

TEN FOR TECH

A POLICY TOOLKIT FOR
STATES TO EMBRACE
INNOVATION IN 2024

WHY TEN FOR TECH?

Technology has fundamentally reshaped how Americans live their daily lives, with advancements over the last year surpassing what even the most optimistic technologists thought possible. Today, Americans can receive groceries via drones, communicate with friends and family anywhere in the world, and use artificial intelligence to complete mundane tasks. These are just a few of the infinite possibilities modern technological advancement offers. However, Americans will only be able to experience these benefits if state lawmakers create legislative and regulatory environments that incentivize innovators to innovate and entrepreneurs to build the next generation of goods and services.

While lawmakers must be conscious of any potential harm from using technology, they must do so proportionately and strategically and embrace the principles of free markets and limited government. Rejecting these principles and expanding government control through excessive regulation will inevitably deny Americans the multifaceted benefits technology can offer, leaving them poorer and state economies weaker. However, lawmakers can avoid these consequences if they adopt common sense rules that protect citizens and do not burden innovators.

The following toolkit includes 10 action-oriented policies that state lawmakers can implement to cultivate innovation to advance free markets, protect citizens and consumers, drive their economies, and produce prosperity.

1 ESTABLISH A GENERAL-PURPOSE REGULATORY SANDBOX

Over the last decade, state governments have turned to the concept of regulatory sandboxes to spur innovation and entrepreneurship. In a sandbox, innovators apply for waivers from state regulators under specific conditions for a set period. While in the sandbox, companies must commit to transparency and regularly report to regulatory authorities. Once the sandbox period ends, lawmakers and regulators know which rules are unnecessary or burden innovators. As such, sandboxes increase the speed at which products are brought to market and allow state governments to finetune regulations. Despite the promise of sandboxes, only three states – Utah, Arizona, and Kentucky – have enacted a general-purpose sandbox. Eleven others have created industry-specific sandboxes that cover specific industries like financial services or insurance. To attract innovators and unleash the power of entrepreneurs, state lawmakers should pass legislation to create a universal sandbox in their state.

MODEL LEGISLATION

► **Libertas Institute Model Legislation Universal Regulatory Sandbox**

<https://libertas.org/model-legislation/sandbox-all-inclusive.pdf>

2 COMBAT GOVERNMENT CENSORSHIP ONLINE

The right to free speech, as outlined by the First Amendment, is a cornerstone of America’s republican experiment. It is the first amendment listed in the Bill of Rights for a reason. Despite the importance of free speech, the federal government has unconstitutionally engaged in speech regulation by pressuring social media platforms to remove what unelected bureaucrats deem “misinformation,” even when that speech later turns out to be correct. This practice, colloquially known as jawboning, denies Americans the right to speak openly online and participate in the marketplace of ideas. At its most egregious, jawboning puts government bureaucrats in control of speech. While the issue’s core is federal, state policymakers can play a role in fighting back.

In order to protect the First Amendment rights of every American and combat government control of speech, state legislatures can enact laws prohibiting the practice at the state level to ensure their employees respect constitutionally enshrined rights and pass resolutions condemning the practice by individuals working for the federal government.

MODEL LEGISLATION

- ▶ **ALEC Resolution in Support of Congressional Law to Combat Government Pressuring of Social Media Companies to Remove Speech**
<https://alec.org/model-policy/resolution-in-support-of-congressional-law-to-combat-government-pressuring-of-social-media-platforms-to-remove-speech/>
- ▶ **ALEC Resolution Investigating Biden White House Pressuring of Social Media Platforms to Remove COVID Information**
<https://alec.org/model-policy/resolution-investigating-biden-white-house-pressuring-of-social-media-platforms-to-remove-covid-information/>

3 PREEMPT MUNICIPALITIES FROM REGULATING AI AND CREATE AI TASK FORCES

Technologists have heralded AI as the next significant step in innovation, capable of performing tasks only recently possible in sci-fi movies and human imagination. The rapid development of AI over the past 12 months has led to unfounded concerns that the technology could entrench bias, displace workers, or even end the human race. As concern grows about how the technology develops, municipal governments are seeking regulatory authority. New York City, for example, passed an ordinance mandating employers who use AI to screen applicants to conduct regular bias assessments.

Such an approach creates a patchwork of state regulations, leading to uneven rules and confusion for businesses and private citizens. State governments can prevent the emergence of this internal patchwork by passing legislation prohibiting municipal governments from regulating the development and use of AI. Such a measure will ensure that residents of a state enjoy universal protections wherever they are and that businesses have uniform rules.

