



STATE AI POLICY PREEMPTION: RECONCILIATION

Staving off heavy-handed regulation while promoting light-touch guardrails

THE CALIFORNIA APPROACH

SB 1047-style AI regulation poses a threat to US hegemony in the AI race. Some particular concerns underscored by TPPF research include:

- **Impossibly high pre-deployment standards**, such as the assurance that there is zero possibility for covered models to have hazardous capabilities.
- **Enmeshing AI into state functions** with an explicit goal of “fostering equitable innovation.”
- **Definitional ambiguity**. The goal of good public policy is to create certainty and compliance, whereas SB 1047 hastily defines terms in a manner that broadens scope and application outside of professed goals.
- **Process woes**. California lawmakers ostracized key stakeholders from providing input in the legislative process, myopically focused on eliminating potential harms at all costs without regard to trade-offs and technical feasibility.

TPPF recognizes this as the “shiny object syndrome” that is driving many left-leaning states. The reflex is to regulate without regard for national security, economic, and entrepreneurial ramifications. Driving innovative companies out of CA is a feature, not a bug, and states like Texas welcome them with open arms and regulatory certainty.

THE TEXAS APPROACH

Texas is on the cusp of sending two major AI bills (one private sector, one public sector) to Governor Abbott. Both stem from years of work and input from the very companies leaving states like CA. Key components of these measures include:

- **Outcomes-based**: Rather than mandate onerous pre-deployment, testing, and licensing requirements, Texas’ bills state that if an AI system is developed with the sole intent to create CSAM, social scoring, surveillance, and other well-established violations of constitutional rights and civil liberties, then the AI system is prohibited.
- **Promoting DOGE through AI**: Both bills encourage leveraging AI to cut fraud,, waste, and abuse in government, while also establishing an AI council and sandbox program to cut red tape and learn from the industry about ways to further unleash innovation.
- **Multi-year process**: The Texas Legislature has prioritized data privacy, establishing an AI council, interim AI committees, and more to study the issue of AI, to carefully craft definitions, and to solicit input from hundreds of industry and government stakeholders on crafting gold-standard, conservative AI legislation.



RECONCILIATION

TPPF recognizes the severe implication of states like California and Colorado burying the industry in red tape, and how doing so advantages adversaries like China. However, as currently written, the AI moratorium reconciliation language preempts states like Texas who are advancing policy aligned with the White House's mandate for innovation and technology. In lieu of a comprehensive national AI framework, Texas is poised to provide a gold-standard model that other states can emulate. The regulatory certainty forthcoming will stave off costly lawsuits and promote innovation through a sandbox and DOGE-inspired AI council, all the while protecting civil liberties in the Lone Star State. As such, TPPF recommends a more tailored approach to the moratorium that would preserve efforts in states who are attempting to align with President Trump and Vice President Vance's AI mandate, while also staving off the heavy-handed approach of states like California.

