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WRITTEN TESTIMONY
Rick Allen, Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Committee on Education and Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515-6100

Re: Subcommittee Hearing on "Building an AI-Ready America: Adopting AI at Work"

Chairman Allen, Ranking Member DeSaulnier, and members of the Subcommittee:

Thank you for the opportunity to testify on how the United States can build an AI-ready workforce and workplace. I appreciate your leadership in addressing this pivotal issue which will shape the future of work, worker protections, and American competitiveness for decades to come.

I. Introduction

AI is rapidly transforming the workplace, reshaping how organizations operate throughout the employment lifecycle.[1] Organizations are increasingly harnessing AI to streamline and enhance a wide range of workplace functions, including resume screening and filtering, chatbot-assisted applicant engagement and interview scheduling, productivity and safety monitoring, meeting transcription, automated video interviews to evaluate candidates, and advanced analytics tools that assess employee data to predict future performance and success.[2] When properly designed and executed, AI can significantly enhance operational efficiency, improve safety, reduce bias and subjectivity, prevent harassment, and expand economic opportunity. It can empower employers and workers alike to make faster, more informed, and fairer decisions. Moreover, AI can help organizations identify and retain top talent.[3]

Critically, the benefits of AI are not one-sided. Workers, not just employers, are reaping substantial gains. As someone who advises employers daily on workplace AI and who has previously served in senior leadership roles at the U.S. Equal Employment Opportunity

[1] *See* Bradford J. Kelley & Andrew B. Rogers, *The Sound and Fury of Regulating AI in the Workplace*, HARVARD J. ON LEGIS. (2025), https://journals.law.harvard.edu/jol/2025/12/06/the-sound-and-fury-of-regulating-ai-in-the-workplace/.

[2] *See generally* Keith E. Sonderling, Bradford J. Kelley, & Lance Casimir, *The Promise and the Peril: Artificial Intelligence and Employment Discrimination*, 77 U. MIAMI L. REV. 1 (2022).

[3] *Id.*

Commission (EEOC) and the U.S. Department of Labor (DOL), I can state unequivocally that AI is empowering workers in meaningful ways. For example, many employees already rely on AI-powered applications on their smartphones to boost productivity and streamline tasks, which demonstrably improves their work-life balance. AI is also helping workers find their most rewarding jobs. Moreover, AI is unlocking new opportunities for individuals with disabilities, facilitating greater workplace inclusion and accessibility.[4]

Yet these benefits are accompanied by real and emerging risks, especially when AI is designed or used improperly. Concerns about discrimination, intrusive surveillance, wage and hour compliance, and job displacement are legitimate and must be taken seriously. In addition, deepfakes are introducing new risks into the workplace by enabling AI-generated videos, images, and audio to be weaponized as a form of harassment or intimidation against colleagues, potentially creating hostile work environments that expose employers to legal liability.[5] Again, these concerns are serious and deserve careful attention.

However, it is equally important to distinguish between concrete harms and speculative fears. Many of the more extreme hypotheticals surrounding AI in the workplace such as using algorithms to suppress union activity or screen out union-affiliated applicants are largely theoretical and tend to originate in academic literature rather than actual practice. In my experience in senior leadership roles at the EEOC and DOL, as well as in private legal practice, I have never encountered an employer attempting to use AI to interfere with union activity or suppress union organizing efforts. Overstating such hypothetical risks runs the risk of distorting the policy debate and diverting attention from more pressing and credible concerns.

While the risks warrant careful attention and scrutiny, they do not justify a rush to enact AI-specific workplace regulations. The United States already has a comprehensive and well-established legal framework, including statutes governing discrimination, harassment, wages and hours, labor protections, occupational safety, privacy, and tort liability, that is fully capable of addressing most, if not all, forms of AI-related misconduct. The central challenge is not whether to regulate AI, but how to apply and enforce existing laws effectively in the context of rapidly evolving technologies.

