FLOOR ALERT
SB 942 (Becker)
OPPOSE as Amended- 5/16/24

TechNet and the following organizations must respectfully oppose SB 942 (Becker), which requires artificial intelligence (AI) developers to create an AI Detection Tool, make it publicly available, incorporate visible as well as imperceptible watermarks into all content created by their system, and establishes a Generative AI Registry

We agree with the intent to create greater trust in user generated content online by fostering the adoption of content provenance verifications and watermarks. However, this bill presents a multitude of issues and requires platforms to comply with technically infeasible and impossible standards.

In light of the immense volume of artificial intelligence (AI) and AI related bills in California and across the country, our member companies are still reviewing this bill and many others. We hope to be able to provide suggested amendments soon. In the meantime, there are several issues with this bill that we should highlight for consideration.

Federal Standard

While we understand the desire to regulate an emerging technology, this is an area that would benefit from Federal standards and regulation rather than a state by state approach. In President Biden's AI Executive Order, he tasked the Department of Commerce with "identifying the existing standards, tools, methods, and practices, as well as the potential development of further science-backed standards and techniques, for: (i) authenticating content and tracking its provenance; (ii) labeling synthetic content, such as using watermarking; (iii) detecting synthetic content" and more. We believe in allowing this federal process to advance in order to establish standards that are "science-backed" and can be consistently applied across the country is important.

In the meantime, disclosure provides a meaningful way to alert consumers when they are interacting with AI-generated content. We would prefer an approach that prioritizes disclosure in the short-term while watermarking technologies are developing and able to advance to be deployed in a consistent and cost-effective manner down the line. This approach would allow consumers and businesses to benefit from transparency and allow time for further innovation with regard to watermarking.

Prescriptive Requirements on Content Provenance and Watermarking are Technologically Premature

Many of our companies and platforms are at the forefront of developing content provenance and watermarking technology, which is still in its early stages. However, SB 942 enacts requirements for a technology that is still under development and rapidly evolving. For example, there isn't a program that can watermark text, making the bill's requirements to do so impossible to comply with. We believe references to text watermarking should be removed to reflect this reality.

Furthermore, content provenance and watermarking is still incredibly unreliable and in many cases easy to break. Researchers at the University of Maryland were able to break all the currently available watermarking methods. Some can be avoided by simple cropping, resizing, or screenshotting an image. More concerning, these researchers were able to insert fake watermarks and credentials into images, creating false positives.

In its standards for large online platforms, SB 942 should more clearly delineate between 1st party and 3rd party content. 1st party content would be images, videos, or audio that is generated using a covered provider's generative AI tools and is then posted or distributed on that platform. In this instance, a covered provider can control the creation of a content provenance or watermark into the content. As mentioned, many of our companies are already working to incorporate this type of technology to increase transparency around AI-generated content. It is currently technically infeasible to accurately and reliably detect content that is created using a different platform's AI tools. As noted above, considering the current ease with which current watermarks can be broken, a legal requirement and mandate for 3rd party content isn't appropriate.

Vote "NO" on SB 942