

You're listening to TechTank, a bi weekly podcast from the Brookings Institution exploring the most consequential technology issues of our time from racial bias in algorithms to the future work tech take takes big ideas and makes them accessible thanks for joining our Brookings TechTank podcast I'm Darrell West senior fellow in the center for technology innovation at the Brookings Institution. Congress has not passed many bills on the emerging digital economy but that does not mean that nothing is happening policy wise at the state level there were two hundred and thirty eight new pieces of regulatory legislation according to a new report from New York University that is a hundred and sixty three percent increase over the preceding year new laws cover AI nonconsensual sexual imagery political deepfakes and copyright protection among other topics joining us today is one of the authors of that report Scott Brennan is the director of the N. Y. U. center on technology policy and he writes regularly on state technology issues.

Scott welcome to our Brookings TechTank podcast. Thanks Darrell so let's start with an overview of what is happening with state technology policy are you note in your report this dramatic increase in state legislation why are there so many new bills being enacted right now so there are there really two reasons why we're seeing so much state legislation in tack being enacted the first is asked to do with political architecture on on on one hand you know last year forty states had in forty states there were traffic to governments that's where a single political party controls both the governor's seat and both houses of of Congress that makes it right quite easy for a political party to actually either in the advance their their their their their platform at the same time in many states political parties not only have trifectas but actually have supermajorities in in the legislature again making it making it really easy to in that case to to pass legislation you know even if they don't have a control of the governor's seat like in my state North Carolina that's that's where we were last year but but also like kind of up up above that I wish to remember that that's a many of the states unlike the federal government don't have a filibuster's again so these are all reasons that just make it that much easier for for states that successfully passed legislation but perhaps the more sort of interesting reason why we see so much action in tech at the state level is is something more like the the changing permissions structure and what I mean by that is that is that you know over the last few years it states seem to have just sort of become aware that they have a role to play in tech regulation you know probably as a result of you know it you know the first it was really privacy but you know in in a lot of it was state sort of realize that if the federal government wasn't going to actually enact comprehensive privacy regulation that they could step in and do it and it seems that states have learned a lesson there that that they have this role to play kind of a in interpretation of cross the board.

Yeah that definitely makes sense I mean unified party control does help solve gridlock you know unlike what we've seen in the past at the federal level we're often times there's divided party control either the house and Senate or different control the presidency verses a Congress that slows things down makes it difficult to come together but as you point out at the state level they're just so many states that are basically one party states and representatives are getting a lot of complaints about technology these days so I guess it's

not really surprising that we're seeing so much of legislative action at the state level but I'm also curious what are the major areas where new legislation is being adopted sure so A. I. in child online safety I think those are the the sort of key areas for states and integrity elation this past year and and really the year before that as well certainly by just the group's number of bills that we saw past in a I was some you know more than a hundred bills enacted net that's not just introduced and in there were you know hundreds and hundreds of bills A. I. bills introduced and and I think that the interesting thing about A. I. is you know end up in Colorado we saw a a comprehensive array you know regulation comp comprehensive reform bill rate and acted but in all of the other states that that that passed A. I. regulation it was it was more sort of issue specific and they're really kind of there's there's a wide range and that ranging from you know requirements on that unit requirements that political ads that contain generative A. I. A. or certain Jenner today I has a label to non consensual intimate imagery you know to to just government appropriations bills right that where state governments you know cook might have created a task force to look at how state government could could better integrate ally or funding for A. I. programs at the state university search out a pretty wide range of different A. I. bills being introduced and then for child online safety actually sell sort of a similar thing where where where we saw a lot of different approaches beat being being taken by states to address this concern this pretty common concern about about children's safety online so for example you know we had a couple states you know in act restrictions on on bait basically the use of certain algorithms I grew their curation without parental consent with some states like Florida just simply require parental consent for any child to user I think it's under under sixteen to use social media and then we saw a raft of new sort of restrictions on on cell phones in in schools so in both A. I. in child safety we actually saw quite a range of different different types of of regulation inactive and I'm certainly not surprised at all the legislative interest in A. I. just given how that has dominated public discussions in the media landscape in the new developments in a generative AI and of course children safety issues also are very important you know parents all around the world are worried about what their children are doing online how are the online world is affecting them so the those two areas A. I. in child online safety make complete sense you also point out that the Washington privacy act continues to expand and is almost becoming a de facto national standard for privacy legislation so how are states thinking about privacy yeah that's a that's a that's a great question so I think we're up to eighteen states have now passed some version of the Washington privacy act this was this is a bill that was originally introduced in Washington though Washington state never never actually passed it but yeah you know over the last one three years I think so all of these updates have had that have passed some version of it and you know while there are differences in each of the bills that states have passed they all sort of share a sort of basic framework so on one hand they all mostly have either is it share similar definitions of terms but they also broadly have the same sort of approach which is on one hand ranting you rights to consumers regarding control of their data to to opt out for example of certain certain that the data being used for certain uses or two you know what to request information about the data that a company is collecting about then but then the these laws also impose certain restrictions on on what companies can do with with people's data and you know it's it's I think more worth noting too that that