Indeed, premature or overly prescriptive AI-specific regulations could result in significant unintended consequences: stifling innovation, reducing legal clarity, and generating a fragmented patchwork of state and local rules.[6] Rather than adding new layers to an already complex legal landscape, policymakers should prioritize clarifying how current statutes apply to AI, promoting

[4] *Id.* at 4-5.

[5] *See* Bradford Kelley & Alyesha Asghar, *AI-Driven Harassment Poses New Risks for Employers*, LAW360 (Jan. 20, 2026), https://www.law360.com/articles/2431002/ai-driven-harassment-poses-new-risks-for-employers.

[6] *See* Keith E. Sonderling & Bradford J. Kelley, *Filling the Void: Artificial Intelligence and Private Initiatives*, 24 N.C. J. L. & TECH. 153, 161 (2023).

voluntary compliance and best practice guidance. Given the morass of current regulatory efforts, many organizations are wisely charting their own path forward without waiting on relevant governmental entities to try and catch up to the rapidly developing field of AI. In the absence of AI regulations, private initiatives have charted a restrained and reasonable course for using AI technology in the workplace to foster responsible AI development and deployment.[7]

II. Existing Workplace Laws Already Regulate AI Misconduct

A central premise of my testimony is straightforward: while AI may represent a new technological frontier, the conduct it enables is not new. Whether discrimination, harassment, surveillance, wage violations, or retaliation occurs because of human decisions or algorithmic outputs, the underlying legal standards and analysis remain the same.

Notably, federal employment anti-discrimination laws, including Title VII of the Civil Rights Act of 1964, already prohibit unlawful discrimination and harassment regardless of the tools or technologies involved. For example, if an employee uses AI to generate synthetic or sexually explicit images of a coworker, such conduct squarely falls within Title VII's prohibitions against workplace harassment.[8]

Similarly, the Americans with Disabilities Act (ADA), which prohibits employers from discriminating against qualified individuals with physical or mental disabilities in all aspects of employment, may be implicated if AI tools disproportionately screen out or penalize individuals with disabilities.[9] For instance, an AI-driven video interview tool that assigns lower scores to candidates who fail to maintain eye contact could unlawfully disadvantage individuals with vision impairments or autism spectrum disorders. Likewise, an AI system that filters out applicants who report being unable to stand for 30 minutes, without providing an opportunity to request a reasonable accommodation, raises serious legal concerns. AI tools may also implicate the ADA if they infer or detect non-obvious medical conditions. For example, if an algorithm identifies a hand tremor and flags the applicant accordingly, that could constitute a prohibited disability-related inquiry, as tremors may be associated with neurological conditions such as cerebral palsy, Parkinson's disease, or the aftermath of a stroke. In each of these scenarios, existing federal law already provides clear protections and legal remedies.[10] There is no regulatory vacuum—only a need to ensure that employers apply existing laws to emerging technologies with care and diligence.

[7] *Id.*

[8] *See* Kelley & Asghar, supra note 5.

[9] *See* Sonderling, Kelley & Casimir, *supra* note 2.

[10] *Id.*

Moreover, the use of AI and workplace monitoring technologies remains firmly governed by existing labor law, most notably the National Labor Relations Act (NLRA).[11] Enacted in 1935, long before the advent of modern surveillance tools or artificial intelligence, the NLRA protects employees' rights to engage in concerted activities for mutual aid or protection and prohibits employers from interfering with, restraining, or coercing employees in the exercise of those rights. AI does not alter these foundational protections; it merely introduces new technological means through which regulated conduct may occur. Whether monitoring is carried out by a frontline supervisor or an algorithmic system, the legal constraints are identical. If AI-enabled surveillance chills protected concerted activity, it raises the same NLRA concerns as traditional forms of employer monitoring. The statute's reach is technology-neutral, and its protections apply with equal force to AI-driven workplace practices. In other words, AI merely introduces new tools to engage in conduct the NLRA has long governed.[12]

