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NEW YORK STATE SENATOR KRISTEN GONZALEZ

59th Senate District
Chair, Senate Standing Committee on Internet & Technology
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Hearing Report

January 15, 2026 Public Hearing:
To discuss risks, solutions, and best practices with respect to the use of artificial intelligence in consequential or high-risk contexts, and related issues, such as classification of the types and risk levels of AI uses

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I. INTRODUCTION

The New York AI Act Public Hearing was convened by Senator Kristen Gonzalez, chair of the Senate Internet and Technology Committee on January 15, 2026. Joining Chair Gonzalez were the following New York State legislators:

- Senator Jabari Brisport (Senate District 25)
- Senator Nathalia Fernandez (Senate District 34)
- Senator Andrew Gounardes (Senate District 26)
- Senator Michelle Hinchey (Senate District 41)
- Senator John C. Liu (Senate District 16)
- Senator Gustavo Rivera (Senate District 33)
- Senator Julia Salazar (Senate District 18)
- Assemblywoman Michaelle C. Solages (Assembly District 22)
    - Assembly Sponsor of the New York AI Act
- Assemblymember Steven Otis (Assembly District 91)
    - Chair of the Assembly Committee on Science and Technology

The purpose of the hearing was to examine how artificial intelligence is reshaping workplaces, business, industry, and government services in New York, and to discuss responses to the New York AI Act, New York Senate Bill S1169A/Assembly Bill A8884 (2025) ("NYAIA" or the "bill"), that may be useful in adjusting the bill.

The hearing consisted of six panels. In the report that follows, a summary of each panel is presented followed by the feedback shared by each witness.

Chair Gonzalez framed the hearing by highlighting the agreement between all witnesses that AI is a transformative technology that can and should benefit society, but achieving this goal requires partnership between industry and government to put the appropriate guardrails in place. It is under this goal that NYAIA was introduced.

Further information on the hearing, including a video recording of the entire hearing and all written testimony is available here:

https://www.nysenate.gov/calendar/public-hearings/january-15-2026/public-hearing-discuss-risks-solutions-and-best-practices

II. Panel 1: Labor Representatives

A. Overview

Chair Gonzalez opened the hearing by framing the panel around the documented harms of artificial intelligence ("AI") that have already appeared in high-risk contexts, including: a class-action lawsuit against Workday alleging discrimination in AI-powered resume screening, and reports of AI chatbots driving vulnerable users toward self-harm. Chair Gonzalez emphasized that labor representatives were selected for the first panel because the committee views workers and labor representatives as essential partners in shaping a responsible future in AI. The witness' testimony discussed the impacts of the deployment of AI on workers throughout New York through a range of industries and public services.

Panel 1 consisted of two witnesses:

- Mia McDonald, Senior Campaign Lead at Communications Workers of America (CWA) District 1, representing 145,000 workers across telecommunications, healthcare, broadcasting, and government.
- Odetty Tineo, Political Director at DC 37, representing 150,000 workers in New York City's public, private, and nonprofit sectors.

B. Employment

Workplace Surveillance and Automated Management

Both witnesses testified that AI-powered surveillance tools were being implemented in the workplace without worker notice, union consultation, or regulatory oversight.

CWA members in call centers reported that AI tools are often used to monitor call flow, analyze tone, and transcribe conversations, generating feedback on frontline employees in real-time, which workers described as a source of stress. Ms. McDonald emphasized that reducing worker performance to AI-scored metrics undermines the experience and judgement they possess, which AI cannot replace.

Additionally, broadband technicians represented by CWA are tracked by GPS systems that dictate their routes and log locations; any deviation, even including stopping to use the bathroom, may be flagged and result in disciplinary action. DC 37 members in roles across New York City agencies and in the NYC Parks Department Field Operations team encounter similar GPS tracking. Ms. Tineo highlighted that these systems judge workers against an algorithmic standard without accounting for variability like understaffing, emergencies, or everyday complications—raising concerns that the technology can be weaponized to penalize workers for conditions outside of their control without human understanding.

Ms. McDonald also highlighted the irony that such systems are serving to actively train AI to replicate the workers' expertise in roles like call centers or drivers so that their jobs can eventually be replaced.

Legislative Exchange: Asymmetry of Surveillance Practices

Senator Gounardes asked both witnesses a series of questions about whether supervisors and corporate officers are subject to the same AI surveillance tools used to monitor employees, to analyze keystrokes, determine compensation based on these metrics, and discipline them based on AI-generated reports on their behavior. The exchange underscored the concern that AI-driven workplace monitoring can be deployed to reinforce organizational hierarchies by disproportionately targeting rank-and-file employees through surveillance and discipline.

Job Displacement and a Lack of Transparency

A major theme across the panel was that employers are not disclosing to workers or unions when AI tools are being introduced in the workplace and what data they are collecting. Ms. McDonald noted that CWA has begun submitting information requests to employers to learn how and when these tools are being deployed, but she emphasized that this process of seeking transparency should not require unions to pursue the facts on their own.

