![Americans for Prosperity logo]

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RE: AI Action Plan
90 FR 9088, February 6, 2025 Federal Register
Comments of Americans for Prosperity
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Dear Mr. D'Souza:

On behalf of Americans for Prosperity, and the millions of American individuals and families it represents across the country, we write to you to enthusiastically share our thoughts for how the administration can leverage an AI action plan to ensure that the country not only maintains, but expands its global leadership in this promising technology.

The good news is that the administration has already taken some key steps towards putting the country down a path that can unleash the technology to meet the moment. On his first day in office, President Trump signed Executive Order 14148, "Initial Recissions of Harmful Executive Orders and Actions," which revoked dozens of the previous administration's executive actions, including EO 14110 on the "Safe, Secure, and Trustworthy Development and Use of AI" from October of 2023.[1] This was a critical first step, as the Biden executive order represented a threat to the long term competitiveness of the United States by abusing emergency power authorities like the Defense Production Act to wrap this emerging industry in red tape. That approach

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[1] Executive Order 14148, January 20, 2025. https://www.federalregister.gov/documents/2025/01/28/2025-01901/initial-rescissions-of-harmful-executive-orders-and-actions. See also, Executive Order 14110, October 30, 2023. https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence

would've charted the U.S. down a path of innovation policy that would emulate what we have seen coming out of the European Union.[2]

Looking to the future, here are some things that we think the administration should keep in mind when exploring its potential AI Action plan and how it can be most impactful:

THE CURRENT LANDSCAPE OF AI POLICY

The landscape for AI has been a whirlwind over the last couple of years, going from a background conversation to the forefront of many, as lawmakers at both the state and federal level recognize the technology's transformative impact across many sectors of the economy.

While the federal government has been unable to come to a consensus for a light touch and sensible policy around AI federally, states are increasingly looking to play a role in the conversation. Last year, there were over 700 bills introduced between Congress and the various states around the country. Colorado became the first state to pass a comprehensive AI bill that even Governor Jared Polis recognized was problematic as he signed it into law, noting the legislation could create "a complex compliance regime for all developers and deployers of AI" and the state was essentially kicking off a patchwork race that would "tamper innovation and deter competition". [3]

California was another state that unsurprisingly had an extraordinarily bad proposal from their state legislature, SB 1047, which sought to regulate frontier AI models and create a massive bureaucracy to oversee the sector and regulate it. To his credit, Governor Newsome recognized the deeply flawed approach being taken by the legislature and vetoed that legislation.[4]

This year, we are barely 3 months in and there are already over 800 proposals to regulate AI in the states alone, clocking in at a pace of 11 bills a day.[5] We are well on track to cross over 1,000

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[2] Czerniawski, James. "President Biden's Executive Order on AI Reinforces His Administration's Hostility Toward Emerging Technology". Americans for Prosperity. October 30, 2023. https://americansforprosperity.org/press-release/president-bidens-executive-order-on-ai-reinforces-his-administrations-hostility-toward-emerging-technology/

[3] Colorado General Assembly. (2024). Senate Bill 24-205. Retrieved from https://leg.colorado.gov/bills/sb24-205. See also, Polis, Jared. SB24-205 Signing Statement. May 17 2024. https://www.dwt.com/-/media/files/blogs/artificial-intelligence-law-advisor/2024/05/sb24205-signing-statement.pdf?rev=a902184eafe046cfb615bb047484e11c&hash=213F4C6CDFF52A876011290C24406E7F

[4] California Legislature. (2023-2024). Senate Bill 1047, Safe and Secure Innovation for Frontier Artificial Intelligence Models Act. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB1047 See also, California Office of the Governor. SB-1047 Veto Message. September, 2024. https://www.gov.ca.gov/wp-content/uploads/2024/09/SB-1047-Veto-Message.pdf

[5] Multistate. Artificial Intelligence (AI) legislation. March 13, 2025. https://www.multistate.ai/artificial-intelligence-ai-legislation

proposals in the states before the end of this year. Part of the issue with this approach is that this technology isn't contained within a single state's borders by design. If every single state starts regulating different aspects of an all-purpose technology of AI, it is going to create a massive compliance cost regime that will stifle competition and limit opportunities for economic growth during a period where it couldn't be more critical.

