Post-Election Insights: AI Policy in 2025 and Beyond

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Navigating Policy Shifts Under a Second Trump Administration

As we look ahead to a new political landscape, join us for a series of webinars that will offer insights into the key regulatory and policy changes expected under a second Trump presidency.

We'll explore how leadership transitions, executive actions, and congressional dynamics will shape the future of industries that include, among others, healthcare, financial services, energy, and trade.

Each session will feature analysis from Venable attorneys and senior policy advisors, providing actionable guidance on how businesses and organizations can navigate the evolving policy landscape. Join us for a comprehensive look at the changes coming to Washington in 2025 and beyond.

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Definition of Artificial Intelligence

- Artificial intelligence (AI) is using computers to:
  - Make decisions and predictions, answer questions, and solve problems using data.
  - Complete tasks that require creativity or higher-order cognitive skills when done by humans.

An AI system is a machine-based system that is capable of influencing the environment by producing an output (predictions, recommendations or decisions) for a given set of objectives.

- Organisation for Economic Co-operation and Development (OECD)

The term "artificial intelligence" means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments. Artificial intelligence systems use machine and human-based inputs to-

(A) perceive real and virtual environments;

(B) abstract such perceptions into models through analysis in an automated manner; and

(C) use model inference to formulate options for information or action.

- National Artificial Intelligence Initiative Act of 2020 (15 U.S.C. 9401(3))

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Key Players

David O. Sacks: Appointed as the White House AI and Crypto Czar, Sacks leads the administration's efforts in AI and cryptocurrency policy. A former PayPal executive and venture capitalist, he also chairs the President's Council of Advisors on Science and Technology (PCAST).

Sriram Krishnan: Serving as the Senior White House Policy Advisor on Artificial Intelligence, Krishnan brings experience from roles at Microsoft, Twitter, and Facebook. His appointment reflects the administration's focus on integrating industry expertise into policy development.

Lynne Parker: As the Executive Director of PCAST, Parker contributes her extensive background in AI policy and robotics. She previously directed the National Artificial Intelligence Initiative Office.

Michael Kratsios: Director of the White House Office of Science and Technology Policy, Kratsios emphasizes the importance of AI in maintaining U.S. technological leadership, particularly in competition with nations like China. Previously at ScaleAI and the Office of the U.S. Chief Technology Officer.

Vice President J.D. Vance: Briefly a venture capitalist, Vice President Vance is the face of the administration's technology agenda, including AI policy. His emphasis is on fostering innovation, supporting American industry, and strengthening ties between the tech industry and federal policy.