Ms. Tineo raised the example of DC 37 reporting approximately 1,500 vacancies in SNAP and Medicaid clerical roles that the city had no urgency to fill, expecting instead that AI systems could eventually be used to replace their work. In response to this point, Assemblymember Solages stated that this example runs counter to New York's commitment to providing economic opportunity for its residents. Ms. Tineo corroborated that this trend of reducing human worker headcounts in the interest of efficiency, especially without advance notice or transparency, is widespread and must be addressed proactively, rather than reactively.

C. Social Services

Many of the hearing's most substantive exchanges considered with the use of AI in public-sector agencies that make consequential decisions about the lives of New Yorkers, especially those belonging to vulnerable populations.

Ms. Tineo referenced an audit that revealed that an AI tool used by the Administration for Children's Services (ACS) was trained on data more than a decade old and used factors that served as proxies for race and socioeconomic status, particularly for identifying

families for investigation. Ms. Tineo highlighted how the use of an outdated AI system in this context is especially dangerous as it amplifies the risk of bias or discrimination in a high-stakes determination. Moreover, it undermines the professional expertise of social workers whose judgement is informed by a career of experience, rather than an algorithm.

Legislative Exchange: ACS and Family Targeting

Senator Brisport asked whether DC 37 workers had shared their reactions to being dispatched to investigate families based on algorithmic outputs. Ms. Tineo confirmed that long-tenured ACS workers have been questioning the integrity of the AI-related work they are being asked to do, especially as there is no formal mechanism to resolve conflicts between an algorithm flagging a family as high-risk despite the worker's professional judgement deciding otherwise.

D. Healthcare

Both witnesses described a significant expansion of AI tools in hospital settings in recent years, driven in part by Governor Hochul's initiative to expand AI across New York's healthcare system. The testimony echoed two risks: the potential harm to patients and the displacement of healthcare workers.

According to Ms. Tineo, DC 37 members have reported that AI systems have been increasingly placed in patient rooms to provide medical advice and to time staff movements. Ms. Tineo echoed the concerns that arose in the employment discussion pertaining to private sector call center and NYC Parks workers about the danger of workers being assessed and disciplined by algorithms that human context.

Ms. McDonald raised a proposal that has been floated in some hospitals to replace human "sitters" (staff who provide supervision to patients but not direct medical care) with AI systems. Doing so, she explains, would eliminate jobs, but would also raise concerns with patient welfare, including the medical and human benefits of interacting with a human caretaker to the process of convalescence. This underlines the main thrust of Ms. McDonald's testimony, that the efficiency objective of AI is often at odds with the value that human attention presents in many professional settings.

Legislative Exchange: Transparency about AI Use with Patients and Workers

Senator Fernandez asked whether evidence existed of AI making dangerous or life-threatening medical decisions for patients. Ms. McDonald recognized that specific examples are still emerging as new AI tools are being rolled out, but pointed to the question of liability—who should be held responsible for such an incorrect judgement—in these cases. She emphasized that because humans are held accountable in healthcare

contexts, human oversight and approval over AI systems should remain a vital part of any consequential clinical decision.

Senator Fernandez also asked what kinds of decisions should be explicitly protected by the bill to ensure transparency of AI use for patients and workers. Ms. McDonald pointed to the New York AI Act's provision about giving patients the right to know when AI is being used in their care as a valuable safeguard against the aforementioned concerns. She also stated that the proposal to replace hospital sitters as an example of a use case that should trigger mandatory patient and legal guardian disclosure. Throughout the exchange, it was emphasized that the healthcare setting is an especially high-stakes area where decision-making errors can cause life-threatening danger and the relationship between a provider and patient should be built on a foundation of trust.

Senator Hinchey inquired about the emerging use of AI note-taking tools in clinical and social work settings, including therapy sessions. Ms. Tineo responded that notes from a therapist naturally contain sensitive information and that feeding that information into an AI system raises ethical concerns about patient privacy and transparency, including data ownership, HIPAA compliance, and the integrity of the patient-clinician relationship.

E. Feedback

Both witnesses expressed clear support for the NYAIA and offered specific priorities for what they believe the legislation should accomplish.

Mia McDonald (CWA):

- Support for transparency requirements to ensure accountability, particularly an obligation to notify unions when new AI tools are being deployed in the workplace
- Support for other AI legislation such as the BOT Act (S185), which would establish comprehensive guidelines for AI use in the workplace and the Fair News Act, which would extend AI protections to journalists and to public news consumers
- Emphasis on legislation complementing collective bargaining, and establishing baseline protections for all workers that allows unions to negotiate additional terms flexibly
- Concern with AI tools being used to surveil workers as a mechanism for training their replacements, and emphasized that legislation should address this directly

Odetti Tineo (DC 37):

- Strong support for codifying AI implementation as a subject of collective bargaining, establishing that employers should be required to bargain with unions before deploying AI in a high-risk employment setting