Wage and hour laws, particularly the Fair Labor Standards Act (FLSA), also provide a comprehensive framework to address the use of AI in the workplace. Employers are increasingly deploying AI for a wide range of wage and hour functions, including payroll processing, scheduling and staffing, timekeeping, and employee monitoring.[13] While the tools may be new, the legal obligations are not. Employers remain responsible for full compliance with longstanding requirements governing compensation and hours worked. For example, when AI is used to track employee time, employers are still legally obligated to compensate employees for all hours actually worked, regardless of whether the AI system captures that time accurately. An AI tool that undercounts compensable time does not expose a regulatory gap, instead it exposes employers to liability under established law. Properly designed and implemented, AI will ultimately enhance wage and hour compliance by increasing accuracy, consistency, and transparency.[14]

Similarly, the increased use of AI does not alter the long-established legal standards governing joint employer status or worker classification under the FLSA. Some critics argue that AI-driven management tools such as algorithmic scheduling, productivity monitoring, or automated supervision may increase employer control to a degree that heightens misclassification risk or joint employment liability.[15] However, the underlying legal analysis remains unchanged: control, not the mode of control, is what matters. Plus, the criticism misconstrues how AI is deployed in practice. In reality, AI frequently increases worker autonomy by enabling greater scheduling flexibility and operational independence. For instance, AI-enabled platforms can allow workers to choose shifts that align with their preferences, manage their workloads more efficiently,

[11] Bradford J. Kelley, *All Along the New Watchtower: Artificial Intelligence, Workplace Monitoring, Automation, and the National Labor Relations Act*, 107 MARQ. L. REV. 195, 198 (2023).

[12] *Id.*

[13] Bradford J. Kelley, *Wage Against the Machine: Artificial Intelligence and the Fair Labor Standards Act*, 34 STAN. L. & POL'Y REV. 261 (2023).

[14] *Id.*

[15] *Id.*

and tailor their schedules around personal responsibilities. Rather than expanding employer control, these systems frequently decentralize it, empowering workers and reinforcing employment models that prioritize flexibility, independence, and fairness.[16]

Federal agencies themselves appear to recognize that the existing legal framework is largely sufficient to address AI-related issues in the workplace. For example, in 2021, the EEOC launched an initiative to ensure that employers' use of AI and other emerging technologies in hiring and employment decisions complies with the federal civil rights laws the agency enforces.[17] However, the initiative has remained largely inactive in recent years, with little public engagement and no new guidance issued.[18] This prolonged dormancy strongly suggests that the EEOC has not identified any novel or un-addressable risks posed by AI that fall outside the scope of existing anti-discrimination statutes. Rather than indicating a gap in the law, the agency's limited activity reflects a broader institutional understanding that current legal protections remain fully applicable and effective in the face of technological change.

Across these domains, the implication is unmistakable: the U.S. workplace is already regulated by robust, adaptable, and technology-neutral legal frameworks that address AI-enabled misconduct without the need for new, AI-specific employment statutes.

III. The Risks of Overregulating AI in the Workplace: State and Local AI Law Lessons

In the last several years, multiple states and local jurisdictions have attempted to enact AI-specific workplace regulations.[19] The results offer important cautionary lessons. Overall, many of these state-level initiatives have been poorly drafted and lack thoughtful consideration, resulting in inconsistent and flawed regulatory frameworks. This type of regulatory instability creates immense uncertainty for employers and workers alike.[20]

The Colorado AI Act serves as a cautionary example of the risks and unintended consequences that arise when lawmakers rush to regulate rapidly evolving technologies. Enacted in 2024 through an accelerated legislative process designed to outpace the European Union's AI Act, Colorado Senate Bill 24-205 was passed before foundational elements of its regulatory framework were fully developed.[21] The result is a law so riddled with ambiguity and drafting flaws that, on the very day of signing, the governor publicly expressed "reservations" about its provisions and called on the legislature to "fine tune" the statute. Shortly thereafter, the governor, state

[16] *Id.*

[17] *See* Kelley & Rogers, *supra* note 1.

[18] *Id.*

[19] *See generally* Sonderling, Kelley & Casimir, *supra* note 2.