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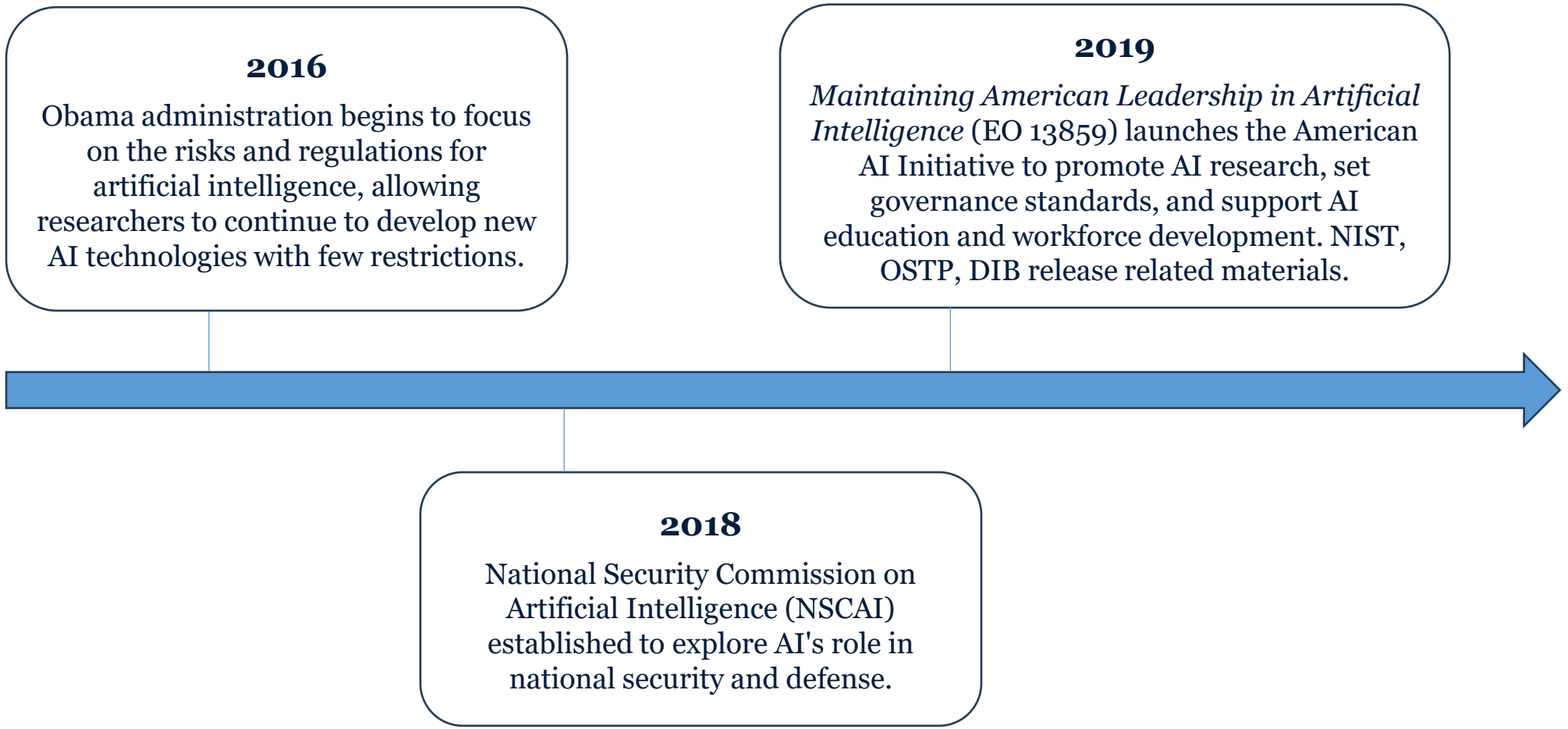
Policy Landscape: 2016 – 2019