- Echoed the call to prohibit AI use for employee surveillance, especially in the case of tools that are used to evaluate and discipline workers without human judgement
- Emphasized mandatory human oversight in all automated decisions that affect workers
- Expressed support for the bill's focus on high-risk use cases, supporting the goal to regulating the uses of AI that cause harm rather than stopping innovation
- Support for collaboratively defining what responsible AI use looks like with workers, unions, and legislators, rather than for employers alone
- The legislative framework that has been established for the public sector (the LOADinG Act) should be extended to the private sector, where protections are not symmetrical

III. Panel 2: Industry Representatives

A. Overview

Panel 2 featured witnesses from four industry organizations:

- Alex Spyropoulos, Senior Director of Policy and Government Relations at Tech:NYC, which represents 550 technology companies across New York
- Meghan Pensyl, Policy Director at the Business Software Alliance (BSA), the leading trade association for the global enterprise software industry
- Dr. Alex Alonso, Chief Knowledge Officer at the Society for Human Resource Management (SHRM), representing over 340,000 HR professionals including 13,000 in New York State
- Chris Gilrein, Executive Director for the Massachusetts and New England region at TechNet, an industry association comprising over 100 innovation economy companies

Panel 2 had the longest duration and had the most robust dialogue of the hearing. Industry witnesses presented critiques of the New York AI Act. They expressed that while well-intentioned, the NYAIA would impose compliance costs and legal exposure that would be so severe it would deter the responsible adoption of AI the bill encourages. Chair Gonzalez opened with a primer on the bill's scope and later challenged each witness directly with documented examples of algorithmic discrimination.

Witnesses simultaneously argued that (1) existing law and enforcement of such laws by the Attorney General are adequate to address AI discrimination and (2) a national standard on AI is required, as state regulation alone is infeasible. Senator Hinchey particularly pressed on this seeming contradiction, noting that both positions cannot be true at once (one cannot both believe existing law is adequate yet also believe it is infeasible), especially given that witnesses acknowledged the documented problems of algorithmic discrimination that exist today.

B. Audit Requirements and Compliance Costs

Witnesses throughout the testimony expressed concerns with the cumulative burdens of compliance requirements under NYAIA. They raised the issue that the cost of complying with an audit requirement would create a cost burden that disproportionately harms smaller organizations, like the nonprofits and startups cited as the intended beneficiaries of responsible AI deployment.

Mr. Spyropoulos argued that a robust ecosystem of qualified AI auditors does not yet exist. Without auditing standards or a compliance rubric for high-risk AI systems, companies would feel pressure to work only with auditors that provide favorable results, defeating the underlying purpose of the auditing requirement entirely. His written testimony also argued that the bill's five-day pre-decision advance notice requirement for every AI interaction was likely to generate consumer "notice fatigue" and that the human review requirement for every appeal would be cost-prohibitive for small businesses. He also raised the issue of the "compliance treadmill:" developers and deployers would face constant obligations to file reports for every "substantial change" (a term he called only vaguely defined) that would stifle their growth.

Ms. Pensyl corroborated Mr. Spyropoulos' concerns about the unreliability of third-party audits as an accountability tool, citing the immature audit ecosystem, a lack of a professional body to certify AI auditors, and that standards for evaluations are still developing. She also added that auditor access to AI systems would create risks around trade secrets and consumer data privacy. Her written testimony argued that impact assessments and risk management programs, the internal accountability tools already being used widely in privacy and cybersecurity, are more appropriate accountability mechanisms than external review. She noted that voluntary commercial programs, like BSA's own Framework to Build Trust in AI, developed with leading AI companies, can provide an agreeable, lifecycle-based model for conducting these impact assessments. Voluntary commercial models would allow for a tailored risk management approach, build brand reputation, and allow for greater operational efficiency.

Dr. Alonso echoed the arguments of other witnesses about the underdeveloped ecosystem of audits by stating that HR departments lack the technical capacity to independently audit AI tools. He drew from the lessons he learned from SHRM's direct involvement in the rulemaking process of NYC Local Law 144, the city's automated employment decision tools law. He cited this experience as a case study in the importance of clarity of scope and definitions in compliance regulation, as ambiguity in Local Law 144 caused employers to either over-comply or delay adoption of automated tools, slowing hiring and advancement opportunities. Moreover, he described how rigid audit cadences and unclear standards could discourage updates designed to reduce bias, counteracting the stated purpose of the regulation. He also added that without adequate transition timelines and clear model compliance pathways, small- and mid-sized businesses would face disproportionate burdens due to limited internal legal and compliance capacity.

<u>Legislative Exchange: What does Transparency Look Like?</u>

Senator Liu opened by directing two questions toward Dr. Alonso: first, if the bill primarily requires transparency and disclosure, what is the industry's objection to being transparent? Second, Dr. Alonso's recommendations for both protecting workers from algorithmic risks and shielding employers from compliance burdens appeared internally contradictory, so Senator Liu asked for concrete examples of executing each.