[20] *See* Kelley & Rogers, *supra* note 1.

[21] *Id.*

attorney general, and state senate majority leader authored an open letter to the business community to "provide additional clarity" and committed to "engage in a process to revise the new law" and "minimize unintended consequences associated with its implementation."[22] In effect, Colorado enacted a regulatory regime with the full expectation that it would need to be rewritten before taking effect, leaving employers in limbo and state agencies uncertain about how, or even whether, to implement the law as written.

When regulating a transformative and rapidly evolving technology like AI, clarity, stability, and careful legal and policy judgment are indispensable. Colorado did the opposite: knowingly enacting a statutory framework that was flawed on its face and incomplete by design. By charging ahead with an admittedly deficient law, premised on vague assurances that critical provisions would be fixed later, the legislature created confusion, uncertainty, and regulatory instability from the outset. Particularly in an area defined by rapid technological change and high compliance stakes, governments cannot afford to legislate first and refine later; effective regulation requires getting the framework right the first time.[23]

Local efforts to regulate AI have also fallen short and proven to be categorically ineffective. Most significantly, in 2023, New York City became the first American jurisdiction to regulate the use of automated employment decision tools.[24] However, since taking effect in July 2023, the law has achieved little in practice. Despite its ambitious goals, it has been widely criticized for vague terminology, limited enforceability, and conflicting definitions. A *Law360* article entitled "'*Everyone Ignores' New York City's Workplace AI Law*" reported that most practitioners view the law as a "toothless flop" and highly ineffective.[25] Similarly, the Society for Human Resource Management, the world's largest professional HR association, published an article titled "*New York City AI Law is a Bust*" explaining that the law has failed to deliver on its promises.[26]

The New York City Department of Consumer and Worker Protection, which is tasked with enforcement but lacks independent investigatory authority, has not received a single complaint since enforcement began.[27] The law also permits employers to opt out if a human is involved in the decision-making process in which the tool is used, rendering much of the law's scope illusory. Unsurprisingly, a Cornell University study published in 2024 found that the vast majority of employers in New York City were not complying. Of the 391 employers surveyed, only 18 had published the required audit reports on their websites, and just 13 had issued applicant notices disclosing the use of automated tools. In effect, New York City's experience serves as a cautionary

[22] *Id.*

[23] *Id.*

[24] *See* Sonderling, Kelley & Casimir, *supra* note 2.

[25] *See* Kelley & Rogers, *supra* note 1.

[26] *Id.*

[27] *Id.*

tale: well-intentioned but hastily drafted AI regulations often produce rules that are unclear, inconsistently applied, easily circumvented, and widely disregarded.[28]

Yet while many businesses have openly declined to comply with New York City's AI law, countless others have made good faith efforts to adhere to its requirements, often at significant cost. These organizations have invested substantial time and resources to evaluate current and anticipated uses of AI in their operations, and to implement compliance measures. Many employers are consulting with vendors, legal counsel, and outside experts to: (1) determine whether particular AI applications fall within the law's scope; (2) develop or revise policies and procedures to ensure those applications meet legal standards; and (3) conduct or procure required bias audits for covered systems.[29]

Together, these developments illustrate the core risk of new AI-specific laws: they often create confusion rather than clarity. They also undermine the national uniformity needed for effective governance of emerging technologies.

IV. The Risks of Overregulating AI in the Workplace: Agency Action

Federal agencies have also struggled to approach AI in the workplace with appropriate restraint. Most notably, a memorandum issued by the National Labor Relations Board (NLRB) General Counsel illustrates how agency overreach in the AI and workplace technology context can create uncertainty, impose unnecessary burdens, and generate unintended regulatory consequences.[30] In late 2022, then-NLRB General Counsel Jennifer Abruzzo issued a memorandum directing regional offices to aggressively pursue cases involving automated management and workplace surveillance technologies. The memorandum signaled an expansive interpretation of the NLRA, seeking to subject a broad range of AI-enabled tools to heightened scrutiny without any corresponding change in statutory law.