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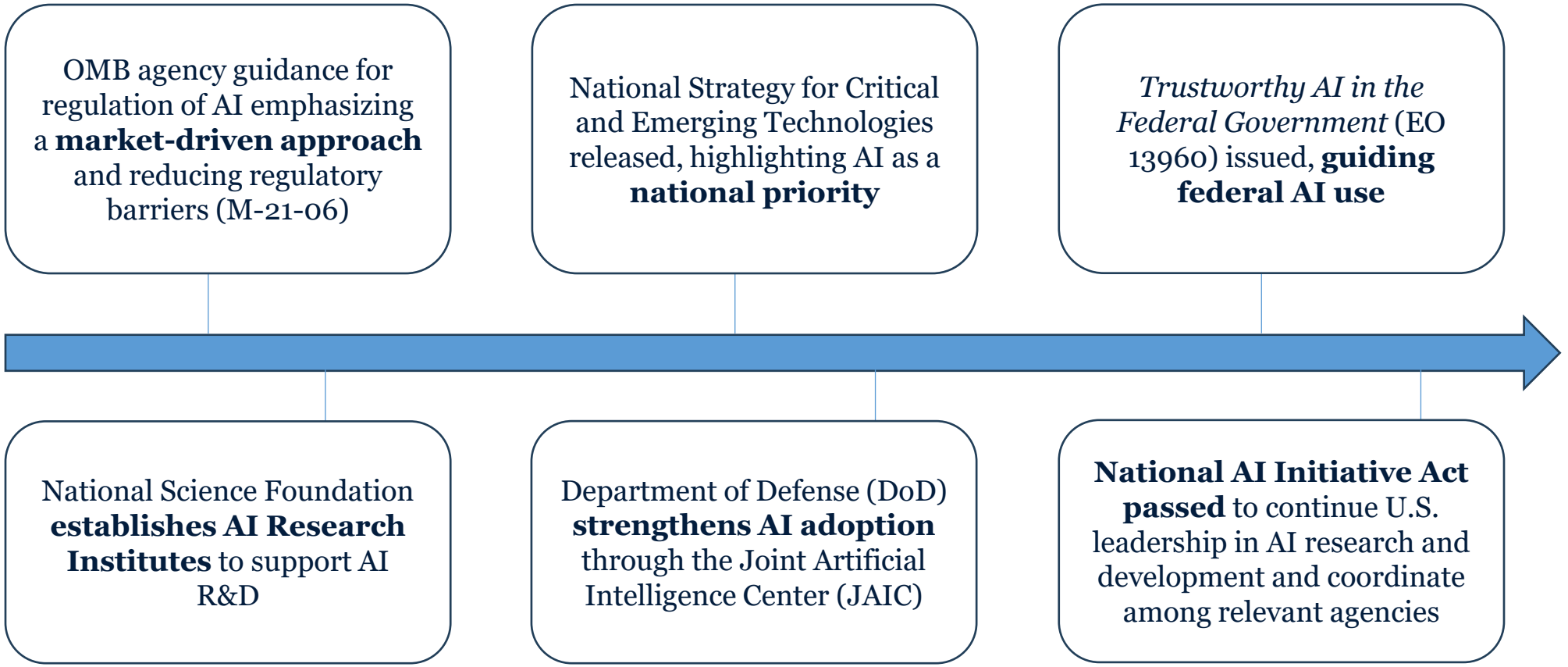
Policy Landscape: 2020



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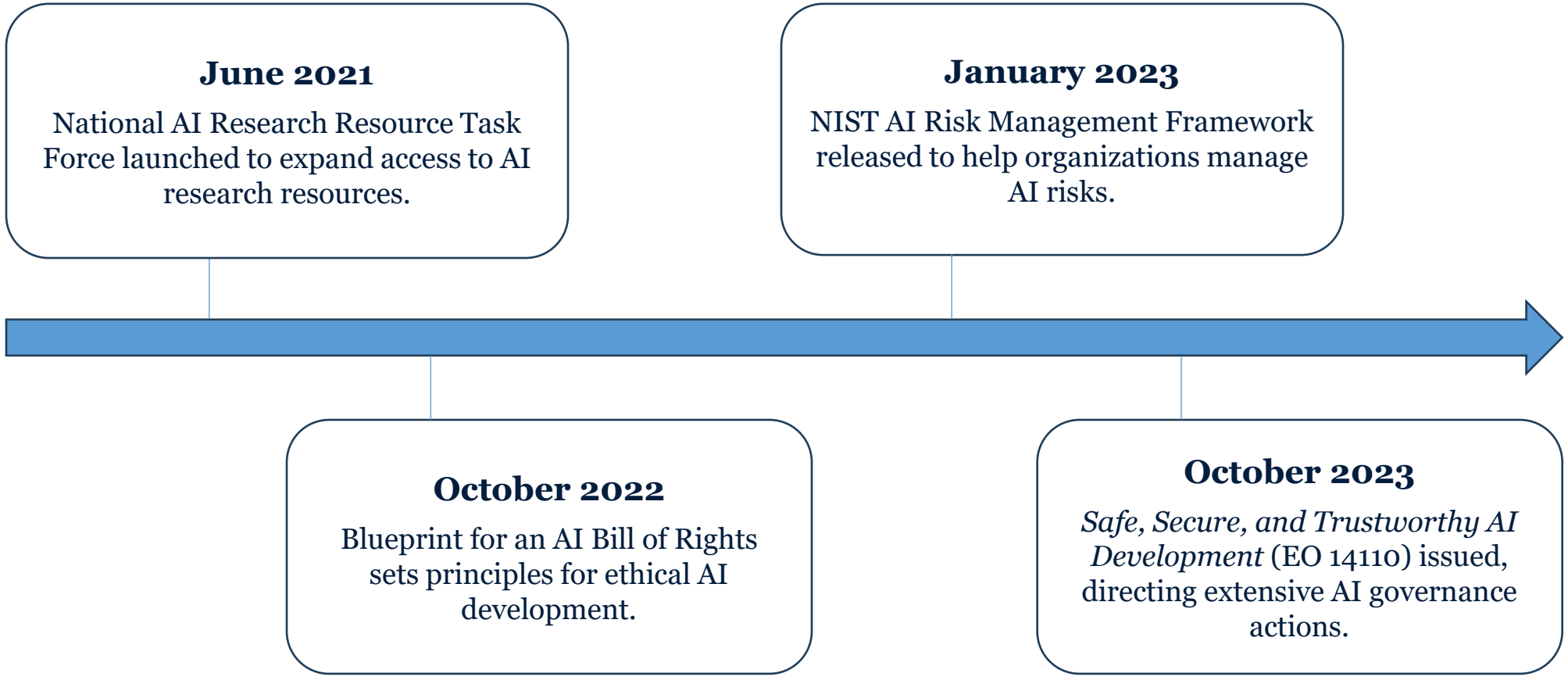
Policy Landscape: 2021 – 2023