Dr. Alonso pointed to Opportunity@Work, a platform using AI to connect 70 million workers without traditional degrees to employers, making the argument that overly burdensome regulation could disrupt tools like this that expand access to opportunity for underrepresented workers. Senator Liu challenged this response by asking how transparency requirements stifle this kind of innovation. Given that AI is still being used to narrow large applicant pools before any human reviews them, Senator Liu advanced, how does the panel propose preventing demographic bias at that stage? Neither this question nor Senator Liu's initial question were directly answered.

Assemblywoman Solages followed by asking Dr. Alonso what specific information vendors must provide so that employers can comply with the bill's risk assessment, bias testing, and documentation requirements—given Dr. Alonso's argument that HR departments lack the technical capacity to independently audit proprietary AI tools. Dr. Alonso's reply focused on building an education framework and providing implementation support to employers. Assemblywoman Solages followed up by asking what this education would consist of; Dr. Alonso responded that it meant helping workers and HR tech professionals understand audit requirements in order to ensure compliance while still fulfilling regulatory processes.

C. Developer vs. Deployer Accountability

A significant portion of the panel focused on how responsibility should be allocated between AI deployers and developers under the framework of the bill. Chair Gonzalez posed the question directly to Mr. Gilrein, who noted that getting this distinction right was what made Colorado's implementation of the Colorado AI Act so difficult. Mr. Gilrein suggested that he would like to see more distinctions between developers and deployers explicitly in the bill, as he argued it is presently unclear at which point liability would shift from the developer to the deployer after substantial modifications. He also raised concerns with the contested, ambiguous definition of "substantial change" that the bill uses to trigger reporting obligations. He noted that it would be important to consider how necessary information can be reported without exposing trade secrets.

Ms. Pensyl's written testimony asserts that one-size-fits-all obligations are unworkable: developers and deployers operate at different points in the AI system's life cycle and

therefore know different information about the system that can call for different actions to mitigate risks.

Chair Gonzalez responded to Mr. Gilrein by explaining the bill's approach to this divide: distributing the burden of accountability between developers and deployers by holding each party accountable for the part of the process they control. Developers are required to share necessary information with deployers, while deployers are required to report on the tool's impact on affected groups.

D. Sufficiency of Existing Anti-Discrimination Laws

A central policy debate of the panel concerned whether New York's existing anti-discrimination laws are sufficient to address algorithmic bias, or whether the evolving dynamics of AI require a tailored new legal framework.

Tech:NYC and TechNet both argued for the former. Mr. Spyropoulos contended that New York already has robust anti-discrimination protections in law, and that instead of considered new law, the legislature should direct the New York Attorney General's ("AG") office to review those laws, identify gaps, and recommend targeted statutory language. He proposed funding the AG's consumer protection division to run "fair AI testing" programs modeled after nonprofit secret shopper programs to audit high-impact systems in hiring and lending.

Chair Gonzalez challenged this position with a well-documented record of algorithmic discrimination that existing laws failed to prevent. She cited: Amazon's resume-sorting tool that excluded women from first-round interviews; Uber's facial recognition system that removed drivers whose faces allegedly did not match their algorithm; Meta's advertising algorithm that steered Black users toward lower-quality for-profit colleges and white users toward better public colleges, constituting a new form of digital redlining; bias in mortgage underwriting and insurance fraud detection; and numerous others. She asked panelists directly how a secret shopper program or an AG gap review would have prevented any of these.

Mr. Spyropoulos responded that the AG's office might already be empowered to investigate these practices, to which Senator Rivera followed up by asking whether companies have successfully argued in court that existing anti-discrimination law does not apply to AI tools. Mr. Spyropoulos conceded that he could not speak to specific cases. Senator Rivera highlighted that this uncertainty emphasizes the prerogative of lawmakers to err on the side of caution in the interest of protecting vulnerable New Yorkers. If companies argue in court that existing law does not apply to their AI systems, then the absence of AI-specific legislation is itself a legal vulnerability to affected New Yorkers.

Legislative Exchange: Existing State Law vs. National Framework

Senator Hinchey drew attention to the contradiction building across the panel's testimony. Witnesses were simultaneously arguing that (1) the AG is already empowered to address AI discrimination under existing law, making the bill unnecessary, and (2) having a patchwork of state-level regulations creates an unworkable framework. Senator Hinchey noted that these two positions cannot coexist: if the AG can address these harms, then no federal law is needed. But, if state-level protections are not workable and federal law is needed, how can the AG be expected to address these harms?

Mr. Gilrein's response was to argue for more targeted legislation addressing specific gaps like election misinformation and nonconsensual intimate images, rather than broad algorithmic bias regulation. Senator Hinchey followed up by asking, if more auditors and regulators are needed to enforce any approach, should the state be investing in that professional expertise? Mr. Spyropoulos pointed to the Governor's newly announced DIGIT Office for digital innovation and governance, as well as expanded AG funding, as possible solutions, but did not resolve the underlying question.

