THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION

Testimony to the Assembly Standing Committees on Labor and Science and Technology

on "The Impact of Artificial Intelligence on the Workforce"

Good morning Chairpersons Latoya Joyner and Steven Otis and other honorable members of the New York State Assembly Labor and Science and Technology Committees. My name is Wayne Spence and I am the president of the 50,000-member strong New York State Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you today about the impact of artificial intelligence ("AI") on the workforce.

Our union is composed of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members have risked their lives and those of their families to maintain the continuity and quality of services to New York's most vulnerable citizens. PEF members take a great deal of pride in the services they provide to clients because they are professionals and they care about the welfare of their fellow New Yorkers.

AI has and will impact everyone's life and livelihood. The deployment and utilization of AI is occurring in every facet of social, political and economic life. At this important juncture, the proliferation of AI and the lack of consistent and uniform federal or state regulation thereon should give policymakers great pause. While the use of AI is expanding exponentially across all platforms, there are no regulations or unified protocols or practices for entities that develop, distribute or use these systems. This has resulted in the formation and utilization of AI systems that operationalize and expand information systems that may generate outputs predicated on (1) inaccurate or limited data; (2) algorithmic bias; and/or (3) "black box" or non-transparent algorithmic processes.

In order to monitor and prevent these pitfalls, PEF has developed recommendations to highlight what responsible AI developers and users, including the state, should incorporate into their internal protocols and processes to ensure that: (1) real, identifiable and unbiased inputs are used to generate fair and informed outputs; (2) there is complete transparency for users, consumers and others affected by AI-generated materials or outcomes; and (3) there is continued testing and oversight to protect data and the continued alignment of inputs and outputs generated through AI systems over time.

With regard to the acquisition, development and/or deployment of AI systems in state-operated agencies and/or entities, PEF recommends that the following protocols be adopted by the state, contractors employed by the state and/or systems purchased for use by the state:

(1) <u>Transparency and Accountability Controls</u>: AI tools and systems pose unique challenges in accountability as their inputs and operations are not always visible. The U.S. Government Accountability Office (GAO) noted that a lack of transparency reduces effective oversight in identifying errors, misuse, and bias. Therefore, it is essential to establish governance structures over AI to ensure that its use is transparent and accurate and does not generate harmful, unintended consequences.

(2) <u>Consistent Policies Across All Agencies</u>: All State Agencies should have consistent policies and approaches toward AI and should identify key risks and create processes to address those risks. These policies should apply to state applications and those procured from outside contractors. The contracts for all AI applications that are purchased or acquired from outside providers should require significant staff training and in-house oversight. All AI policy should be consistent with the National Institute of Standards and Technology (NIST)'s Artificial Intelligence Risk Management Framework (AI RMF).

(3) <u>Comprehensive Inventory of AI Tools</u>: All State Agencies should be mandated to keep an inventory of AI tools and establish a reporting framework of AI tools, policies, and protocols for public review, as the NYC government did by Executive Order #50 of 2019.

(4) <u>Establish a Task Force to Review Implementation and Impact</u>: The State should establish a task force that provides recommendations for how the state can use automated decision systems (ADS), which are a type of AI that make or assist in making decisions that affect people, in a fair and accountable manner. The state should look into the New York City Automated Decision Systems Task Force (ADS Task Force) which was established by Local Law 49 of 2018 and was tasked with recommending a process for reviewing the city's use of automated decision systems (more commonly known as algorithms).

(5) <u>Establish Single Statewide Oversight Officer for AI</u>: The state should create a Central Governance Entity as Director of Artificial Intelligence, as has been done within NYC's Office of Innovation & Technology, entrusted with the following tasks:

(a) Developing and adopting a statewide AI policy framework that defines the core values and principles for responsible and trustworthy AI.

(b) Creating and implementing an AI review process that evaluates the potential benefits and risks of AI applications, as well as their alignment with the state's goals and values.