Additionally, lawmakers can establish AI task forces that will be responsible for studying the risks and benefits of the technology. Ultimately, they should also be responsible for recommending a regulatory framework that appropriately balances risk and benefits. The task force should be comprised of a range of stakeholders, such as technologists, lawmakers, policy experts, law enforcement, and executive officials.

MODEL LEGISLATION

► Texas House Bill 2060

<https://capitol.texas.gov/tlodocs/88R/billtext/html/HB02060I.htm>

RESOURCES

► Resources: Adam Thierer, Flexible, Pro-Innovation Governance Strategies for Artificial Intelligence,” R-Street Institute, Available Online

<https://www.rstreet.org/research/flexible-pro-innovation-governance-strategies-for-artificial-intelligence/>

4 ESTABLISH PRO-DRONE POLICIES

The potential impact of drone technology cannot be understated. Drones can help emergency services respond faster to a crisis without putting first responders in danger, and they can allow retailers to offer same-day delivery to consumers. Despite the benefits, outdated and burdensome regulations (often at the local level) limit drone technology's potential and keep them out of the skies. The longer these rules remain in place, the harder it will be for citizens to reap the full benefits.

Thankfully, lawmakers have a range of options that can support drone technology. Initially, lawmakers could prohibit municipalities from discriminating against drone delivery ports, thus allowing retailers to roll out drone delivery services. In addition, lawmakers can enact laws allowing the state to lease airspace above public roads and public rights of way to drone operators. Lastly, state lawmakers can vest airspace rights to property owners, giving them legal recourse against operators who fly drones over private property.

MODEL POLICIES

▶ **Florida House Bill 1068**

<https://www.flsenate.gov/Session/Bill/2023/1068>

RESOURCES

▶ **Brent Skorup: "Is Your State Ready For Drone Commerce? The 2023 State-By-State Scorecard"**

Mercatus Center, Available Online: <https://www.mercatus.org/research/research-papers/your-state-ready-drone-commerce-2022-state-state-scorecard>

5 SPEND BEAD MONEY EFFECTIVELY

In 2021, Congress passed the bipartisan Infrastructure Investment and Jobs Act (IIJA), which created the Broadband Equity and Deployment (BEAD) program. Under the BEAD program, Congress appropriated \$42.5 billion to states and qualified entities to deploy broadband to underserved and unserved communities. With this substantial funding comes a responsibility to spend it efficiently and effectively to connect those most in need, not to connect already served communities or crowd out private investment. Lawmakers should enact guardrails against profligate expenditures to avoid wasteful and inefficient spending. Such guardrails include tech-neutral deployment, prohibiting the creation of government-owned networks with taxpayer money, and only spending BEAD money in unserved communities. Failing to enact these guardrails will waste taxpayer money and further entrench the digital divide.

RESOURCES

- ▶ **Digital Liberty, “Best Practices for Broadband Expansion: A Guide for State Implementation of the Bead Program”**
Available Online: https://www.digitalliberty.net/wp-content/uploads/2023/04/ATR_BEAD-Handbook_v5.pdf
- ▶ **Bartlett Cleland, “Bridging the Final Gaps: Policy Paths for Broadband Deployment in Florida,” James Madison Institute**
Available Online: <https://jamesmadison.org/bridging-the-final-gaps/>

6 ESTABLISH A SOCIAL MEDIA EDUCATION POLICY

Recent surveys show that teenagers across the United States continue to use social media platforms like TikTok, Instagram, Facebook, and X (formerly Twitter) at record levels. While social media platforms offer teenagers the ability to connect with friends and family, find jobs, and keep up to date with the latest trends, it also places them at risk from predators, scam artists, and cyberbullies. While state governments cannot eliminate the dangers of social media use, they can mandate teenagers take social media education classes as part of the regular school curriculum. These classes will equip students with the tools needed to stay safe online while ensuring they can continue enjoying the benefits of social media use.