Ms. Pensyl offered the panel's clearest acknowledgement of the bill's core principle: when companies deploy AI for high-risk uses like employment, housing, and healthcare, they should be required to conduct impact assessments and implement risk management frameworks. She drew a distinction between impact assessments as single point-in-time analyses and risk management frameworks as ongoing organizational systems, stating that both are necessary. This position is largely aligned with the bill's requirements and represents the Business Software Alliance's most substantive point of agreement with the legislation.

E. Job Displacement and the Human Workforce

Senator Hinchey opened the second round of questions by moving away from the panelists' testimony emphasizing cost, efficiency, and innovation to focus on the workers whose livelihoods AI is already affecting. She cited several recent examples: IBM's announcement that it is replacing several hundred HR workers with AI agents and hiring programmers to code those agents to replace them, a major company's CEO later admitting that aggressive AI-driven layoffs had diminished service quality and prompted a requirement for the company to rehire real people, and reporting that AI is now performing approximately half of Salesforce's work as the company continues to trim its headcount. If left unchecked, she argued, the human toll of AI-driven layoffs and the resulting lost income tax revenue combined with the fiscal impact on state unemployment systems could be immense.

Dr. Alonso responded by citing SHRM's research, conducted in partnership with the federal government and economic research firms. Though it projects that about 22 million US jobs will be lost to AI over the next five to ten years, Dr. Alonso stated that this number will be partially offset to approximately 8.8 million lost jobs due to structural constraints like customer preference for human interaction, the cost of implementation, and regulatory and licensure requirements in fields like healthcare and aviation. He noted that the largest occupational group currently being displaced by AI is software engineers and computational workers, rather than the low-wage service workers that legislators most commonly cite in debates. Dr. Alonso added that SHRM data shows that 84% of chief HR officers report their top priority for 2026 is upskilling their existing workforce to work alongside AI rather than replacing those workers with AI.

Legislative Exchange: Solutions to Job Displacement

Senator Gounardes challenged this response, citing an October 25, 2025 New York Times report revealing Amazon's plans to replace more than half a million warehouse and logistics workers with robots, constituting 40% of its US workforce. He emphasized that these are not coders or programmers as Dr. Alonso pointed out, but the workers who serve as the operational backbone of the company. Senator Gounardes then asked whether any panelist supported an automation tax to require companies like Amazon to fund the displacement costs that those workers will bear.

Dr. Alonso reserved judgement, citing ongoing research into proposals including universal basic income. Ms. Pensyl called this a serious issue that would require concerned effort from government, industry, and labor. Mr. Spyropoulos pointed to upskilling programs and efforts to remove degree requirements from city and state hiring. Senator Gounardes made it clear that he found these answers inadequate, as they do not address the scale or immediacy of the current displacement underway.

Legislative Exchange: Pace of Job Displacement

Senator Hinchey closed her questioning by noting that even accepting optimistic projections about job creation due to AI over the next five to ten years, the rate of new job creation attributable to the advancement of AI is being outpaced by the rate of the layoffs happening today. Telling a displaced warehouse worker that the AI economy will eventually create new jobs, she explained, is not a policy answer when that worker is today facing unemployment, loss of benefits, and cuts to the federal safety. She emphasized that it is the responsibility of lawmakers to ensure vulnerable populations are protected from these harms. Senator Hinchey also pointed out that no witness offered a concrete near-term response to this challenge.

F. Feedback

Industry witnesses were broadly critical of the bill as currently drafted, though the nature, reasoning, and intensity of their opposition varied across the panel. No witness fully supported the bill in its current form.

Alex Spyropoulos (Tech:NYC):

- Opposes the audit and third-party reporting requirements; argues no qualified auditor ecosystem exists and costs will price out smaller entities, widening rather than closing the divide between large and small tech developers
- Opposes the phrasing of "substantial change" in the bill, which says new reports are required for "substantial changes" in AI development and deployment; calls the definition vague and says the resulting compliance obligations would be endless
- Opposes the private right of action and the rebuttable presumption of liability; compares it to Illinois' BIPA and warns it will cause small entities to abandon AI deployment rather than face the risk of litigation
- Opposes the five-day advance notice of AI interaction requirement, arguing it will generate "notice fatigue" for consumers without real benefit to consumers
- Proposes instead expanding AG funding for a fair AI testing program modeled on fair housing secret shoppers, as well as an AG review of existing anti-discrimination law to identify and fill gaps
- Accepts the goal of preventing algorithmic discrimination, but disputes the mechanisms proposed in the NYAIA

Meghan Pensyl (Business Software Alliance):

- Agrees that high-risk AI uses, such as employment, housing, and healthcare, call for robust legal guardrails
- Supports requiring both developers and deployers to conduct impact assessments and implement risk management frameworks
- Opposes third-party audits specifically, suggesting the audit ecosystem is immature, uncertified, and presents trade secret, privacy, and security risks; internal accountability tools are superior to audits at this stage in their development
- Supports exclusive AG enforcement rather than a private right of action, to ensure consistent guidance and avoid conflicting court interpretations
- Supports sharpening distinctions between deployer and developer responsibilities in the bill

