



# AI POLICY ALERT: WHAT THE NEW EXECUTIVE ORDER MEANS FOR YOUR 2026 ROI



**Prepared For:**  
**Strategic Leaders and Decision Makers**

**Prepared By:**  
**FlyingFish-AI, LLC**

© 2026, FlyingFish-AI, LLC

# Executive Summary



As we enter 2026, the American regulatory landscape for Artificial Intelligence has experienced a fundamental shift. The year was marked by two key directives: the January 23, 2025, Executive Order ("Removing Barriers to American Leadership in AI"), which eliminated the restrictive reporting requirements of the previous administration, and the December 11, 2025, Executive Order ("Ensuring a National Policy Framework for Artificial Intelligence"), which represents the boldest federal preemption of state-level digital policy in history.

This white paper reflects a year of unprecedented regulatory changes. It synthesizes the shift from the risk-averse frameworks of 2023–2024 to the Dominance-First approach of 2025, offering an analytical guide for 2026 fiscal planning. It examines the strategic transition from the Biden-era Safety-First framework (EO 14110) to the current Productivity-First mandate. We review the federal government's new tools—including the AI Litigation Task Force and the use of federal infrastructure funding—to override a State Mosaic of more than 1,000 proposed bills. For the 2026 executive, this shift signifies the end of the compliance-heavy Wait-and-See period and the start of a fast-paced, federally-supported investment cycle.

# The Policy Pivot: Dismantling the Reporting Thresholds

The regulatory environment of 2026 is shaped by the reversal of the paradigm set by Executive Order 14110 (October 2023). That earlier directive was based on a “Safe, Secure, and Trustworthy” philosophy, which required developers of high-compute models to share Red Teaming\* results with the government and set reporting thresholds for any model exceeding  $10^{26}$  floating-point operations.

The current administration viewed these as administrative friction. The January 23, 2025, Executive Order explicitly revoked these mandates to promote a free-market approach. By rescinding the requirement for prior notification of model training, the federal government shifted the regulatory burden from the developer to the market. For businesses, this meant that for much of 2025, the only significant barriers to deployment were not at the federal level, but at the state level.

## The State Mosaic: Friction Points in Consumer Safety

Despite the federal January Reset, state legislatures responded quickly to address what they viewed as a regulatory gap. Throughout 2025, they moved aggressively to fill a perceived regulatory vacuum. However, this surge was more about volume than consensus: out of over 1,000 AI-related bills introduced nationwide, only 159 laws were ultimately passed. This 15% passage rate highlights a fragmented and often stalled State Mosaic, yet the laws that did pass—such as those in Colorado and California (see below)—still posed a significant threat to 2026 ROI by creating high costs for localized compliance. This led to a Regulatory Mosaic that could jeopardize 2026 ROI due to the high costs of fragmented compliance.

### **Key examples of state friction include:**

*The Colorado AI Act (SB 24-205):* The first major law targeting high-risk AI systems used in hiring, housing, and lending. It requires annual impact assessments and gives the state Attorney General sole authority to fine companies up to \$20,000 for each violation.

*California’s Disclosure Suite (AB 2655):* Although broad safety bills like SB 1047 were vetoed, California successfully enacted laws requiring the labeling of AI content and deepfake disclosures, adding complexity to national marketing and media strategies.

For an organization operating nationally, these state laws meant that a single AI deployment for HR or customer service had to be safety-tuned 50 different ways to avoid litigation—a drain on operational efficiency.

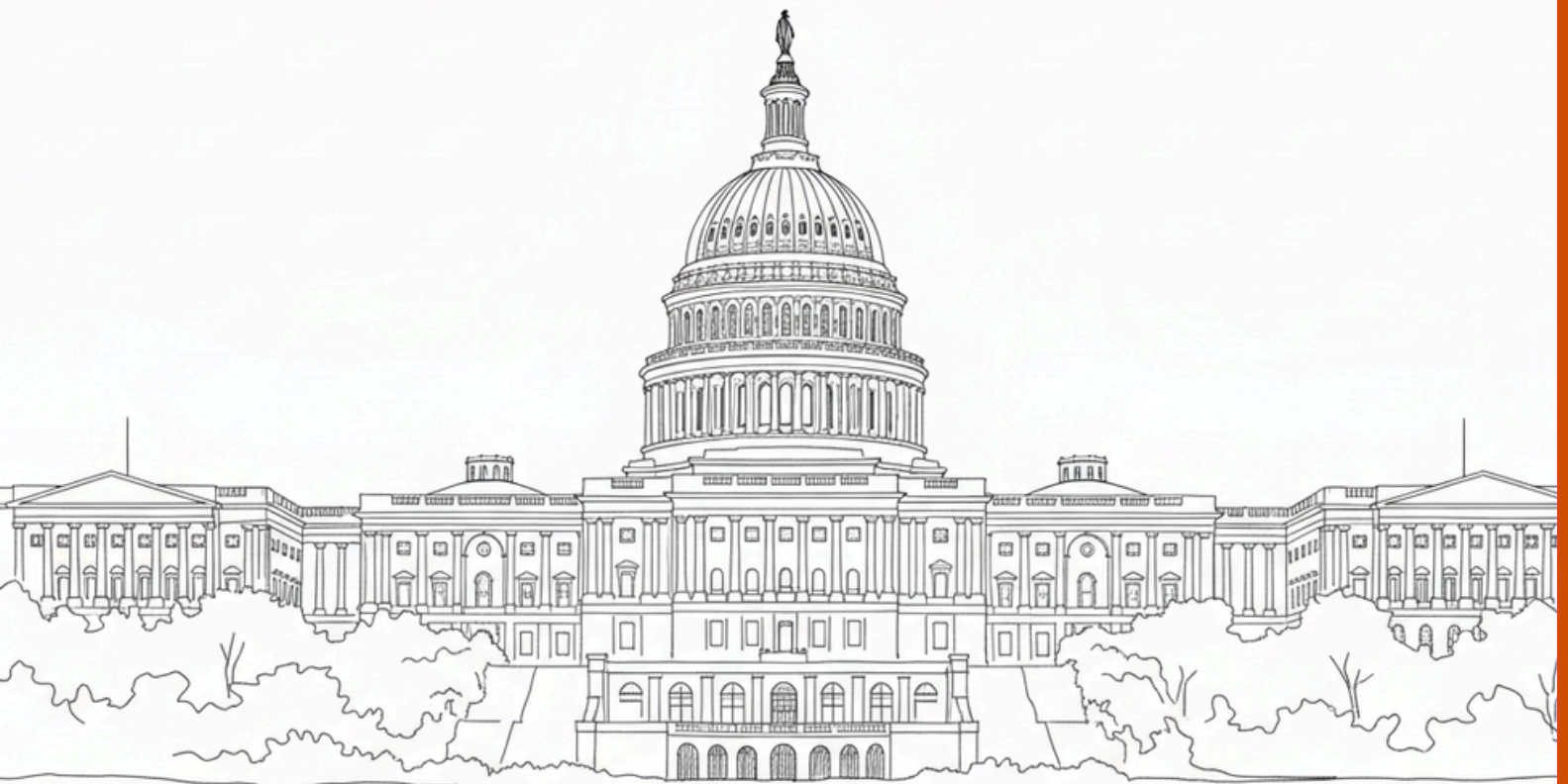
**\*Red Teaming:** A structured, adversarial testing process where specialized teams simulate real-world attacks and jailbreak scenarios to identify hidden vulnerabilities, biases, or safety risks in an AI system before it is deployed.