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Policy Landscape: 2024

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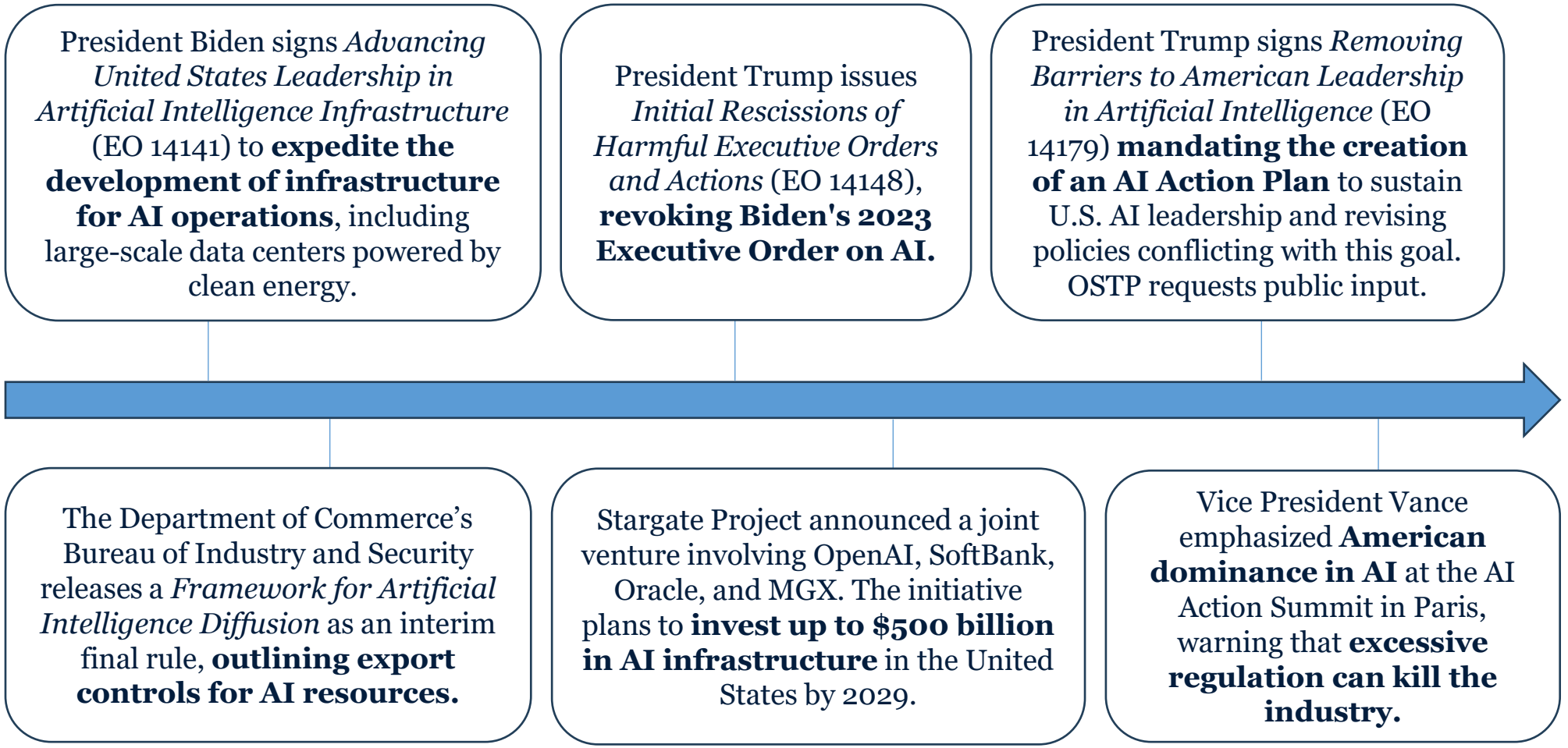
Policy Landscape: 2025