MODEL LEGISLATION

▶ **Florida HB 379**

<https://laws.flrules.org/2023/36>

▶ **ALEC: Teen Online Social Media and Online Safety Act**

<https://alec.org/model-policy/teen-social-media-and-internet-safety-act/>

RESOURCES

▶ **Edward Longe, “Keeping Teens Safe On Social Media:**

A Guide for Free-Market Lawmakers” James Madison Institute

Available Online: <https://jamesmadison.org/keeping-teens-safe-on-social-media-a-guide-for-free-market-lawmakers/>

7 ENSHRINE CONTRACTOR STATUS AND ALLOW PORTABLE BENEFITS

In 2020, California passed Assembly Bill 5, which curtailed employers' ability to hire independent contractors in the gig economy. Since then, countless workers have been cut off from this source of income, and small businesses are denied access to the flexible labor they need to succeed. Additionally, the Biden Administration mounted a full-frontal assault on gig workers and countless companies that utilize freelancers. In October 2022, the U.S. Department of Labor proposed a rule to make it harder for American workers to operate as independent contractors, reclassifying them as full-time employees. While the independent contractor rule is yet to go into effect, the Department of Labor has signaled its intent to continue rulemaking once a confirmed secretary is in place.

Independent contractors overwhelmingly prefer the flexibility and freedom of choosing when and where they work. Lawmakers must support independent contractors by allowing them to participate in the gig economy and earn additional income. Lawmakers could achieve this by enshrining contractor status into law and allowing portable benefits that would allow gig workers to enjoy some benefits and security that are only available to full-time workers.

MODEL LEGISLATION

► Utah Senate Bill 233

<https://le.utah.gov/~2023/bills/sbillint/SB0233.htm>

► Utah Workers Compensation Act

<https://le.utah.gov/xcode/Title34a/Chapter2/34a-2.html>

8 PASS BALANCED DATA PRIVACY LEGISLATION AND A RESOLUTION FOR A FEDERAL STANDARD

As we increasingly live online, concerns have mounted over how private companies, data brokers, and government entities store and use consumer data. A total of 13 states have enacted data privacy laws, creating a patchwork across the country, creating confusion for consumers, and raising the cost of doing business for companies seeking to operate in multiple states. With a federal data privacy bill looking increasingly unlikely, state lawmakers can establish market-friendly protections as a basic framework. Any legislation level should protect consumers and grant them greater control while not stifling innovation or market competition. Ensuring that enforcement does not unleash frivolous litigation via private rights of action, providing reasonable compliance time, and not unduly burdening businesses with unnecessary costs for complying are critical components. State legislatures can also pass a resolution demanding that Congress finally pass a federal law that provides uniform protections across the country.

MODEL LEGISLATION

▶ ALEC Resolution for Federal Data Privacy bill

<https://alec.org/model-policy/resolution-for-state-level-consumer-data-privacy-principles/>

▶ Texas House Bill 4

<https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00004F.pdf#navpanes=0>

9 AGE VERIFICATION FOR HARMFUL CONTENT

Whenever teenagers log online, there is a risk that they will stumble on harmful content. To keep teenagers, whose brains are still developing, away from harmful content, lawmakers can mandate that websites that host such content (i.e. pornography) verify the age of users, much like grocery stores ID individuals seeking to purchase alcohol. In 2023, Louisiana, Mississippi, Arkansas, Virginia, Montana, Utah, and Texas passed laws requiring that sites that host pornography age-verify users. Such rules are not without risk, and lawmakers must mandate that copies of government IDs are not stored, data collection is minimized and age verification providers maintain strict cybersecurity protocols to ensure people's sensitive data does not end up in the hands of cybercriminals. Age verification mandates also have the benefit of not infringing upon adults' right to access, or the rights of entertainers to produce legal content.

MODEL LEGISLATION

► **Virginia Senate Bill 1515**

<https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+SB1515>

10 SAFE HARBOR FOR CYBERVICTIMS

The world is more connected than ever before because of technology. However, as we increase the amount of information we share online, criminals are constantly looking for new ways to steal and use that data for illegal purposes and financial gain. In 2021, the Federal Bureau of Investigation estimated that 2,300 cybersecurity incidents occurred daily. State and municipal governments have been targeted at an alarming rate by foreign and domestic adversaries that are increasingly sophisticated and hard to detect. To meet the cybersecurity needs of today's world, lawmakers must prioritize efforts to create a robust cybersecurity infrastructure. These provisions include, at a minimum, mandating cybersecurity training for state and municipal employees, establishing precise reporting requirements, implementing a safe harbor for entities that fall victim to cybersecurity but have taken the necessary precautions and acted in good faith, and investing in cybersecurity workforce development programs.

MODEL LEGISLATION

► Utah's Cybersecurity Affirmative Defense Act

<https://le.utah.gov/~2021/bills/static/HB0080.html>