(c) Establishing and enforcing an AI accountability mechanism that monitors and audits the performance and impact of AI applications, as well as provides mechanisms for redress and remedy.

(d) Providing guidance and support for state agencies and partners on how to design, develop, and use AI in an ethical and effective manner, such as by creating toolkits, checklists, and training programs.

(e) Engaging with external experts and stakeholders on the ethical implications of AI, such as by forming an AI advisory board, hosting public forums, and soliciting feedback from diverse communities.

(6) <u>Review and Adhere to Existing Policies in Other Jurisdictions</u>: The State should leverage existing resources and best practices from other sources, such as the Organization for Economic Cooperation and Development (OECD) Principles on AI, the EU Guidelines for Trustworthy AI, and the NYC Automated Decision Systems Task Force Report. The state should collaborate with state agencies, academic institutions, industry partners, and civil society organizations to develop and disseminate these guidelines.

(7) <u>Ongoing Oversight and Analysis on Inputs, Information Generation and Impact</u>: The State should also use the following toolkit developed for making AI trustworthy, reliable, responsible, secure, fair, and ethical:

(a) <u>The Algorithmic Impact Assessment Framework by the AI Now Institute</u>: The Algorithmic Impact Assessment Framework is a tool developed by the AI Now Institute to evaluate the potential impact of artificial intelligence systems on society, particularly in terms of fairness, accountability, and transparency.

(b) <u>The Responsible AI Toolkit by Accenture</u>: It is a comprehensive set of resources and guidelines for organizations to develop and implement responsible AI practices.

(c) <u>The Ethical OS Toolkit by Omidyar Network</u>: This is a set of resources created by Omidyar Network to help tech companies and developers identify and mitigate potential ethical risks and challenges in their products and services.

(8) <u>Data Protection and the Protection of Intellectual Property</u>: It is critical that the state work to protect the sensitive data it collects and maintains from abuse or release. The inappropriate usage or release of such data has broad implications on the state and its taxpayers. It is equally important for the state to ensure appropriate protocols are in place to prohibit or limit AI systems from utilizing or otherwise infringing on the intellectual property of others. These issues are only now being brought to court for consideration and these issues could have broad implications on the state in the future.

(9) <u>Protections Against Bias in Employment, Inappropriate Oversight and Discipline and Other Decision-making Processes</u>: The state should also enact legislation similar to NYC Local Law #144 that prohibits employers or employment agencies from using an automated employment decision tool (AEDT) to make an employment decision unless the tool is audited for bias annually. Additionally, AI systems should not be deployed unilaterally by management to monitor or otherwise evaluate staff outside of the collective bargaining process. PEF has successfully negotiated language that requires management and the union to form a joint committee to study the implications of AI on the workforce with the goal of implementing this technology for the benefit of staff and the state of New York. This is an important step in the appropriate implementation of this technology across the state.

(10) <u>Individual Accountability</u>: Any decision based on an AI tool should not absolve the decision maker from his or her responsibility or ownership of such decision. While the Statewide Oversight Officer for AI should be charged with guiding the state's development, procurement or utilization of AI applications, as well as conducting periodic reviews and oversight, state officers and managers in agencies deploying this technology must bear the responsibility for the reliable, responsible, secure, fair and ethical decisions recommended by AI systems in their agencies.

The continued evolution and deployment of AI has great potential and great risks for the state as an employer and as a regulator. PEF appreciates the work of these committees in beginning the process for developing and harnessing this technology for the good of all New Yorkers. It is

imperative, however, given the rapidly increasing utilization of this technology that the state move quickly in developing the regulatory framework needed to protect New Yorkers from the harm this technology could cause without appropriate safeguards.

Thank you for your continued support of PEF's more than 50,000 members and the critical services they provide to New Yorkers on a daily basis. PEF stands ready to assist you in any manner necessary as you navigate and act on this complex and important issue moving forward.

Sincerely,

Wayne Spence
President, NYS Public Employees Federation