this is a bill that you know this model bill has been Abbott championed by by several large players and in the tech industry they see it is on one hand they I think it's hard to tell that they you know we want there to be a sort of national standard or or at least interoperable state lost any of the other hand it's a it's a bill that that they are that they're pretty happy with that that doesn't include for example a private right of action where individual citizens can can bring lawsuits against companies for violations of the law or doesn't have sort of you know you you know opt in requirements rather than opt out requirements but yeah I mean I I it is he said in in the in the question as all of the state's sort of entry you know adopted variations of this law we essentially are getting a national standard even without right fit for the federal government the you know passing passing a comprehensive law so your report focuses on twenty twenty four but you also make predictions on issues likely to move in twenty twenty five what are the hot tech topics in state government for the coming year yeah I mean the A. I. they will continue to be a I will continue to be child online safety I mean I think you know it's always hard to do to to predict for anything tact is is certainly no exception and I think what's fun about doing this report is this is the third time we've done it every year we we look back at what we predicted for the coming year for for the you know that the current year and we can a sort of evaluate our predictions but but I think this year you know trying to predict twenty twenty five is is a really it all sort of circulator surrounds what the trump administration is going to do and how states are going to respond to the trump administration's priorities that of course is difficult because we have you know we're we're you know increasingly getting some sort of idea of what the trump administration might do on a I crypto but you know it's obviously like remains to be seen but I think that that's going to be she usually sort of influential and and how states think about about what what they can do in tack but but yeah I mean a I child safety I mean I think we'll still see you know well I guess on a I will we'll see the the comprehensive bill that was passed in Colorado returning already seen it sort of you know either way he can produce for the next session in states like Texas so I think that that bill will will certainly be around we'll just continue to see him in a bunch of action and justice more sort of issue specific topics I am I think also that for me one of them the real other sort of interesting areas is run data centers I think this year we saw just the beginning of of is sort of a growing attention to two of regular state regulation of data centers so basically for you know a decade states have been granting data centers tax basically incentives like tax relief hoping to attract more investment this past year we are starting to see some regulators you know asking more pointed questions about the not only the the value of that data centers bring but maybe more the sort of costs on energy consumption how it taxes the the the you know the existing energy infrastructure if these companies are sort of paying their fair share but also the environmental concerns and so I think it's very likely that we'll see at a minimum some some new laws requiring things like environmental audits or energy audits around these data centers yeah it does seem like all the big tech companies are building new data centers which are of course enormously expensive so it's no big surprise companies are seeking tax breaks from state government and you mentioned this energy issue on data centers which has been a great concern we know that the data centers require a lot of energy and you mentioned this notion of an energy audit some just curious how are the states thinking about the environmental in the energy aspects of these new data centers