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Shift in Priorities

The Biden administration emphasized ethical considerations, safety, and regulatory measures in AI development. The Trump administration has shifted focus toward deregulation, fostering innovation through private sector partnerships, and reinforcing national security by controlling AI technology exports.

Biden Administration	Trump Administration
Emphasis on safety and ethics, social impact	Private sector collaboration and leadership
National security focus on democratic values	National security focus on export controls for all but close allies
Decentralized implementation of rules and guardrails	Deregulatory focus and promotion of innovation

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Key Congressional AI Policy Areas

Responsible AI Development: Ensuring ethical use and privacy protection.

Workforce and Economic Impact: Preparing for AI-driven changes in the job market.

National Security and Defense: Addressing AI's implications for security.

Innovation and Global Leadership: Supporting U.S. competitiveness in AI.

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Key Takeaways from the Bipartisan AI Task Force Report (Dec 2024)

Balancing Innovation with Sector-Specific Guardrails

- Light-touch, agency-led regulation
- Supports U.S. AI leadership

National Security and Global Competitiveness

- Prioritizes defense, R&D investment
- Counters China's AI advancements

Privacy and Civil Rights: A Patchwork Approach

- Targeted protections, no broad federal law
- Focus on transparency and oversight

Source: Bipartisan House Task Force on AI Report, December 17, 2024.

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AI Legislation in the 119th Congress by Sector

Social Media and Privacy

- *TAKE IT DOWN Act*: Criminalizes non-consensual AI-generated deepfakes.

Healthcare

- *Maintaining Innovation and Safe Technologies Act*: Integrates AI into Medicare coverage.

Economic Regulation

- *Preventing Algorithmic Collusion Act*: Addresses AI-driven antitrust issues.

Government Operations

- *Modernizing Retrospective Regulatory Review Act*: Uses AI for regulatory efficiency.

Comprehensive AI Policy

- *House AI Task Force Initiatives*: Expected bills on innovation, security, and ethics.

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AI and IP Policy in 2025

- On January 20, the Trump administration issued an EO revoking many of the outgoing Biden administration's EOs, including EO 14110 of October 30, 2023. On January 23, 2025, another EO was issued, "Removing Barriers to American Leadership in Artificial Intelligence" (Trump AI EO), stating: "It is the policy of the United States to sustain and enhance America's global AI dominance in order to promote human flourishing, economic competitiveness, and national security."
- The Trump AI EO provides that within 180 days, members of his administration must submit an action plan to achieve the stated policy; and calls for an immediate review of all policies, directives, regulations, orders, and other actions taken under" EO 14110 to consider whether to "suspend, revise, or rescind such actions" if inconsistent with the stated policy.
- Under the Trump AI EO, the USPTO's prior actions will be reviewed by: the Director of Office of Science and Technology Policy (Michael Kratsios); the Special Advisor for AI and Crypto (David Sacks); and the National Security Advisor (Michael Waltz). This group is likely to consult with the USPTO Director (expected to be John Squires, note that Coke Stewart is the current acting director).