- Endorsed the National Institute of Standards and Safety ("NIST") AI Risk Management Framework ("RMF") in written testimony and supports the bill's reference to it rather than codifying it in the bill
- Agrees on the record that good regulation promotes responsible AI adoption, one of the most direct statements of conditional support from any industry witness
- Supports the use of independent impact assessment frameworks, such as BSA's Framework to Build Trust in AI, as an alternative to audit requirements

Dr. Alex Alonso (SHRM):

- Opposes the definition of high-risk AI as overly broad, which risks affecting low-risk administrative tools and creates uncertainty for employers making good-faith compliance efforts
- Opposes the cumulative compliance burden, which includes repeated audits, extensive reporting, and public disclosures, as cost-prohibitive for small and mid-sized employers that comprise most of New York's workplaces
- Opposes the advance notice, opt-out, and post-decision appeals provisions as disruptive to hiring operations, costing job seekers oppotunities in a competitive labor market
- Opposes the private right of action combined with a presumption of liability, warning that good-faith employers will abandon AI tools instead of risking inadvertent noncompliance
- Cites NYC Local Law 144 implementation experience as a cautionary case study, as its ambiguous definitions, rigid audit cadences, and insufficient guidance produced outcomes that were contrary to the law's stated purpose
- Proposes outcome-based definitions, compliance obligations proportionate to the risk, phased implementation timelines, safe harbors for good-faith compliance, and formal HR expertise incorporated into continued policy development

Chris Gilrein (TechNet):

- Disagrees that New York's existing anti-discrimination laws are demonstrably inadequate, and prefers leveraging and updating existing law where specific gaps can be identified rather than creating a new and broad framework
- Supports targeted legislation on AI-generated election misinformation and nonconsensual intimate images, where he says harms are more specific and clear
- Cites Colorado as a cautionary example, which was the only state to pass broad algorithmic bias legislation and now has implementation still delayed as stakeholders work through unresolved compliance details

- Cites Connecticut's approach (which TechNet endorsed), which focused on workforce training and AI infrastructure rather than broad anti-discrimination mandates; argues that New York should consider a similar investment-forward approach
- Endorses NIST as "a north star" for any framework and believes New York's approach should be interoperable with these national standards
- Argues New York's data privacy legislation should be prioritized, framing privacy as foundational to sound AI policy
- Does not oppose the bill's goals but disputes the scope and mechanism of its current draft

IV. Panel 3: Deployers of AI Technology

A. Overview

Panel 3 featured three witnesses representing deployers of AI technology across housing, business, and healthcare:

- Dr. Onrej Linda, Senior Director of AI and Engineering at Zillow
- Alex Peña, Executive Vice President of the Partnership for New York City, a nonprofit representing over 300 corporate, investment, and entrepreneurial firms supporting nearly one million jobs in New York City
- Dr. Erin Dupree, who testified on behalf of the Greater New York Hospital Association, which represents more than 150 voluntary and public hospitals across New York State

Panel 3 represented organizations that deploy AI in consumer-facing contexts, including housing, healthcare, and cross-sector business operations. This panel focused largely on the deployers of AI tools, a distinction from Panel 2, which consisted largely of technology companies and trade associations responsible for the development side of AI. This distinction was central to Chair Gonzalez's opening question for the panel, which focused on how deployers assess, acquire, and monitor AI tools when they are not necessarily the ones building them. Throughout the panel, Dr. Linda and Dr. Dupree offered experience-informed perspectives on responsible AI deployment practices and specific regulatory requests for the New York AI Act. Mr. Peña corroborated the structural critiques of the bill from Panel 2, opposing the bill's scope and enforcement framework without proposing an alternative approach.

The most substantive exchanges concerned insurance companies' use of AI in claims denial, the question of who bears responsibility when AI deployed by a third party causes harm, and whether the bill's scope should be narrowed to offer a compromise between legislators and the witesses.

B. Housing: Responsible Deployment and the Black Box Problem

Dr. Linda framed AI as a well-established technology which Zillow has been applying to real estate since its founding; notably, Dr. Linda cited Zillow's Zestimate product as one of the largest early consumer applications of machine learning in real estate. Dr. Linda emphasized that Zillow's AI tools are designed to support, not supplant, human decision-making by surfacing patterns in data, personalizing search results, improving listing quality, and interpreting natural language queries. Dr. Linda made it clear that the responsibility for achieving these outcomes lies with human oversight, not with algorithms, and that this

principle is central to Zillow's product lifecycle from design through post-deployment monitoring.

