provision

that suspends annual increases if unemployment rates increase.

A coalition of New York unions and worker groups pushed the legislature in 2023 to raise the state's wage floor to \$21.25, an attempt to account for a few years of no increases despite unusually high inflation. Lawmakers and Gov. Kathy Hochul (D) ended up agreeing on the lower increases through 2026.

The inflation rates in 2021 and 2022 helped push the wage goals for the labor movement beyond the "Fight for \$15" that took hold roughly a decade ago.

"There's no fight for X amount now," Lathrop said. "There's no serious campaign for anything lower than 15," but in several states worker advocates are pushing for higher minimums.

Under existing laws, at least six states plus Washington, D.C., are scheduled to mandate \$15 or higher statewide in 2024: California, Connecticut, Maryland, New Jersey, New York, and Washington state. Oregon could join that list, depending on the amount of its inflation-based annual increase on July 1. More than 20 local governments already require minimum wages higher than \$17 per hour, including Denver, Seattle, and 17 California cities.

In states where Republican-majority legislatures have largely opposed minimum wage increases, voters have supported raising wages via ballot measures. Florida and Nebraska, for example, are moving toward \$15 minimums by 2026 based on voter-approved ballot initiatives.

With that history in mind, fighting the ballot measures in Ohio and Oklahoma will be high priorities for NFIB, Goodrich said.

"If they can get it passed in Nebraska and areas of the country where you wouldn't expect to see it in the legislature, then Oklahoma is also an area of concern," he said.

Virginia Democrats, after winning control of both the state House and Senate in November's elections, also are preparing to renew efforts for a \$15 minimum wage, although they don't have the two-thirds majorities needed to override a likely veto from

Republican Gov. Glenn Youngkin. They've introduced companion bills that would raise the wage to \$15 by 2026, up from \$12 today.

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