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Insight on USPTO Guidance and Action

- The USPTO's guidance and actions related to AI over the past year are still in question. Although the first Trump administration issued an EO on AI in 2019, the EO did not provide any express directives for the USPTO or on IP policy. It is possible that the USPTO's guidance on inventorship and § 101 will remain intact or not be substantially revised.
  - USPTO guidance generally follows caselaw set by appellate courts, such as the Thaler Federal Circuit decision on inventorship or the Alice Supreme Court decision on patent-eligibility.
  - The USPTO's § 101 guidance simply applied to the context of AI its existing three-part analysis, which the USPTO established in 2014 and went unchanged through the first Trump administration.
  - The Trump AI EO's stated goal is to promote development of AI technologies while avoiding "ideological bias or engineered social agendas." Neither the USPTO's inventorship nor § 101 guidance appear directly at odds with that stated goal.
  - While the USPTO's recent actions were pursuant to EO 14110, they were also partially the byproduct of USPTO AI initiatives started before that EO and were authorized by Congress under 35 U.S.C. § 2(b).

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Insight on Remaining IP Actions Under the Prior Administration's EO 14110

- The USPTO will likely continue publishing guidance on prior art, the person of ordinary skill standard, and patentability.
- The USPTO will likely issuing recommendations on copyright law in consultation with the US Copyright Office.
- The USPTO will likely suspend or perhaps delay carrying out its January 2025 AI Strategy, announced on January 14, pending further guidance from the new administration or future USPTO Director.
- The Copyright Office, which is part of the Library of Congress and not under the executive branch, may continue with its AI studies (as they are not conducted under EO 14110).

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The Growing Energy Demand of AI

- AI-related electricity consumption in the U.S. is projected to double by 2030, straining the power grid (CSIS).
- To meet the global demand for power, leading data center players are deploying $1.8 trillion in capital from 2024 to 2030 (BCG).
- Data centers' electricity use could rise from 4% to 9% of U.S. total consumption by 2030 (EPRI).
- Goldman Sachs projects a 160% increase in data center power demand by 2030.
- Training AI models is energy-intensive—GPT-4 training consumed 50 times more electricity than GPT-3.
- PJM Interconnection LLC grid forecasts record demand growth from data centers primarily driven by AI, expecting summer peak demand to rise to 220,000 MW by 2040, compared to 165,563 MW today.
- **Energy Constraints as a Bottleneck:** AI developers struggle to secure reliable energy sources, influencing where and when new data centers are built.

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AI as a Solution for Energy Efficiency

- AI optimizes energy use in **U.S. buildings, manufacturing, and agriculture**, achieving up to **50%** energy savings.
- **Predictive maintenance** reduces industrial failures and energy waste.
- AI-powered **smart grids** improve energy distribution and reduce emissions.
- Despite efficiency gains, AI's rising adoption, growing model complexity, and massive data processing keep **energy demand high**.

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Trump Administration and Congressional Actions on AI Energy Policy

- **National Energy Emergency (January 2025):** Prioritizing fossil fuel production to meet AI's energy needs.
- **$500 Billion AI Infrastructure Investment:** Expanding power capacity through public-private partnerships.
- **Fast-Tracking Data Center Power Plants:** Executive orders accelerating energy project approvals.
- **Congressional Support:** Focus on deregulation to speed up power generation expansion.
    - During a recent House Energy & Commerce Committee hearing on energy demand, witnesses emphasized AI companies' **urgent need for "dispatchable" power** (reliable sources like gas, nuclear), driving bipartisan policy support to expedite permitting of traditional and renewable generation.