Per Dr. Linda's testimony, as part of Zillow's fair housing approach, before any AI feature launches, several teams conduct a model risk review that assesses intended use, potential consumer impact, data sources, performance, and foreseeable risks. Zillow has also developed a fair housing classifier, a tool that detects and helps prevent potential fair housing violations in AI-generated content and conversational systems. Notably, Zillow has open-sourced this classifier and the underlying training data, making it available to other real estate platforms and researchers working to combat housing discrimination.

Dr. Linda offered this as a model for how responsible innovation and compliance can be proactive, continuously documented, and shared with the industry rather than remaining proprietary. The use of this model parallels the Business Software Alliance's voluntary commercial framework, Framework for Trust in AI, highlighting the preference of industry to use alternative, independent impact assessment tools rather than audit requirements.

Legislative Exchange: Deployer Liability and the Black Box Problem

Senator Salazar asked Dr. Linda, if a landlord uses a third-party AI tool to screen tenants and that tool is found to be unlawfully discriminatory, should the landlord—as the ultimate deployer of the technology—be found responsible? Dr. Linda responded that the landlord-deployer must be held responsible because the decision to use the tool and execute the decision the tool produces both lie in the hands of the human deploying it. He reinforced Zillow's position of not encouraging landlords to use such tools in its rental marketplace precisely because of these risks.

Senator Salazar pressed further on a more complex question: under current fair housing law, a user can be found to have violated anti-discrimination law based on discriminatory impact alone, even without demonstrated intent. He then asked what the implications of that standard are for black box AI algorithms, or systems whose internal logic may be opaque to even those deploying them. Dr. Linda responded that what goes into an AI system and what it outputs should never be part of a black box, especially not to the company using the tool. He specified that Zillow audits its inputs for potential proxies and discriminatory correlations, monitors outputs for disparities, and when disparities are found, traces them to their root to deploy less discriminatory alternatives. Dr. Linda noted that in real estate, the stakes of this work are particularly high because almost any data point is historically correlated with redlining, meaning that the legacy of past discrimination is embedded in the very datasets these systems are trained on.

C. Business: Sequencing, Standards, and the Limits of Existing Law

The Partnership for New York City's Peña reiterated several of the structural concerns discussed in Panel 2 and applied them specifically to the community of deployers his organization represents. His primary objections to the bill closely followed Tech NYC's: the private right of action combined with a rebuttable presumption of liability at the motion-to-dismiss stage would create enormous settlement pressure before the bill's own standards are even established; the definitions of high-risk and substantial factor are too broad and may cover any AI tool that influences a decision, even when humans remain involved; the audit requirement is built on infrastructure that does not yet exist; and the public reporting and database requirements create operational, security, and competitive disclosure risks without substantial consumer benefit.

Mr. Peña's written testimony also made an additional affirmative argument, that responsibly designed AI systems can reduce discrimination relative to purely human decision-making, because human bias is often implicit and unrecorded, whereas AI inputs and outputs can be documented and therefore reviewed and corrected. This point reframes the policy question: the question is not only whether AI gives rise to discrimination, but whether it introduces more or less discrimination than the human-dominated status quo.

Legislative Exchange: When Is the Right Time to Regulate?

In response to Mr. Peña's claim that companies are still figuring out how to address the ongoing displacement of workers by the deployment of AI, Senator Hinchey asked who bears the cost of that uncertainty: is it the taxpayers of New York State, who would fund unemployment and retraining for workers displaced by their employers' decisions to use AI? Or is it the companies deploying those tools who have the responsibility to support the workforce and economy they are reshaping? Senator Hinchey added that deploying technology that displaces jobs in real time while still figuring out the consequences and remedies is a "shoot first, ask later" approach.

Mr. Peña's response acknowledged the question's legitimacy but deferred his answer, saying that it is a policy conversation the Partnership is willing to participate in without committing to a position. Senator Hinchey responded that if companies don't have the answers to these questions yet, those answers should come before the deployment, rather than after dangerous consequences arise. She concluded by advising Mr. Peña and other deployers to preemptively consider policies about the labor displacement-related consequences of AI deployment.

Chair Gonzalez followed with a related question that concentrated on the Partnership's call for more collaboration, including roundtables, forums, and stakeholder engagement,

before enforcing any regulations. Chair Gonzalez emphasized that the committee has already been doing precisely that for years, and asked whether there was a specific point in these discussions at which the Partnership believes regulation will become appropriate, or whether the call for collaboration functions as a permanent deferral of regulation. Mr. Peña's response did not directly answer the question of timing, restating instead that the bill is not the right approach for addressing the problems at hand related to the deployment at AI.

Senator Liu then summarized Mr. Peña's stance as a recommendation for the state to do nothing. Senator Liu asked whether the AG already has the expertise needed to examine the development and deployment of AI across every industry, or whether the state should help by establishing basic transparency and reporting requirements. He also asked whether transparency and reporting requirements are genuinely too onerous to ask of developers and deployers.

