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The Case for a Targeted AI Moratorium

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INTRODUCTION

Tucked into the reconciliation "megabill" House Republicans passed last month is a provision calling for a 10-year moratorium on state-level AI regulation. The move puts federal preemption at the center of a fierce debate surrounding this evolving technology. While the Progressive Policy Institute has been highly critical of the GOP's fiscally irresponsible bill, we hope the idea of a moratorium survives the legislative gauntlet.

PPI believes the budget reconciliation process should not be used to enact non-budget policies, such as a moratorium on state AI regulation, and is concerned that a 10-year freeze is too long. However, a shorter, three-year pause — enacted through regular order — would give Congress the opportunity to develop a comprehensive federal framework for regulating AI.

That's in America's national interest because with AI growing exponentially, it is essential to get regulation right. In the absence of federal action, the states are racing to enact their own laws governing the uses of AI — hundreds of bills have been introduced on the topic in the last year alone. That could lead to a confusing mess of partial, duplicative, and conflicting rules, which could hamper AI development in the United States, while competitors for high-tech leadership, such as China, forge ahead.

A moratorium on state AI regulation is crucial because allowing states to choose their own regulatory approaches comes with high costs that harm both consumers and businesses. The recent history of privacy regulation in the United States, which resembles the trajectory of AI regulation today, holds important lessons about these costs. Much like AI today, as Congress stalled, dozens of states passed their own laws regulating privacy, each with its own approach and requirements. As this paper will explore, when Congress later

attempted to pass federal privacy bills in 2022 and 2024, these efforts failed because of the proliferation of differing state laws, which made it difficult to reach a political consensus. As a result, citizens and businesses face a web of duplicative and costly state rules that still leave many Americans with no privacy protections.

The country's experience with privacy regulation holds two important lessons for lawmakers looking to regulate AI. First, state-level regulation leads to balkanization, which directly stifles innovation and increases costs for all parties, all while leaving Americans in states without laws unprotected. Second, as Congress waits to act, the proliferation of state-level laws makes it increasingly difficult to build support for federal bills. As more states pass their own laws, legislators face mounting pressure to defend their state's particular approach, increasing political opposition to a federal solution.

This paper will first consider the impact that AI is poised to have on the American economy and the state of AI regulation across the country today. Then, it looks back to the development of privacy legislation to examine how our previous failures can help us avoid making the same mistakes as we move to regulate AI.

THE GROWING ECONOMIC SIGNIFICANCE OF AI

Artificial intelligence holds immense potential to enhance economic growth, innovation, and prosperity in our country and around the world. Goldman Sachs has estimated that generative AI could raise global GDP by nearly $7 trillion over a 10-year period, while McKinsey forecasted that it could add between $2.6 and $4.4 trillion annually in some conservative scenarios.[1, 2]

Many disruptive technologies have their earliest impacts in a particular profession or economic sector. AI is different, because its ease of use and versatility to augment or automate so many tasks mean that its early impacts can be far more diffuse. It's likely to become a universal tool for enhancing productivity across all economic sectors.

Private investment in developing AI technologies, as well as the productivity-enhancing benefits that they may eventually produce, are primed to have a large impact on the US economy. In 2025, the five big tech companies — Amazon, Alphabet, Apple, Meta, and Microsoft — are projected to spend more than $240 billion on US capital expenditures, more than doubling their spending just two years prior.[3]

To realize this potential, it's essential to get AI regulation right. A broad framework of common-sense rules that ensure transparency, the freedom to experiment, vigorous competition, and safeguards against abusive uses of AI can help America retain its pole position in the race to AI mastery. Conversely, heavy-handed regulation and microprescription can stifle the experimentation that can lead to the continuous refinement of AI tools.

THE STATE OF AI REGULATION TODAY

As AI grows more capable and commonplace, many Americans remain apprehensive about its impact and the government's ability to regulate it effectively. An April 2025 study found that many Americans had mixed or negative views on AI's impact on the country over the next 20 years.[4] 62% of US adults said they had little or no confidence in the government's ability to effectively regulate AI.

Responding to public concerns over the technology and emerging international policy like the EU's AI Act, state lawmakers have taken action to bring AI regulation to the United States. Last year, more than 700 AI bills were introduced in statehouses across the country.[5] As of Spring 2025, 26 states have passed laws that span a wide range of AI uses from healthcare to elections to employment rights.[6] The result is an inconsistent jumble of rules that vary state by state.

Consider the case of California, a leader in the AI industry. Last year, the state legislature passed a slew of individual bills on discrete issues like watermarking, deepfakes, and digital replicas. Critics say that watermarking techniques, which place invisible digital markers on AI-generated content so that it can be identified later, are a costly and immature technology because of high error rates and susceptibility to bypass. Further, the bills omit some AI systems from the regulations that leading AI models are subject to, putting leaders like OpenAI, Google, and Microsoft at a competitive disadvantage and leaving users at risk.[7]

As more states enact AI laws, businesses and the American public are left without clarity on critical issues. Many of the biggest questions surrounding AI regulation, like legal liability, copyright, and provenance, can only truly be answered at the federal level.