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Grid Oversight and State Regulatory Actions

- **FERC Oversight**
  - Ordered PJM to clarify AI data center co-location rules.
  - Reviewing interconnection agreements to prevent grid strain.

- **State PUC Actions**
  - Texas PUC and ERCOT expanding grid infrastructure for AI, which have rapidly interconnected data centers by **simplifying permitting**, reducing time from 5-6 years to approximately 2-3 years.
  - Virginia, California, and others adjusting policies to balance AI growth and reliability.

- **Industry Response**
  - AI developers prefer locations with quick power access and streamlined permitting.
  - Some co-locate data centers with power plants to bypass grid congestion.
  - Short-term reliance on **gas and renewables**, while **SMRs gain interest** but face regulatory delays.
  - Grid expansion for AI-driven electricity loads can be heavily impacted by regional regulations; there are advantages to state-level frameworks that **simplify infrastructure deployment.**

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How Has This Impacted States' Thinking?

In the absence of federal legislation on AI, many states have stepped in with their own legislation, some of which extends beyond a state's boundaries and could have a significant impact on users, developers, and deployers of AI systems nationally and internationally.

State action has focused on four areas:

- **Transparency and Accountability**: Ensuring that AI systems operate transparently and that entities deploying AI are accountable for their outcomes.
- **Bias and Discrimination**: Mitigating biases in AI algorithms to prevent discriminatory outcomes, especially in sectors like employment and criminal justice.
- **Privacy and Data Protection**: Safeguarding personal data used by AI systems to protect individual privacy rights.
- **Deepfakes and Misinformation**: Combating the creation and dissemination of AI-generated deceptive content, particularly in political contexts.

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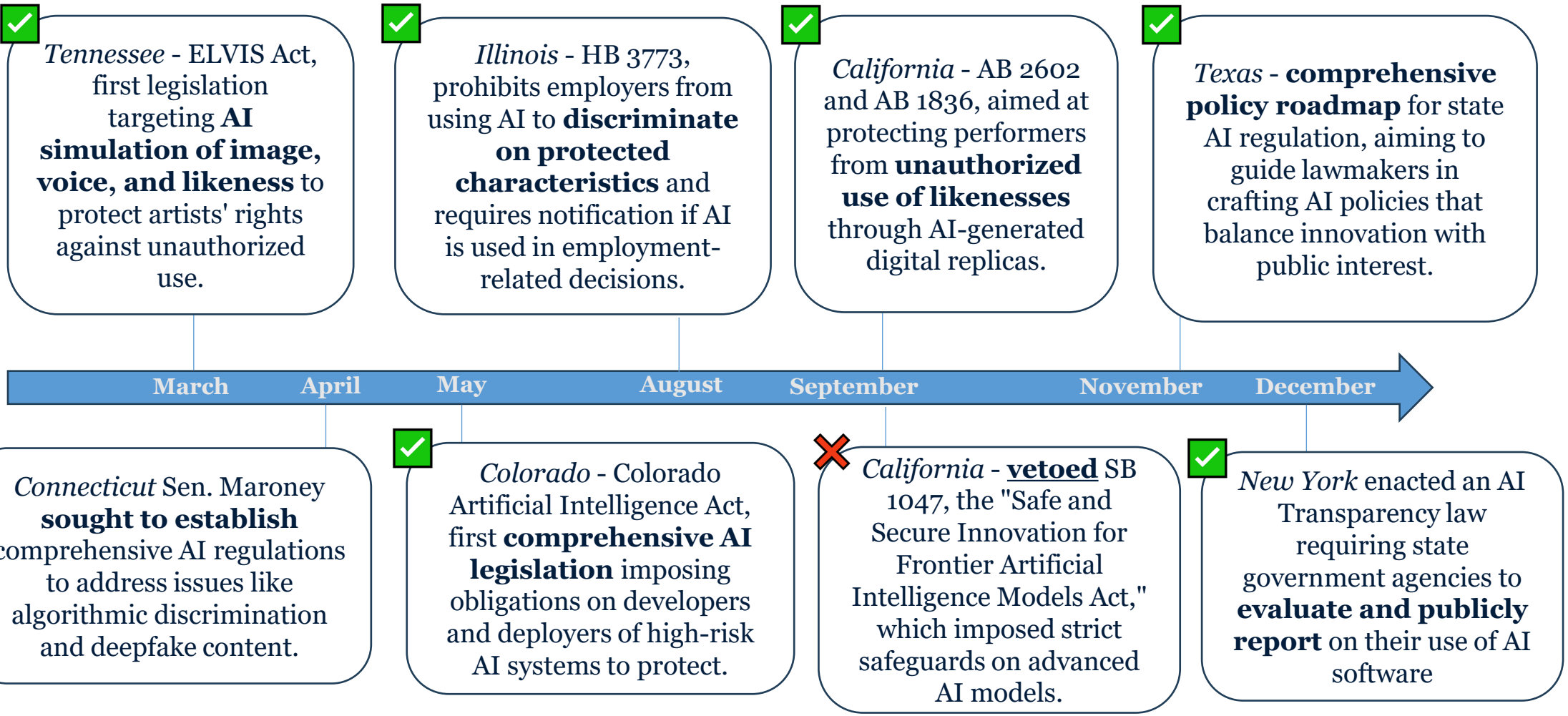
Policy Landscape: 2024