These types of proposals are couched in fear of the technology, running off a paradigm that is diametrically opposed to the market approach that the government followed during the 1990s when exploring the internet, ecommerce, and online speech. Then, the government under President Clinton correctly recognized the importance of keeping itself out of the way to drive innovation and empower human flourishing without needing the sign off from some unaccountable and unelected bureaucrat from Washington D.C.

AI INFRASTRUCTURE: DATA CENTERS AND ENERGY

According to the U.S. Department of Energy (DOE), data centers can consume 10 to 50 times the energy per floor space of a typical commercial office building; and data centers account for roughly 2% of total U.S. electricity use.[6]

Data centers are energy-intensive primarily because they provide power and cooling for numerous servers and networking equipment responsible for storing and processing massive amounts of data.[7] Because they operate 24/7, a constant supply of energy is needed. The energy required for cooling is a significant reason for the center's overall energy consumption. As the servers process data, heat is generated; and cooling is necessary to prevent overheating and to maintain the reliability of the equipment. [8]

AI-ready data centers have high average power densities – the energy consumption of servers in the racks.[9] According to McKinsey & Company, "(a)verage power densities have more than doubled in just two years, to 17 kilowatts (kW) per rack, from eight kW, and are expected to rise to as high as 30 kW by 2027 as AI workloads increase. Training models like ChatGPT can

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[6] Data Centers and Servers, U.S. Department of Energy, https://www.energy.gov/eere/buildings/data-centers-and-servers#:~:text=Data%20centers%20are%20one%20of,a%20typical%20commercial%20office%20building.

[7] "What to Know About Data Center Growth, Energy Usage, and Efficiency," Post by Yes Energy, No author named, YES ENERGY, https://blog.yesenergy.com/yeblog/data-center-growth-energy-usage-and-efficiency

[8] Id.

[9] "AI power" Expanding data center capacity to meet growing demand," Collaborative effort by Bhargs Srivathsan, Marc Sorel, and Pankaj Sachdeva, with Arjita Bhan, Haripreet Batra, Raman Sharma, Rishi Gupta, and Surbhi Choudhary, representing views from McKinsey's Technology, Media & Telecommunications Practice, October 29, 2024. https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/ai-power-expanding-data-center-capacity-to-meet-growing-demand

consume more than 80 kW per rack, while Nvidia's latest chip, the GB200, combined with its servers, may require rack densities of up to 120 kW."[10]   And Goldman Sachs Research estimates that power demand from data centers will grow 160% by 2030.[11]

> "A single ChatGPT query requires 2.9 watt-hours of electricity, compared with 0.3 watt-hours for a Google search, according to the International Energy Agency. Goldman Sachs Research estimates the overall increase in data center power consumption from AI to be on the order of 200 terawatt-hours per year between 2023 and 2030. By 2028, our analysts expect AI to represent about 19% of data center power demand." [12]

In 2023, data centers in Northern Virginia had a combined power consumption capacity of 2,552 MW, four times the capacity of the Dallas area (654 MW) or the capacity of Silicon Valley (615 MW). [13]   More than one third of global online traffic is handled through the Northern Virginia data center market.[14]

This demand for power within the Commonwealth of Virginia, an area within the territory of PJM, a Regional Transmission Organization (RTO) that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia, resulted in adjustments to its 2024 forecasts for load in its territory. [15]   The "PJM Load Forecast Report January 2024" notes that forecasts for a number of zones had been adjusted to account for "large, unanticipated load changes, market adjustments, and peak shaving adjustments…:" [16]

- The AEP[17] zone has been adjusted to account for growth in data center load;
- The APS[18] zone has been adjusted to account for growth in data center load;
- The DOM[19] zone has been adjusted to account for growth in data center load;

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[10] *Id.*

[11] "AI is poised to drive 160% increase in data center power demand," No author named, May 14, 2024,
https://www.goldmansachs.com/insights/articles/AI-poised-to-drive-160-increase-in-power-demand

[12] *Id.*

[13] *Supra*, Footnote 2.