# The December 11 Preemption Strike: A National Floor

To address this fragmentation, the December 11, 2025, Executive Order established a unified national policy, stating that AI is “Critical National Infrastructure,” thereby giving the federal government primary authority under the Commerce Clause.

The EO introduces three unprecedented enforcement mechanisms:

- 1. The DOJ AI Litigation Task Force:* Tasked with challenging state laws, such as Colorado's SB 24-205, that the Attorney General considers onerous or “unconstitutional burdens on interstate commerce.”
- 2. The 90-Day Onerous Law Review:* The Secretary of Commerce must publish a list of state regulations that conflict with national policies, especially laws requiring models to modify their “Truthful Outputs.”
- 3. Funding Leverage (BEAD Restrictions):* The order threatens to withhold Broadband Equity, Access, and Deployment (BEAD) funds—specifically the \$42 billion allocated for non-deployment activities—from states that refuse to repeal onerous AI laws.



# The Truthful Output Standard & Algorithmic Integrity

Perhaps the most significant change for business leaders is the Truthful Output Standard. The December 11 Order bans federal agencies from requiring socially-tuned guardrails that could distort a model's objective probability.

The administration claims that Safety-Induced Hallucinations—where a model produces a less accurate but more politically correct answer—pose a threat to economic productivity. The FTC has been instructed to release a policy statement by March 2026, designating state-mandated bias mitigation as a possible deceptive trade practice if it compels a model to generate false or biased results.

## The ROI Implication:

In 2026, the competitive advantage will go to companies that emphasize Statistical Integrity. When an AI generates a risk assessment or a supply-chain forecast, the federal mandate guarantees that the output accurately reflects the raw data.

$$ROI_{expected} = \frac{\sum(Probability \times Return)}{Total Investment}$$

This formula calculates the weighted average of all possible financial outcomes. By multiplying each potential profit scenario by its probability and then dividing the total by your investment, the AI provides a single, objective value that considers both opportunity and risk without being influenced by external safety filters.

The removal of safety throttling means models can finally be optimized for pure accuracy, significantly improving the precision of executive decision-making.

# Capital Allocation: The Sovereignty Dividend

The combined impact of the January and December EOs has generated a Sovereignty Dividend for 2026. Since the Risk Premium of state-level litigation is being deliberately lowered by federal preemption, capital is moving toward Private-Tenant AI infrastructure.

**Accelerated Hardware Depreciation:** The 2025 policy offers tax credits for domestic compute clusters, enabling quicker deductions on GPUs and NPUs used to run sovereign models.

**IP Sovereignty:** By removing Biden-era reporting requirements, the government has strengthened the Trade Secret status of fine-tuned models. Organizations can now build proprietary black box intelligences with confidence that their weights and parameters are not subject to federal disclosure.

# Conclusion: Moving to Offensive Strategy

The year 2025 started with the removal of federal barriers and concluded with a declaration of federal authority over the states. For the wide range of American industries—from finance and manufacturing to logistics and retail—the regulatory haze has been lifted to pave the way for a Dominance-First economy.

The 2026 executive must move beyond the cautious, compliance-heavy mindset of the past two years. With the December 11 Preemption Strike providing a clearer path forward, the strategic priority is no longer “How do we comply?” but “How quickly can we integrate?” The ROI of the coming year will be captured by those who leverage the new federal safe harbors to secure their IP and deploy at scale.



**Visit [www.FlyingFish-AI.com](http://www.FlyingFish-AI.com) to schedule your first consultation.**

**Let's build the future of your enterprise together.**