yes so I think I mean sort of remains to be seen I mean you know I think wheels you know this past year we saw really just the beginning of regulators to to to be asking the sort of questions and and I and I I really think that rather than fully putting the brakes on tax incentives for these other centers that work which you know are are many many many billions of dollars worth of worth of investment and in the states were very likely you know it's much more likely to see states you know working to sort of like gather more data we gather do you do in for more information gathering about you know about the the environmental costs or the or the the ways that you know energy use of these data centers which I think unlike you know other sort of have you know for example like a manufacturing you know it a center in data centers need sort of consistent energy kind of around the clock which is you know with all means that they require sort of certain certain infrastructure that that in often will need to be built out specifically for for them so I I just I still think we're sort of in the in the you know I think we're still going to see sort of states like get more interested in gathering information rather than than taking like really hardline action although you know I got this is the big outside making predictions like either you know we'll have to just sort of see how it plays out so the national level we're seeing tremendous interest in crypto currency and we know the trump administration is already on record as promising to make America the crypto capital of the world and we just had a TechTank podcast up on that topic so I'm curious how the states are thinking about crypto like are they a passing laws or is it likely they will think about passing laws in the coming year yes very very likely so this past year we saw something like fifty seven crypto bills across twenty seven states this is been another area of of a just a lot of action I was a kind of interestingly I think it's it's gotten a little less attention even then the other areas and state policy which also I would say get get a ton of attention but yeah you know I think given that how much trump has already sink you know sort of laid out his hand you know suggested an approach on crypto which is you know we don't I think one a sort of more deregulatory posture and into it with some sort of clarity on on crypto regulation I think that's sort of what trump has suggested he will he will do I I think we're actually see states the V. sort of waiting until some of that happens to to really pursue kind of you know more more significance regulation but but you know I I certainly expect either especially Republican states to sort of continue to pass targeted crypto legislation that you know really compliments are sort of arguments as augments the changes that will see at the federal level and end up though yeah when I also think the like it's possible that we'll see some of the Democrat lead states you know maybe working sort of mitigate the the potentially negative effects of crypto it's certainly on the like frogs side of things yeah that is the virtue of American federalism sometimes what happens at the national level is not what happens at the state level and I think during the trump administration it will really be interesting on a variety of policy issues held at state and national dynamic plays out now you report says the content moderation is on hold at the state level and of course there was a time when people were talking about taking down a site so that had illegal content there has been a lot of pushback on that front so what is happening with content moderation yeah this is great this is a great question in and because it's quite a big question mark for the new year but but I I think there's a lot of uncertainty so after the we had some a ruling by the Supreme Court earlier in twenty twenty four on the the laws passed several years ago in

Texas and Florida which build the laws basically tried to prevent platforms from moderating the content of certain users if put political order users at service report basically send it back to the lower courts but but basically affirms the sort of first amendment rights of platforms to to to basically moderate content as they as they seek soffit and I I you know I think are really definitely was that bats that sort of you know under cut the the you know the state's ability to or interest in continuing to pass the sort of laws restricting the ability of platforms to moderate content now I I I do think that this is something trump in some of the folks that he is appointed or suggest that they'll try to point like have already so signal that that they want to kind of take up again the you know the the the the issue of of what they see is a bias against conservatives on platforms and I would absolutely expect to see some action in the in the by by the federal government now that might just be you know that makes it in enforcement action rather than sort of little the let legislation and and I think it's sort of remains to be seen how states are going to respond to that so competition policy is a hot topic in tech policy other than worry about predatory practices by large corporations and possible harms for consumers so what is happening in terms of anti trust action at the state level yeah I mean honestly not that much so you know we saw a couple states and three make more less incremental sort of changes to existing anti trust laws but we don't really see any sort of major revisions I you know the the more significant action was gems of of litigation where states you know joined federal let regulators and in a series of of of cases targeting anti competitive practices but but you know of the of the eight categories that we that we track for this report as he like antitrust and in tax is another one there yeah just like there there really isn't as much happening at the state level as compared to something like like a higher crypto data centers even so I want to thank Scott for sharing his insights with us you can find his new report on developments in state technology policy at the NYU center on technology policy at Brookings we write regularly about tech topics on architecting blog you can find that at Brookings dot EDU thank you very much for tuning in thank you for listening to tech take a series a round table discussions and interviews with technology experts and policy makers for more conversations like this subscribe to the podcast and sign up to receive the tech take newsletter for more research and analysis from the center for technology innovation.