STATE PRIVACY REGULATION AND COMPLIANCE COSTS

To understand how a mix of differing state laws can stifle federal policymaking, we turn to a history of privacy regulation. In the United States, much of the activity around privacy regulation has taken place at the state level. Led by California in 2018, 20 states are now governed by their own comprehensive data privacy laws, with several others having introduced legislation that governs data privacy in varying, more narrow capacities.[8]

Legislation from California, Virginia, and Colorado — some of the earliest states to pass comprehensive privacy laws — illustrates how varied state regulatory approaches can be on a single issue. These bills differ on topics like consent for sensitive data, universal opt-out mechanics, and allowing individuals to sue businesses directly in civil court. The structure of these differences means that businesses cannot simply adopt the strictest standards and

apply them across all states. Rather, businesses must ensure that user data is in compliance with each individual state's specific requirements and approaches.

Differing requirements and punishments from state to state thus impose massive costs on companies operating in the United States. One estimate from 2022 placed the 10-year compliance costs for a scenario in which all 50 states passed comprehensive data privacy laws at over $1 trillion, with more than $200 billion impacting small businesses.[9]

FEDERAL PRIVACY REGULATION AND PREEMPTION

Taking a closer look at the current landscape of privacy regulation provides important lessons for policymakers about the high cost of federal inaction. State-level activity demonstrated that, much like with AI now, protecting Americans' privacy was a priority for policymakers, and the status quo of differing state-level laws was harmful. Despite this, no federal privacy law exists today. Congress has tried twice — first with the American Data Privacy and Protection Act (ADPPA) in 2022 and again in 2024 with the revised American Privacy Rights Act (APRA).

By June 2022, a jumble of regulations were already beginning to emerge as five states — California, Virginia, Colorado, Utah, and Connecticut — had already passed comprehensive privacy legislation.[10] Congress faced a difficult question of reconciling differing state protections in designing a uniform national standard. On one hand, a "ceiling" would preempt state rules and set limits on further regulation, while a "floor" would set minimum protections that states could later expand upon. The ADPPA took the ceiling approach, with advocates arguing that the uniform rules would cut compliance costs and spur innovation. However, officials from states with stricter laws like Speaker Nancy Pelosi and California Governor Gavin Newsom, raised

concerns that it would dilute existing protections for residents of their states.[11, 12] As a result, the bill never reached a House vote.

As the number of state privacy laws grew, 2024's APRA lost momentum for similar reasons. By May 2024, one month after the APRA's introduction, 18 states had signed comprehensive privacy bills into law. Amid rising state-level pressure and party-line conflict over preemption, the APRA never left committee. And because of Congress's failure to act in a timely manner, the US now lags its global peers in privacy protections.

The privacy conundrum bears a striking resemblance to the one federal lawmakers now face with AI. Allowing states to move first on AI regulation comes with a cost that goes beyond compliance with different state laws. When Congress waits on the sidelines and more states pass laws, federal preemption becomes increasingly politically challenging. A federal bill must commit to a singular approach to regulation, which creates winners and losers. Lawmakers are incentivized to defend their own state's unique approach as the right choice for a federal bill, making them more hesitant to support one that does not adopt their approach. This problem will only worsen the longer Congress waits. However, an opportunity still remains for Congress to act now and prevent the same outcomes with AI.

THE NEED FOR AN AI REGULATION MORATORIUM

Amid today's flurry of state bills, PPI supports a temporary pause on state AI regulation that would give Congress the time needed to develop a well-balanced federal AI law that protects citizens and innovation. By adding costs and failing to address some of the most pressing issues, which can only be handled effectively at a federal level, this approach is a poor fit for what the country needs.

To date, no states have yet passed comprehensive AI regulation. That puts Congress ahead of the curve compared to privacy in 2022. Acting now, before states move to pass differing versions of comprehensive AI regulations and solidify the battle lines in a fight over preemption, is the best chance that the country has at passing a bill that positions the United States for success.

The length of a moratorium matters. The reconciliation bill that passed the House in late May contained a 10-year freeze on regulation. This pause is far too long and risky, leaving the door open for severe harms and abuses to arise with no recourse should Congress fail to come together and pass federal legislation.

When designing regulation for a rapidly evolving technology like AI, it is essential to plan for change. In the coming years, some of the biggest questions over AI policy, like copyright, high-risk use cases, and other risks, will be important for the United States. But more consequentially, new issues — ones that policymakers may not even be aware exist today — will become salient as the technology continues to advance swiftly. A decade, particularly one potentially bereft of regulation, is an eternity. It is essential to take these threats seriously.

To avoid the risks that a decade of indecision could pose, policymakers should instead pursue a shorter moratorium of three years. With the clock ticking down, federal policymakers will have time and a strong incentive to forge an intelligent, comprehensive framework for regulating AI.

CONCLUSION

With AI poised to play an instrumental role in the US economy moving forward, it is essential to promulgate a national set of rules for all actors. Effective regulation can clear the way for innovation and experimentation while providing guardrails against harmful activities, but doing so requires a streamlined and thoughtful strategy. With a scattershot approach towards regulation

underway at the state level, the country risks making the same mistakes that have doomed previous attempts at privacy protections and left many Americans unprotected. A unified national strategy is the right choice to steer AI towards a future of both prosperity and safety.

ABOUT THE AUTHOR

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Founded in 1989, PPI started as the intellectual home of the New Democrats and earned a reputation as President Bill Clinton's "idea mill." Many of its mold-breaking ideas have been translated into public policy and law and have influenced international efforts to modernize progressive politics.

Today, PPI is developing fresh proposals for stimulating U.S. economic innovation and growth; equipping all Americans with the skills and assets that social mobility in the knowledge economy requires; modernizing an overly bureaucratic and centralized public sector; and defending liberal democracy in a dangerous world.