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Looking Forward – Push and Pull

California

AI Safety Legislation Vetoed and Reintroduced: "Safe and Secure Innovation for Frontier Artificial Intelligence Models Act" (SB 1047) aimed to implement stringent safety measures for advanced AI models, including mandatory safety tests and the establishment of a "kill switch" for high-risk AI systems. Revised legislation focuses on whistleblower protections and expanding public computing resources for AI research.

Connecticut

Debate Over Comprehensive AI Regulations: Connecticut lawmakers, led by State Senator James Maroney, have been advocating for comprehensive AI regulations to tackle issues such as algorithmic discrimination and deepfake content. However, Governor Ned Lamont has expressed reservations, arguing that premature regulation could deter innovation and economic growth.

Virginia

High-Risk AI Developer and Deployer Act (HB 2094): In February 2025, Virginia's legislature passed HB 2094, aiming to regulate developers and deployers of high-risk AI systems to prevent algorithmic discrimination. While the bill awaits Governor Glenn Youngkin's signature, it has sparked debate among various stakeholders. Critics argue that the bill could allow companies to bypass compliance or that the legislation could hinder AI innovation.

Texas

Texas Responsible AI Governance Act (TRAIGA): In December 2024, Texas introduced the draft Texas Responsible AI Governance Act, a comprehensive framework designed to regulate the development and deployment of AI systems within the state. Supporters believe it positions Texas as a leader in ethical AI governance; however, critics argue that the bill's stringent requirements could impose significant compliance costs on AI developers and deployers, potentially stifling innovation and deterring businesses from operating in Texas.

Join Our Next Transition Outlook Webinar

March 19, 2025: Trump 2.0 - A Brave New World for Government Contractors | 2:00 - 3:00 p.m. ET

Join us next Wednesday, March 19, for a timely discussion on government contracts policy in 2025. In the weeks since the second Trump administration began implementing its agenda, government contractors have navigated new regulatory terrain. This webinar will explore the implications of recent executive orders and policy changes for government contractors, and discuss best practices for responding to stop work orders, terminations for convenience, and new provisions and clauses appearing in federal solicitations and contract modifications. Speakers will address emerging trends and what businesses should watch for on the horizon to stay ahead in a fast-changing environment.

Upcoming Webinars:

- March 26, 2025: Trade and Tariffs Under Trump 2.0: What's Next for U.S. Trade Policy | 2:00 - 3:00 p.m. ET
- Stay tuned for our April webinars

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