Specifically, the NLRB General Counsel proposed an amorphous burden-shifting framework of her own creation, whereby an employer would be found to have presumptively violated the NLRA where its "surveillance and management practices, viewed as a whole, would tend to interfere with or prevent a reasonable employee from engaging in activity protected by the Act."[31] This framework suffered from fundamental flaws. It failed to define critical terms, offered no meaningful standards for compliance, and strongly implied that most electronic monitoring and algorithmic management practices were unlawful while giving little weight to employers'

[28] *Id.*

[29] *Id.*

[30] *See* Bradford J. Kelley, *All the Regulatory Light We Cannot See: The Impact of Loper Bright on Regulating Artificial Intelligence in the Workplace*, 49 SETON HALL J. LEGIS. & PUB. POL'Y 708, 714 (2025).

[31] *See* Kelley, *supra* note 11.

legitimate and lawful reasons for adopting such technologies. As a result, employers were left unable to predict whether any particular practice would withstand scrutiny.[32]

Moreover, by embedding a presumption against an employer's use of AI, the proposed framework elevated employees' interests at the expense of employers' interests which directly contravened the text and purpose of the NLRA. In doing so, the General Counsel's memorandum disregarded, and in effect, undermined, employers' lawful duties and prerogatives to maintain safe and orderly workplaces, enforce productivity standards, impose discipline, and comply with occupational health and safety obligations.[33]

The NLRB General Counsel's memorandum also failed to account for the fact that many AI tools are deployed by employers to comply with other federal laws. Anti-discrimination statutes such as Title VII require employers to monitor hiring, promotion, and discipline practices to prevent bias and harassment. The Occupational Safety and Health Act (OSH Act) imposes a general duty to monitor worksites and identify hazardous conditions. Yet the General Counsel's framework placed employers in an untenable position—potentially forcing them to choose between complying with the NLRA and fulfilling obligations under Title VII or the OSH Act. Agencies should not interpret their statutes in ways that may compel employers to violate other federal laws. Far from enhancing worker protections, this approach created regulatory contradictions that benefited no one.[34]

Other agencies have exhibited similar shortcomings. For example, the Department of Labor's Wage and Hour Division issued a Field Assistance Bulletin in 2024 addressing wage and hour risks associated with AI, but failed to grapple with the practical reality that most employers rely on third-party vendors for AI tools and do not control their underlying design.[35] Compounding the problem, the Bulletin cited no empirical evidence to substantiate its claims about employer misuse of AI. When regulators advance sweeping policy conclusions without factual grounding, they undermine their own credibility and risk distorting employer behavior.

Ultimately, rigid and prescriptive agency-driven AI regulation threatens to freeze innovation rather than guide it responsibly.[36] Overregulation may discourage employers from adopting AI tools that reduce bias, enhance safety, and prevent harassment, while perversely increasing reliance on subjective human judgment: the very source of many workplace discrimination concerns. New AI-specific rules also risk conflicting with existing obligations under the NLRA, Title VII, the OSH Act, and the FLSA, leaving employers trapped between

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] Kelley & Rogers, *supra* note 1.

[36] Sonderling & Kelley, *supra* note 6.

inconsistent federal mandates. Agency action should not substitute for thoughtful, evidence-based policymaking. In the rapidly evolving AI landscape, restraint, clarity, and coordination—not enforcement by memo—are essential.

V. Self-Regulation Is Already Producing Meaningful Outcomes

While government action often lags behind technological innovation, the private sector has moved swiftly and substantively to develop frameworks for the responsible use of AI in the workplace. Major technology companies, industry coalitions, academic institutions, and civil rights organizations have established detailed principles addressing core concerns such as fairness, accountability, transparency, safety, data governance, and human oversight. These frameworks are grounded in technical expertise, developed collaboratively, and updated in real time, allowing them to evolve in step with the rapid pace of technological change.