[14] *Id.*

[15] PJM Load Forecast Report, January, 2024, Revised 2/1/2024, Prepared by PJM Resource Adequacy Planning Department, https://www.pjm.com/-/media/DotCom/library/reports-notices/load-forecast/2024-load-report.ashx

[16] *Id.*, p. 1.

[17] *Id.,* AEP being a reference to American Electric Power zone.

[18] *Id.,* APS being a reference to Allegheny Power zone.

[19] *Id.,* DOM being a reference to Dominion Viginia Power zone.

- The PS[20] zone has been adjusted to account for growth in data center load and port electrification; ...."

And four of the six zone forecasts were adjusted specifically for growth in data center load.

Other states where data centers are locating are likewise grappling with power consumption, load growth, and who should pay for the generation and transmission to get power to end users.

In Georgia, by mid-year 2024, data center construction had increased 76% in the Atlanta market compared to the same time in 2023.[21] Georgia Power, the investor owned electric utility that provides service in 155 of Georgia's 159 counties, on January 31, 2025, filed its January, 2025 "2025 Integrated Resource Plan." [22] In that document, it states that its

> "risk-adjusted load forecast from the winter of 2024/2025 through the winter of 2030/2031 reflects approximately 8,200 MW of load growth, representing an increase of more than 2,200 MW compared to load growth projections in the 2023 IRP Update for the same period. In the near-term, the Company projects nearly 6,000 MW of load growth as early as the winter of 2028/2029. Over the next ten years – through the winter of 2023/2025 – Georgia Power expects up to 9,400 MW of load growth."[23]

It further noted that "(t)he utility industry is also experiencing extraordinary growth in electricity demand driven by the manufacturing and infrastructure that support these .... technology advancements, including economic development associated with data centers....[24]

In the current 2025-2026 legislative session in the Georgia General Assembly, Senate Bill 34 was introduced. That bill would amend the Georgia Code so that no costs incurred by an electric utility associated with increased fuel requirements, generation costs, and transmission costs that are substantially related to the provision of electric services to commercial data centers and that would not have been incurred but for the electric demand of those commercial data centers, can be included in any rates unless those rates or charges are designed to recover those costs solely from commercial data centers or at least substantially recovery those costs from commercial data centers. Commercial data centers are defined in the bill as facilities used by an entity to manage, maintain, or operate a computer or group of computers with a peak demand of 100 megawatts or greater.

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[20] *Id.,* PS being a reference to Public Service Electric & Gas zone.
[21] "Why Is Georgia Attracting So Many New Data Centers?" by Zachary Hansen, Drew Kann, October 7, 2024, *The Atlanta Journal Constitution*, https://www.govtech.com/analytics/why-is-georgia-attracting-so-many-new-data-centers
[22] "2025 Integrated Resource Plan, January 2025," Georgia Power Company's 2025 Integrated Resource Plan; Georgia Public Service Commission, Docket No. 56002, filed January 31, 2025,
[23] *Id.*, p. 1.
[24] *Id.*, p. 85.

The question of "who will pay" to get all this energy to the end-user data center will continue to be discussed in the coming years.

What Makes Sense For Data Center Locations

Emerging data center markets are springing up all across the country. Areas with abundant energy supply and less constraints on the grid are being chosen as site locations.[25]

And some data centers are generating their own power using batteries, fuel cells, or renewables.[26] And "(i)n the longer term, small modular reactors (SMRs) might be an option."[27]

With the expanse of federal lands managed by the government, the opening of those lands to data centers could be a solution worth exploring. While data centers use a tremendous amount of water; and as water is relatively scarce in some parts of the West, that is an issue that would have to be worked through before data centers on federal lands could be scattered throughout those areas. Yet the possibility of leasing federal lands for that purpose should be given serious consideration.

FEDERAL GOVERNMENT ROLE

The administration should look to cement the gains it makes in AI policy by working side by side with Congress to pass legislation federally around Artificial Intelligence. While we appreciate the early moves the administration has taken, and are excited to see what comes next, many of those actions can be easily undone by future administrations. We believe that it is imperative that in order to create generational change, the administration should work with the relevant committees to put forward legislation that codify some of these efforts and approaches to provide the necessary certainty and clarity for what the future looks like here.

