


Policy Principles for State Lawmakers in the Era of Artificial Intelligence



The rapid adoption of artificial intelligence (AI) has ushered in an era of unprecedented innovation, transforming industries, businesses, and everyday life. As lawmakers grapple with understanding the wide use of this rapidly evolving technology, it is imperative to strike a delicate balance between fostering innovation and safeguarding the rights and interests of individuals and businesses. This paper emphasizes three critical principles for legislators to consider: the role AI plays in our society, how businesses utilize AI, and the need for legislators to pause before adapting current laws to accommodate AI in order to avoid stifling its potential. Additionally, these principles examine the significance of algorithms, address concerns related to bias, and emphasize the necessity of data access for combating algorithmic bias, while drawing insights from public forums and recognizing the longstanding presence of AI in technology. We urge state lawmakers to consider the following as they contemplate intervening in the marketplace to address AI issues.

1. Acknowledge AI's Longstanding Presence

- The first thing to note is that AI is not new. AI has played a profound and enduring role in the evolution of modern technology. Rather than a passing trend, it stands as a foundational technology that has consistently shaped various sectors.
- AI's significance becomes especially apparent when considering its integral role in aiding developers throughout the coding process. Developers have long relied on AI as an invaluable tool in crafting and testing their software. Before code is deployed into test environments, developers use AI to meticulously inspect and analyze it. This process serves as a crucial safety net, identifying and proposing solutions to errors that might otherwise slip through the cracks due to human imperfections. This enduring collaboration between AI and developers not only underscores the deep-rooted presence of AI in modern technology but also showcases its unwavering value and indispensability in the realm of software development. Software teams are also now rapidly adopting generative AI to help write code, and many of them have quickly become reliant on its use to supplant hours of work with 15-minute reviews of an algorithm's product. In short, generative AI's use has become the norm, rather than the exception, for software makers—but there is always a human in the loop.
- AI has also had a long-standing role in healthcare, especially in clinical decision support (CDS). It's been around for quite some time, helping caregivers make more accurate and efficient diagnoses and treatment choices. By crunching through large volumes of patient data and recognizing patterns, AI has transformed the way healthcare is delivered. This history of AI in CDS highlights that, when used responsibly, AI is reliable and adaptable in addressing complex medical issues. And it is showing its potential to further shape the future of healthcare.




2. Balance Innovation and Identify the Government's Role

- States need to be quick to learn but slow to regulate. AI is a swiftly evolving field, and hasty or overly restrictive regulations can stifle innovation and actually harm consumers. It is crucial for lawmakers to figure out how AI can benefit consumers and meet their expectations. We know that statutes and regulations cannot move at the speed of innovation, and creating a legal and policy landscape that attempts to regulate AI based on a snapshot of it taken today, without fully acknowledging its quick evolution and what it will turn into, does more harm than good.
- Importantly, it should be noted that while addressing these issues is crucial, it does not necessarily call for extensive new regulations, aimed specifically at AI as a technology. Instead, a balanced approach that leverages existing tech-neutral laws may be more effective in ensuring fairness and equity in AI outcomes while allowing for continued innovation and growth. Legislators should, therefore, carefully consider whether new regulations are needed or if existing frameworks can be adapted to address these concerns in a more nimble and flexible manner.

3. Understand How AI Helps Small Businesses and Promotes Competition

- While AI encompasses a wide array of technologies, algorithms lie at their core. Algorithms are not just important; they are indispensable to small businesses and developers. Small businesses have been utilizing algorithms for decades to automate processes, make informed decisions, and gain a competitive edge. For many of our members, the role of large language models (LLMs) has already proved monumental in writing and testing their code to integrate their technology faster and ultimately get their products to market on a quicker timeline. Moreover, custom algorithms and specialized learning models are also central to many small businesses' competitive edge—many of our members create their own language models for their specific products, which serve as their “secret weapon” to outperform competitors both large and small. It is imperative for lawmakers to understand the role that AI plays in allowing small businesses to increase productivity at low costs and how it supports an environment where the best technology is rewarded. Lawmakers should acknowledge the foundational role of algorithms in AI and consider how past and current regulations would affect small businesses that benefit from these uses.

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- Ultimately, the benefits of AI can only be achieved if AI policies consider the challenges and resource constraints that small businesses face. In addition, policies should contemplate the variety of ways in which our members use AI. For example, they leverage AI to provide clinical decision support for doctors around the country, improving the lives of both care providers and patients while shortening the time between identifying conditions and administering treatments for all patients. They use AI to understand the unique needs of all employees and provide resources and tools for those with neurodivergences like dyslexia and ADHD to feel supported in the workplace. They use AI chatbots to help people manage and treat their pain without the use of opioids; they train AI engines with larger and more diverse data sets to help address bias; and they use AI in their own businesses to better serve their clients, create content, and support their workforce. With the small business innovator perspective at heart, policymakers can avoid creating a harmful disconnect between policy intentions and real-world effects for American entrepreneurs.

4. Understand the Relationship Between AI and Privacy in Addressing Bias

- One of the significant concerns associated with AI is algorithmic bias. AI systems, when trained on biased data or weighted without sensitivity to potential bias in the algorithm's outcome, can perpetuate and exacerbate existing biases, leading to discriminatory outcomes. Access to diverse and representative data is paramount to address algorithmic bias. Similarly, users and developers of AI systems must collaborate to develop best practices in development, training, and deployment. They must optimize the benefits of AI's use while mitigating the harmful bias risks it can pose. Policies that restrict data collection or limit the ability for stakeholders to develop these best practices with overly punitive liability regimes may inadvertently contribute to bias.
- For legislators contemplating government intervention to address AI risks, it is essential to recognize the significant issue of bias and ethical concerns associated with AI systems. Participants in discussions on AI unanimously stress the pivotal role of input data, highlighting that biases in training data inevitably result in biased AI outputs.
- Federal comprehensive privacy legislation remains our goal and is a critical consideration when formulating a role for government in AI. Because of—not despite—AI's reliance on vast troves of data, a single federal set of rules is essential to ensure that consumers and businesses can maximize their data's potential with AI systems, consistent with consumers and businesses' expectations across shifting contexts. Data fuels AI development and enables the creation of fair and unbiased algorithms and strong, flexible privacy protections tied to context and consumer expectations are key to fostering an environment for responsible AI.




5.

Insights from Public Forums and Small Businesses

- In addition to public forums, it is imperative for state policymakers to hear the voices of small businesses. These stakeholders highlight AI's transformative potential in reshaping business operations while also voicing concerns about its reliability and the indispensable role of human oversight. They are on the front lines of AI development and implementation, and their experiences and perspectives provide invaluable insights into the practical implications of any potential AI regulation.

As lawmakers navigate the complexities of AI, they must strike a balance between innovation and government intervention, recognize the importance of algorithms, enable stakeholders to address algorithmic bias, and consider the implications of a patchwork of state privacy bills. An agile and adaptive approach is essential to harness the benefits of AI while mitigating its risks. By doing so, policymakers can promote responsible AI development that benefits society as a whole.



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