ML STRATEGIES

Senate Parliamentarian Approves Ted Cruz's Rewritten 10-Year State AI Law Moratorium, and Senate Introduces Bipartisan Preventing Deep Fake Scams Act — AI: The Washington Report

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VIEWPOINT TOPICS

- Artificial Intelligence
- AI: The Washington Report

- The Senate Parliamentarian approved Senator Ted Cruz's (R-TX) rewritten version of the House-passed 10-year state AI law moratorium, after concerns that the original moratorium would not comply with the Senate's Byrd Rule. The revised moratorium will prevent states from receiving federal broadband funding if they enforce state AI regulations. Opposition to the Cruz provision still exists, and although surmounting the Byrd Rule hurdle is a big step, the provision's ultimate fate remains uncertain.
- On June 8, Senators Jon Husted (R-OH) and Raphael Warnock (D-GA) introduced the Preventing Deep Fake Scams Act, which would create a taskforce to study and report on AI-fueled fraud in financial markets. The taskforce, composed of members of various financial regulatory agencies, would be directed to release its report within a year of the law's effective date. The House version of the bill was introduced in February by Representatives Brittany Pettersen (D-CO) and Mike Flood (R-NE).
- The reconciliation package in Congress also includes provisions to eliminate energy tax credits from the Inflation Reduction Act (IRA), and potentially derail hundreds of clean energy projects. Efforts to slash the energy tax credits have created distance between congressional Republicans and President Trump, whose AI agenda depends on meeting the energy demands needed to power new AI data centers and infrastructure.

Senate Parliamentarian Approves Ted Cruz's Rewritten 10-Year State AI Law Moratorium

On June 5, Senate Republicans, led by Chair Ted Cruz (R-TX) on the Senate Commerce Committee, introduced **a revised version** of the House-passed 10-year moratorium on state-level AI regulation in the budget reconciliation package. The revised moratorium, which would prevent states from receiving federal broadband funding if they enforce state AI regulations, came after several senators expressed concern that the House-passed moratorium would not comply with the Senate's Byrd Rule, which requires that reconciliation measures be budget-related to take advantage of its exemption from filibustering. On June 22, the Senate Parliamentarian "ruled" that the Cruz version met the Byrd Rule criteria so that it could be included in the reconciliation package, which Senate Republican leadership still hopes to bring to the floor for a vote over the next few days.

Despite the Senate Parliamentarian's action, the fate of the Cruz provision remains uncertain. Several Republican senators remain opposed to a moratorium and/or putting broadband funds at risk. Senators Marsha Blackburn (R-TN) and Josh Hawley (R-MO) have come out against the moratorium, with Senator Hawley stating that he will introduce an amendment to remove the moratorium once the package advances to the full Senate.

AI companies are split about putting BEAD funds in jeopardy to obtain preemption of state regulation. As one AI company that favors the Cruz approach put it, it is necessary to "encourage nonenforcement of poorly designed and heavy-handed state laws," and the moratorium will make states more cautious when "imposing costly AI mandates when they stand to lose federal grants for doing so."

Senators Introduce Bipartisan Preventing Deep Fake Scams Act

On June 18, Senators Jon Husted (R-OH) and Raphael Warnock (D-GA) introduced the **Preventing Deep Fake Scams Act** to establish consumer protection and mitigate AI-powered fraud. This act would establish a taskforce led by the head of the Department of the Treasury and financial regulators to safeguard institutions from fraud as well as data and identity theft. Supporting members include the Federal Reserve, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau. The House version of this **bill** was introduced by Representatives Brittany Pettersen (D-CO) and Mike Flood (R-NE) in February.

Combatting AI-generated deep fakes has emerged as a bipartisan priority in Congress. As **we covered**, in April Congress passed — and President Trump signed into law — the first prospective AI legislation in the US. The TAKE IT DOWN Act criminalizes the publication of nonconsensual intimate imagery (NCII), including AI-generated deep fakes.

Reconciliation Package's Energy Provisions Could Negatively Affect Energy Projects that Are Part of the President's AI Agenda

The reconciliation package also includes provisions to eliminate energy tax credits from the Inflation Reduction Act (IRA), and potentially derail hundreds of clean energy projects. Efforts to slash the energy tax credits show a divergence between some congressional Republicans and President Trump, whose AI agenda depends on meeting the energy demands needed to power new AI data centers and infrastructure.

President Trump has emphasized his goal of promoting nuclear, oil, gas, and electricity infrastructure to power and support the growth of AI data centers. As **we covered**, in May the president signed a Nuclear Energy Executive Order, authorizing the use of nuclear reactors to power AI infrastructures at Department of Energy sites. By striking clean energy tax credits, some congressional Republicans risk derailing or delaying hundreds of energy projects that AI data centers are depending on, include those planned by several big tech companies. Additionally, this bill could increase energy costs, slow down power grid updates, and create power shortages that may interfere with Trump's goals for AI development.

Some energy companies have also expressed concerns about the potential end of the energy tax credits. In a **letter** to Senator Majority Leader John Thune, an AI coalition wrote that "certainty and predictability in the tax code [are] critical to ensuring the U.S. is able to secure enough energy and transmission capacity to win the artificial intelligence (AI) race with China." The group called on Congress to extend the construction window and sunset dates of certain clean energy tax credits.

The cuts to the energy tax credits have broad support among Republicans, but some Republicans in the Senate have expressed opposition to gutting the tax credits completely. In the House, Representatives Chip Roy (R-TX), Thomas Massie (R-KY), and Josh Brecheen (R-OK) have all supported the proposed energy cuts. They believe that renewables must stand alone without subsidies and that government spending should be redirected away from "unfair" clean energy initiatives. However, in a letter led by Representative Jen Kiggans (R-VA), some House Republicans warn that the abrupt phase-out of the tax credits could delay energy investments. Senators Lisa Murkowski (R-AK), Susan Collins (R-ME), and Jerry Moran, (R-KS), among others, raised concerns about the economic harm of striking credits that benefit red states accelerating in clean energy manufacturing.

We will continue to monitor, analyze, and issue reports on these developments. Please feel free to contact us if you have questions about current practices or how to proceed.

Authors

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