Labor unions have also taken proactive steps to address the challenges and opportunities AI presents.[37] In 2021, the AFL-CIO launched its Technology Institute and Commission on the Future of Work and Unions to convene labor, academic, and policy stakeholders around the responsible use of emerging technologies.[38] In 2023, the International Alliance of Theatrical Stage Employees (IATSE) established its own Commission on Artificial Intelligence and released its Core Principles for the Application of AI and Machine Learning in the entertainment industry. These principles emphasize education, stakeholder collaboration, legislative engagement, and collective bargaining—not as a rejection of AI, but as a tool to ensure that productivity gains are shared equitably and that workplace transitions are managed responsibly. IATSE's approach also encourages self-regulation through collective bargaining, stressing that "collective bargaining is the primary way to ensure workers do not have to wait for government regulation through legislation, which could take years or may never come at all."[39]

Unions are also forming collaborative partnerships with leading technology firms to shape the future of workplace AI.[40] For instance, in December 2023, the AFL-CIO and a major tech company announced a new partnership to discuss the use of AI in the workplace. The partnership has three goals: (1) sharing information with labor leaders and workers on AI technology trends; (2) incorporating worker perspectives and expertise in the development of AI technology; and (3) helping shape public policy that supports the technology skills and needs of frontline workers.[41] These efforts underscore the power of private sector collaboration to deliver more inclusive and forward-looking governance than what can often be achieved through rigid statutory mandates.

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[37] *See* Bradford J. Kelley, *Belaboring the Algorithm: Artificial Intelligence and Labor Unions*, 41 YALE J. ON REG. BULL. 88, 89 (2024).

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

These frameworks evolve continuously as technology changes. They are informed by technical expertise, developed collaboratively across disciplines, and deployed at scale far faster than legislation can be amended. Many companies now conduct internal AI audits, document their model-development processes, evaluate downstream impacts, and publish guidelines on explainability and human oversight.

In addition, these private initiatives play a critical role in fostering meaningful dialogue between employers and unions, ensuring that workers are equipped to succeed in existing roles and adapt as new roles emerge in response to technological change.[42] Unlike traditional regulatory frameworks, which are often rigid, prescriptive, and slow to evolve, private sector efforts offer flexibility and responsiveness needed to keep pace with the rapid advancement of AI. The Biden administration recognized the importance of these self-regulatory mechanisms while developing its approach to addressing AI in response to union concerns. Notably, in 2023, the White House announced that it had secured voluntary commitments from fifteen of the leading AI companies to control the risks posed by AI. During a White House listening session on advancing responsible AI innovation, several influential union leaders, including the leader of the AFL-CIO's Technology Institute, "shared views on possible opportunities for AI to improve workers' lives when unions and workers are at the table and jointly developing solutions with employers."[43]

At the end of the day, the most effective approach to AI governance will be one that encourages collaboration among various stakeholders.[44] By drawing on the expertise and agility of the private sector, government can promote innovation while ensuring that AI systems remain accountable, equitable, and trustworthy. Moreover, private initiatives can undoubtedly help build a culture of trust, transparency, and accountability in AI technologies.

Future regulatory efforts should embrace this model by incorporating key guidance and workable standards developed through these dynamic, multi-stakeholder efforts. Encouraging these initiatives through incentives, education, and partnerships will yield better outcomes for workers while preserving the adaptability necessary for responsible innovation.

VI. The Way Forward

Congress has a vital role to play in shaping an AI-ready future, one that safeguards workers, promotes innovation, and ensures fairness in the workplace. However, that future does not require a proliferation of new federal statutes that may quickly become obsolete or counterproductive. Instead, Congress should focus on building a balanced regulatory approach that reduces legal uncertainty, addresses real risks, and enables responsible AI development and deployment. The

[42] *Id.*

[43] *Id.*

[44] *See* Sonderling & Kelley, *supra* note 6.

goal should be to foster trust, transparency, and accountability in the use of AI without stifling innovation or burdening employers with unworkable mandates.

