Federal and State Roles in AI Regulation
NGA: Governors Council to Secure American AI Dominance Working Group

Statement of Principles

Governors share a commitment to advancing artificial intelligence (AI) innovation and protecting the public, recognizing that the appropriate governance approach to frontier models continues to evolve. The National Governors Association (NGA) recommends the following principles for regulation and governance of AI at both the state and federal levels:

1. **Advance innovation AND protect the public.** AI policies should strengthen and ensure dominance of American technological leadership and economic opportunity and job creation while protecting public safety, civil rights, and individual privacy. The United States will not win the AI technological race if the public does not have faith in its safety or believe that it will benefit the people.
2. **Establish clear and complementary federal and state roles.** The federal government should address national and international AI risks, while states retain the authority to protect people and govern AI use within their responsibilities under the federal system.
3. **Match safeguards to credible evidence-based risks.** AI requirements should use clear, technically informed definitions and proportionate safeguards, with regular review as technological capabilities evolve.
4. **Promote consistency while preserving effective protections.** Federal and state approaches should reduce unnecessary duplication and conflicting requirements wherever possible aimed at protecting the public.
5. **Encourage competition and development.** Federal and state laws and regulations should encourage healthy competition and development and not favor larger companies or create unnecessary impediments to smaller companies entering the market.

NGA encourages the federal government to enact AI governance frameworks informed by the following principles as AI is developed:

1. **Enact a risk-based framework governing and overseeing the safe and responsible development of frontier models.** This framework should include standards for the most advanced, general-purpose AI models whose risks and reach are national in scale. These standards should be clear, consistently applicable, protective of the public and proportionate to risk. The models should be evaluated or audited by independent experts, and their developers should be required to report security breaches and significant safety incidents to federal authorities and affected states. Given the speed with which technology changes, the framework should provide a process for updating definitions and standards, maintain technical expertise, ensure meaningful accountability and act in the interest of public safety. The federal government should look at the laws, regulations and experiences of states to inform this work wherever possible as intended in the federal system.
2. **Protect national security and critical systems.** The federal government should establish national standards to address AI-related threats to critical infrastructure, including financial systems, chem-, bio-, and nuclear security, and cybersecurity. These standards should include clear incident classifications and consistent and defined procedures for timely information sharing and coordinated responses among federal and state authorities.
3. **Lead international cooperation on AI.** The federal government should lead U.S. engagement with other nations on AI standards, trade, security and global risks, while incorporating state perspectives where international commitments affect state responsibilities.

4. **Maintain American AI leadership in technology, research and economic development.** Federal policy should strengthen American leadership in AI research, development, and deployment, support economic competitiveness, and advance innovation alongside effective safeguards.
5. **Approach preemption carefully.** Any attempt to preempt state laws should be approached cautiously and include meaningful input from a representative cross-section of states. States are important partners in developing effective AI policy, and their experience, perspectives, and regulatory approaches should inform any consideration of federal preemption Governors will use the National Governor's Association permanent policy, "Principles of Federalism" to evaluate any federal attempt at preemption.

NGA encourages state and territorial governments to enact AI governance and regulation frameworks informed by the following principles as AI is developed and deployed:

1. **Maintain accountability for consumer-facing harms.** States should serve as a primary accountability mechanism for AI harms affecting people as AI is deployed. States should review and update existing laws as needed, preserve consumer and worker protection and anti-discrimination enforcement, address fraud and impersonation, and ensure appropriate transparency and access to legal remedies. These responsibilities should include coordination with the Federal Government, sector regulators and other states, while preserving appropriate roles for tort law and civil liability. States should set guidelines requiring regular monitoring of AI-designed algorithms so that their results align with their intended, documented purposes and any unintended consequences are identified and addressed.
2. **Protect children and promote digital safety.** States should protect people, especially children, from AI-related online harms, including those arising from addictive design, chatbots and companion applications, through safeguards appropriate to the risks and populations involved.
3. **Protect vulnerable populations**. States should address AI-enabled scams, fraud, exploitation, and abuse, with particular attention to older adults and people who may face heightened risks.
4. **Support workers**. States should address the challenges that workers may face on the job during the rapid acceleration of AI. Job creation must be a core priority as AI is rolled out across the economy, as should protecting workers from potential harms and developing the program infrastructure needed to support workers who face transition.
5. **Ensure accountability in consequential automated decisions.** States should establish appropriate safeguards for automated systems used in decisions affecting housing, employment, lending, insurance and access to essential services. Protections should include human oversight and address unlawful discrimination, meaningful transparency and appropriate opportunities to challenge adverse decisions.
6. **Guide AI use in the public sector and general workforce.** States should determine how AI is used within state and local public employment, including its implications for workforce development, employee protections and applicable collective bargaining obligations.
7. **Strengthen state cybersecurity.** States should protect public systems, sensitive data, and essential services from AI-enabled threats and vulnerabilities associated with AI deployment. State approaches should support prevention, incident reporting, response, and coordination with federal and local partners. States should recognize that AI will often be the strongest tool to counter novel cybersecurity threats and should make appropriate preparations to securely enable those tools for cyber defense while promoting resiliency against novel attacks.

8. **Use AI to improve government and people's lives.** States should pursue responsible AI applications that improve public services, increase efficiency, and streamline access to government assistance, with appropriate human oversight and evaluation of outcomes.
9. **Prepare students and the next generation for AI.** States should promote AI literacy and encourage teachers and students to understand, critically evaluate, and responsibly use AI, preparing them for a future in which this technology will shape education, work, and civic life.
10. **Leverage AI for advances in healthcare to benefit people.** States should support responsible AI innovation that improves health outcomes, expands access to care, and advances affordability, while protecting patient safety, privacy, and appropriate clinical oversight.
11. **Protect people's privacy and personal information.** States should safeguard people's privacy and information security amid increasing AI-related risks, protecting personal information from unauthorized access, misuse, and disclosure.
12. **Develop and foster a foundation of AI talent.** For states to thrive in the AI economy, they must have a foundation of people with AI expertise. States should collaborate on creating this foundation of AI advisors and experts to share information and best practices.
13. **Deploy AI to solve big problems for the public good.** American history is full of examples of solving complex problems and national challenges in bold ways. States should use the technological potential of AI to continue that tradition and be ambitious in deployment to benefit the public good. Since so many of the emerging capabilities of AI were never contemplated in current regulatory regimes, states should consider creating sandboxes and other public facing tools that allow for experimentation and innovation.
14. **Coordination among states.** When states act, they are encouraged to coordinate to attempt to avoid the creation of a fragmented regulatory landscape. States should draw on best practices from academia, industry, labor, and peer states, look for ways to recognize and harmonize with one another's frameworks, and coordinate on common standards for oversight.

Conclusion and Path Forward:

The benefits and potential risks of artificial intelligence are too consequential to ignore or leave unaddressed. Both the federal government and the states have a responsibility to promote innovation and protect the public from harm. The most complex and fundamental questions of federalism are implicated in AI governance. Absent federal measures, coordination among states becomes even more important to avoid a harmful fragmented national regulatory landscape.

Governors have an opportunity to use their convening power to advance a consistent approach that protects the public, supports innovation and preserves appropriate state authority. As laboratories of democracy, states can learn from each other, especially from the states that have already undertaken AI regulation.

To that end, this working group will continue its efforts, and NGA will engage governors' offices from all states and territories to examine common AI definitions, standards, best practices, and durable mechanisms for multistate cooperation, including shared technical capacity and mutual recognition and cooperation of state frameworks.

This effort will help states build a shared national approach, promote consistency across state frameworks, and inform the incoming Congress as it develops an AI framework consistent with the proposed federal principles. Governors will continue to lead in this essential area by bringing practical experience and substantive proposals to the task of shaping the nation's approach to AI.