In the short term, we think it is critical that the White House plays the role of convener and teacher, driving a moratorium to establish a learning period on AI for Congress and federal regulators. It's important for policymakers and regulators to understand technology before seeking to create new rules to govern it. In many instances, existing laws can and do apply to AI.

In the past, a moratorium has been helpful in protecting new technologies from excessive government actions. For example, in 1998, Congress passed the Internet Tax Freedom Act to ensure that the internet and ecommerce weren't subjected to excessive taxation. Congress correctly recognized the value in this approach when it made this provision permanent in 2016.[28]

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[25] Supra, footnote 4.

[26] *Id.*

[27] *Id.*

[28] Congressional Research Service. The Internet Tax Freedom Act and Federal Preemption. October 18, 2021. https://www.congress.gov/crs-product/IF11947

Exploring ways to implement similar solutions will be critical to ensuring long-term success in the development and deployment of AI technologies around the country.

Protecting Open Source

It's impossible to have the conversation around AI without looking at open source. Open source is crucial for fostering collaboration, facilitating further diffusion of AI technology, and accelerating avenues of innovation for entrepreneurs, making it a critical part of the AI ecosystem.

While there is a role and value in closed ecosystems for AI technology, open source empowers a process where the technology is developed in the open, allowing individuals to more quickly learn and iterate their projects accordingly.[29]

As Neil Chilson and Logan Whitehair correctly note in their comment for the Abundance Institute to the NTIA's request for public input regarding dual use foundation AI models, open source has created a ton of value in the ecosystem. According to one study, open source created over an estimated $8 trillion dollars in value.[30]

It's important that the administration in proposals work with Congress to ensure that potential legislative proposals do not contain provisions that would hinder the ability of open-source AI to exist and operate in the broader ecosystem. Use-case oriented, harm focused with *ex post* enforcement that is agnostic on whether the tool is open or not are more likely to be effective.[31] Attempting to restrict or prevent open-source AI would needlessly harm the U.S.' competitive status while simultaneously presenting a ripe constitutional challenge on first amendment grounds.

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[29] Richardson, Deb. Why open source is critical to the future of AI. Red Hat. January 21, 2025. https://www.redhat.com/en/blog/why-open-source-critical-future-ai#:~:text=When%20research%2C%20code%20and%20tools%20are%20shared,that%20typically%20limit%20access%20to%20leading%2Dedge%20innovations.&text=Since%20open%20source%20projects%20reduce%20the%20barriers,AI%20models%20as%20they%20are%20being%20developed.

[30] Chilson, Neil and Whitehair, Logan. Public Interest Comment on the National Telecommunications and Information Administration (NTIA) Dual Use Foundation Artificial Intelligence Models with Widely available Model Weights Request for Public Input. March 27, 2024. file:///C:/Users/James%20Czerniawski/Downloads/NTIA-2023-0009-0246_attachment_1.pdf See also, Manuel Hoffman et al., The Value of Open Source Software (Jan. 1, 2024), Harvard Business School Strategy Unit Working Paper No. 24-038, available at http://dx.doi.org/10.2139/ssrn.4693148.

[31] Id.

Accelerating AI Development and Deployment

To seize the moment and ensure that AI can meet its true promise and potential, the administration should streamline the process to get existing roadblocks out of the way. During the first Trump administration, they were creative in doing this in a couple of ways.

For example, in 2016, the Consumer Financial Protection Bureau set up a regulatory sandbox program to foster innovation in financial services.[32] While the previous administration scaled back the program, essentially putting it on a shelf, it's a welcome sight to see that the CFPB is restarting this program under the current administration.[33] The agency leveraged the sandbox and no-action letters to allow firms to test new products and services. The reality is that every industry could benefit from having a more flexible regulatory environment, not just financial services. As such, in the context of AI, the administration should work with Congress to explore ways to implement a similar type of program for AI.