A critical first step is for Congress to address the growing patchwork of state and local AI-related laws, which often impose overlapping, inconsistent, or even conflicting requirements.[45] This fragmented landscape has created serious compliance challenges for employers, while also introducing uncertainty for employees and unions. These conflicting mandates threaten job security, workplace stability, and the ability of unions to advocate effectively at the bargaining table. To resolve these challenges, Congress should strongly consider enacting a national standard that streamlines compliance and expressly preempts conflicting state and local frameworks. Given the complexity and nationwide scope of AI deployment, Congress is uniquely positioned to balance the competing interests at stake through a thoughtful and comprehensive legislative process. While such efforts have become less common in recent years, comprehensive federal legislation remains the most effective and durable means of addressing the sweeping societal and economic implications of AI.[46]

Federal preemption would also address concerns voiced at the state level. In a public letter to businesses following the passage of Colorado's AI Act, the state's governor, attorney general, and senate majority leader openly criticized the growing state-by-state regulatory patchwork and advocated for a unified federal approach.[47] Their message was clear: the goal is not for each state to craft its own AI framework, but for federal lawmakers to lead with clarity and consistency. A national standard would eliminate duplicative compliance burdens, encourage investment, and help cultivate a strong and competitive technology sector. Regulatory harmonization is especially important for employers operating across jurisdictions and for small and mid-sized firms that may lack the resources to navigate a maze of divergent rules. By embracing preemption and prioritizing coordination, Congress can ensure that AI regulation protects workers, fosters innovation, and supports long-term economic growth.[48]

Moreover, Congress should also actively encourage private initiatives and encourage employers to adopt responsible AI practices, recognizing that the effectiveness of many cornerstone federal employment and civil rights laws depends heavily on voluntary compliance by the private sector. U.S. anti-discrimination statutes, such as Title VII, are illustrative: these laws rely not on constant regulatory intervention, but on employers' ongoing efforts to monitor their practices, identify potential risks, and self-correct when issues arise.

In response to the rapid integration of AI into employment and business decision-making, multiple federal agencies—including the Federal Trade Commission, EEOC, and agencies within

[45] *See* Kelley & Rogers, *supra* note 1.

[46] *Id.*

[47] *Id.*

[48] *Id.*

DOL—have issued initial guidance emphasizing self-governance as a foundational component of responsible AI use.[49] These agencies have consistently framed voluntary compliance not as a regulatory afterthought, but as a central mechanism for managing emerging risks and ethical challenges associated with AI. By aligning internal policies, risk assessments, and governance structures with agency guidance, employers can both mitigate legal exposure and demonstrate leadership in developing AI systems that are fair, transparent, and worthy of trust.[50]

VII. Conclusion

AI will continue to rapidly transform the modern workplace, delivering extraordinary potential to improve productivity and opportunity, while also introducing genuine risks that demand thoughtful oversight. Yet we do not face a regulatory vacuum. The United States already possesses a robust legal infrastructure that governs nearly every form of workplace conduct, including discrimination, harassment, wage and hour protections, labor protections, privacy, and safety. Creating a new layer of AI-specific workplace statutes risks generating confusion, duplicative obligations, and unintended consequences that may ultimately undercut the very protections they aim to enhance.

Rather than pursuing sweeping new mandates, Congress and federal agencies should focus on clarifying how existing laws apply to AI, encouraging responsible use through guidance and voluntary compliance, and supporting public-private innovation. This balanced approach will enable us to harness the benefits of AI while safeguarding fairness, dignity, and security for American workers.

On a personal note, as I reflect on these issues, I think of my three-year-old daughter—who doesn't yet know what AI is, but will grow up in a world deeply shaped by it. The choices we make today will define the future we leave for her and for generations to come. It is imperative that we build an AI-ready America—one that promotes innovation, protects workers, and ensures our shared future is both just and prosperous.

Thank you for the opportunity to share my views. I look forward to supporting your continued work on these critical issues.

Respectfully submitted,

/s/ Bradford J. Kelley
Bradford J. Kelley

[49] *See generally* Sonderling, Kelley & Casimir, *supra* note 2.

[50] *See* Kelley & Rogers, *supra* note 1.