**Testimony of Bethany Abbate on Behalf of the Software & Information Industry Association (SIIA)**

**Multistate AI Policymaker Working Group – January 27, 2025**

**Introduction**

Good morning Chair Maroney, Senator Hester, and members of the Multistate AI Policymaker Working Group. My name is Bethany Abbate, and I am testifying on behalf of the Software & Information Industry Association, known as SIIA. SIIA is the principal trade association representing the software and digital content industries, including companies that are at the forefront of developing and deploying AI technologies. Our members range from global enterprises to startups, spanning across industries such as education technology, financial information, publishing, and software development.

For decades, SIIA has served as a trusted voice for innovation policy, advocating for balanced approaches that protect consumers while fostering technological progress. Our members are not only driving the development of AI but are also committed to addressing its risks responsibly.

I’ll begin by outlining key principles we believe are critical for AI legislation, followed by specific feedback on the high-risk mode and CT legislation, in addition to the Texas legislation.

**General Principles for AI Legislation**

At SIIA, we believe AI legislation should:

* **Encourage innovation:** Legislation should focus on high-risk uses while remaining flexible to foster advancements in AI. Overly prescriptive or one-size-fits-all approaches risk stifling innovation and economic growth.
* **Promote alignment and consistency:** In the absence of federal legislation, states should avoid creating a patchwork of inconsistent and divergent laws by aligning with existing frameworks, including the NIST AI Risk Management Framework. Clear, uniform definitions for terms like “developer,” “deployer,” “high-risk AI system,” and “consequential decision” are critical to implementing laws and providing consumers with useful services. Legislation should also use the same terms: some proposals introduce the AI actor terms “distributor” and “integrator.”
* **Protect consumers without cutting them off from valuable AI innovations:** Laws should be targeted to protect consumers and disincentivize bad actors. We’d encourage some focus on those who use - or misuse - AI tools to intentionally cause harm to consumers.
* **Take care when addressing AI in education:** We caution legislators to avoid an overbroad approach to regulating AI in education. This is an area where SIIA is deeply involved and has unique expertise. I’ll speak more to this in my feedback on the model AI bill.

**Feedback on the Model Legislation and CT Variation**

Next, I want to address the model legislation and the CT variation. This is a thoughtful approach to address high-risk AI. However several areas could be improved with further refinement to ensure clarity, practicality, and alignment with national standards:

* **Precision in Definitions:** Terms such as “algorithmic discrimination” and “substantial factor” could be narrowed to avoid overly broad interpretations. For example, defining algorithmic discrimination should ensure it applies only to measurable, demonstrable harm rather than ambiguous or subjective criteria. We recommend focusing on “legal or similarly significant effects”.
  + The term “Consequential decision” is defined too broadly regarding education. Notwithstanding the exceptions embedded in the definition of “high-risk,” a risk-averse approach could severely limit the use of AI in schools that are providing demonstrable help in terms of personalized learning, teacher support, and administration. This is a longer topic, but at a minimum, the definition should be limited to areas of concern rather than a non-exhaustive list. We will provide recommendations in writing on this and on the itemized scenarios. We want to avoid unintended consequences that could undermine the learning environment.
    - The Texas bill, for example, takes a more limited approach, focused on “education enrollment or an education opportunity
* **Clearer Accountability:** SIIA supports clarification that consumer disclosure obligations apply to *deployers* of AI systems, not developers. Developers often lack insight into the specific contexts in which their technologies will be used, and misallocating liability could stifle innovation and create compliance complications. Targeted accountability ensures that those closest to the AI’s application bear responsibility for disclosure and compliance.

Next, regarding the additions in the CT bill:

* **Technical Documentation and Transparency:** We support the goal of transparency however we have some concern about the requirements relating to the disclosure of technical documentation to third parties and the AG. We encourage reliance on industry best practices in this space, such as the development of model cards. It’s important to avoid requirements that developers disclose trade secrets and other sensitive data to third parties. We also believe there should be a limitation on the ability of the AG to demand data for investigations based on the maintenance of technical documentation.
* **Content Labeling:** While we support measures to build trust in AI tools related to the generation of synthetic content, the technology in this area is rapidly developing. We have some concern that these requirements will be challenging if not impossible to implement at scale, because the developer will not have an ability to ensure compliance downstream and it is difficult to distinguish between content that requires marking and content that falls into some of the exceptions (such as “unlikely to mislead a reasonable person consuming such synthetic content”. We’d recommend removing this section from the bill as industry solutions continue to develop.

**Feedback on the Texas Responsible AI Governance Act**

Lastly, I wanted to say a few words about the Texas Responsible AI Governance Act.

* Texas largely aligns with the goals and policy standards of the existing CO law, NIST AI framework, and the EU including requiring a clear disclosure and similar definitions. We appreciate the efforts of Representative Capriglione to integrate and correspond the AI bill with the existing states privacy law.
* We’re also very supportive of the workforce grant programs proposed in section 5 of the bill.

However, we see opportunities for improvement:

* **Definitions need refinement:** Key terms like “high-risk AI,” “substantial factor,” and “algorithmic discrimination” are ambiguous and could lead to inconsistent enforcement. For example, the exemption for high-risk AI with “human oversight” may create unforeseen loopholes and irregularities in enforcement.
* **Clarify Responsibilities for Different Actors in the AI Value Chain:** The Texas bill addresses developers and deployers and adds a new category, “distributor.” The allocation of responsibility among these three is ambiguous. This is likely to create confusion, which could disincentivize innovation and limit consumer choice.
* **Open-source considerations:** The exemption for open-source AI, while positive, remains unclear and inconsistent across provisions. SIIA recommends harmonizing the language and ensuring protections for open-source developers to avoid deterring innovation in this critical area.
* **Clarify Role of AI Council:** The inclusion of an AI Council with rulemaking authority introduces a Texas specific governance mechanism. Greater clarity would be beneficial regarding its role and collaboration with the Attorney General’s Office. Potential conflicts between these entities—such as overlapping responsibilities for enforcement and oversight—could undermine the bill’s effectiveness. SIIA recommends clearly delineating their roles and fostering mechanisms for collaboration, such as joint oversight committees or formalized processes for dispute resolution, to avoid confusion and unnecessary obstacles in enforcement.

**Closing**

In conclusion, SIIA applauds the Working Group’s commitment to ensuring AI policies protect consumers while fostering innovation. We urge lawmakers to continue engaging with stakeholders to refine these bills, ensuring that they prioritize alignment, provide meaningful protections to consumers, and encourage innovation. SIIA stands ready to serve as a resource as you navigate this process. Thank you for the opportunity to testify today. I welcome your questions.