Additionally, during the pandemic, the administration launched a very successful program in operation warp speed (OWS) to tackle some of the most pressing issues facing the country at the time.[34] As the president acknowledged later that year during an OWS summit, the typical timeframe for development and approval "could be infinity", but through their efforts with OWS, the country was able to have multiple vaccines developed and deployed in just nine months.[35] That stands as an incredible testament to the ability of the private sector to meet the moment when the government identifies key hurdles blocking the path to getting something done and streamlines it. The government should explore how it could replicate the successes of OWS once again by recreating a similar program for AI and healthcare use cases, where the impact of the technology doesn't just mean advances in science, but also potentially saving lives. Furthermore, the government should look to expand that concept beyond the FDA and HHS to other executive agencies. Every agency should be looking for their own operation warp speed program to streamline navigating the administrative processes they oversee.

Furthermore, it's important to recognize that unleashing innovation is necessary and critical to facilitating economic growth, it's insufficient to rely on that solely capture to its full benefits. Earlier, we discussed the aspects of energy and AI Infrastructure with respect to data centers. The

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[32] Congressional Research Service. Regulatory Sandboxes at the Consumer Financial Protection Bureau. January 15, 2025. https://www.congress.gov/crs-product/IF12875

[33] Dhaliwal S., A.J. et al, National Law Review. CFPB Updates No-Action Letter and Compliance Assistance Policies to Spur Innovation. January 10, 2025. https://natlawreview.com/article/cfpb-updates-no-action-letter-and-compliance-assistance-sandbox-policies-spur#google_vignette

[34] U.S. Department of Health and Human Services. Trump Administration announces framework and leadership for Operation Warp Speed. May 15, 2020. https://web.archive.org/web/20201216233803/https://www.hhs.gov/about/news/2020/05/15/trump-administration-announces-framework-and-leadership-for-operation-warp-speed.html

[35] The White House. Remarks by President Trump at the Operation warp Speed Vaccine Summit. December 8, 2020. https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-operation-warp-speed-vaccine-summit/

reason we believe it is so important is that the energy landscape is strewn with examples of past innovations stuck in the starting blocks due to permitting barriers that block deployment and scaling of cutting-edge solutions.

Innovations in logistics and supply chains that support implementation of the best solutions are similarly afflicted by a regulatory mindset dominated by the "precautionary principle" – a systematic biasing of policy tradeoffs that fixates on worst case outcomes while discounting the potential benefits of industry experimentation.

The stultifying combination of permitting barriers and regulatory morass explains why, for example, the United States has seen only a single new reactor licensed to completion in the near half-century since the establishment of the Nuclear Regulatory Commission. It's also why, after nearly a decade of agency reviews and litigation and with the project over 90 percent constructed, Congress thought it necessary to take the extraordinary step in the Fiscal Responsibility Act of providing a blanket authorization for a natural gas pipeline linking key supply and demand nodes in the interstate pipeline network. Predicting the future is hard, particularly for governments. But the emerging bipartisan consensus is that the status quo will only bring more of the same. That is an outcome we find unacceptable.

Accordingly, the administration and Congress must double-down on its recent efforts to clear the red tape bogging down energy innovators and implementors. AI and its power demands are very real. While some proposed "solutions" would seek to constrain demand, we believe that the administration and Congress put forward a solution that expands supply to get abundant and affordable energy to Americans and leading AI companies.

Senator Mike Lee has a proposal, the PIONEER Act, that recognizes the need for a broader approach to tackling these issues. The legislation creates a broader Office of Federal Regulatory Relief within the Office of Information and Regulatory Affairs.[36] In striking a balance that empowers innovation and respects the purpose and intent of regulations, to protect the health, safety and financial well-being of consumers, the PIONEER Act is an added arrow to the quiver of innovation policy the government can work with to maximize the promise and potential of AI and other emerging technologies.

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[36] U.S. Congress. Senate Bill 4919, Promoting Innovation and Offering the Needed Escape from Exhaustive Regulations Act (PIONEER Act). https://www.congress.gov/bill/118th-congress/senate-bill/4919/text

CONCLUSION

Artificial intelligence is an extraordinary technology, with the capability to have a transformational impact on so many aspects of society. We look forward to seeing how the administration's AI Action plan comes into shape and stand ready to work with both the administration and Congress to implement a plan that reflects a vision where AI can meet this moment.

Sincerely,

Faith Burns

Energy Policy Fellow

Americans for Prosperity

James Czerniawski

Senior Policy Analyst, Technology and Innovation

Americans for Prosperity