Mr. Peña responded he is not upholding that the state should do nothing; instead, the issue is in the sequencing of state action. Mr. Peña argued that the bill implies a standard of reasonable care that is too broad to prevent foreseeable algorithmic discrimination, but the standards for what that care requires have not yet been established. While Mr. Peña acknowledged that the Partnership broadly supports the NIST framework, he added that even those standards are still developing.

Senator Liu pushed back on this response, explaining that the bill is attempting to set standards precisely in the absence of settled ones, and if the Partnership disagrees with the standards proposed, it should suggest alternatives rather than opposing standard-setting itself.

Legislative Exchange: Can the Scope of the Bill be Narrowed?

Chair Gonzalez closed the panel by asking Mr. Peña whether there is a narrower scope that would be acceptable to the Partnership and its members, fielding the potential for a workable compromise between industry and government. Mr. Peña identified the private right of action as the Partnership's central concern. When it is paired with the bill's broad definitions of substantial factor and consequential decision, which he argued could extend to virtually any decision that can be seen as having a material impact on legal rights or liberties, the litigation exposure could become unlimited. Mr. Peña acknowledged that pre-deployment testing for discrimination is reasonable but noted that Colorado's approach uses internal assessments rather than mandated third-party audits, and that NIST remains a voluntary standard precisely because the field is still developing. He did not offer a

specific narrowing proposal, deferring instead to the upcoming panel of auditors to address what a satisfactory audit standard would require.

D. Healthcare: Insurance Denials, Clinical AI, and Accountability

Dr. Dupree's testimony drew a clear distinction between two disparate uses of AI in healthcare: one broadly positive and innovative for the medical field, and another that raises dangers to patients and requires serious legislative consideration. On the clinical side, she described AI's potential to radically improve healthcare, such as precision medicine tailored to individual genetic profiles, AI-assisted radiology improving the accuracy of cancer detection in mammography, and ambient listening tools that transcribe clinical encounters and allow clinicians to focus on the patient rather than documentation. Several Hospital Association members have widely adopted ambient listening, with the responsible clinician reviewing and editing the AI's notes rather than producing them from scratch. She also noted AI's value in administrative functions, such as medical coding, revenue cycle management, scheduling, and prior authorization. In these contexts, she explained, gains in efficiency can be particularly significant for safety-net hospitals that struggle to remain financially viable.

On the insurance side, however, the growing use of AI in the claims review process poses a serious harm, especially as insurers deny approximately 25% of all inpatient hospital claims. Dr. Dupree established two current legislative priorities in this domain. First, denials should not be automated: every denial of a health care service must be made by an appropriately qualified clinician, who should be required to document whether they actually reviewed the patient's clinical record and how much time they spent doing so. Second, AI processes used in utilization review must comply with existing health insurance laws and regulations, and cannot be used as a backdoor to denying claims that would otherwise must be covered under law.

Dr. Dupree cited that the federal Centers for Medicare and Medicaid Services has explicitly stated that Medicare Advantage plans must ensure their algorithms comply with all applicable requirements for coverage determinations, and state insurance law should hold all health plans to the same standard. Dr. Dupree emphasized that regulators should have clear authority to audit AI use in utilization review, and insurers should be required to disclose to regulators, providers, and patients how they are using AI in the claims review process.

Chair Gonzalez emphasized already-documented harms of AI in healthcare, including both insurance and clinical contexts. For instance, UnitedHealthcare's AI algorithm for Medicare Advantage denials was found to have a 90% error rate in 2023. Cigna was sued that same

year for using an AI system to reject 300,000 claims. A 2022 study found that AI radiology models can infer a patient's race from scans and exhibited discriminatory outcomes against patients with darker skin. A 2019 tool predicting the success of vaginal birth after cesarean section was found to be racially discriminatory, operating on age and BMI as inputs with skewed training data. These cases heightened the stakes of the conversation surrounding AI regulation in healthcare, showing that harms have already been documented in clinical settings and will continue to place patients in danger.

Legislative Exchange: Who is Accountable When AI is Wrong?

Senator Rivera, chair of the Senate Health Committee, posed questions towards Dr. Dupree on the insurance denial issue. He referenced Dr. Dupree's statistic that 25% of medically necessary procedures are already being denied, highlighting that insurance companies can exacerbate this already serious problem with AI. He noted that AI may eliminate human actors even in the current system, such as the person calling a doctor's office to communicate a denial. Dr. Dupree acknowledged that a balance should be struck in the use of AI in medical settings: AI is good at speed, data processing, and analyzing large datasets, but the skills at which humans predominate—such as in creativity, ethical reasoning, and social understanding—are precisely those that complex clinical decisions require.

Senator Hinchey asked two questions about accountability in the use of AI in healthcare. First, has the Hospital Association used its institutional weight to tell the insurance companies it works with that their claims denial practices are not acceptable for the patients they collectively serve? Dr. Dupree deferred the question. Second, when an AI-driven error occurs in a hospital—in billing, scheduling, or any other hospital-controlled function–who is responsible and what is the subsequent course of action? Dr. Dupree noted that New York State law already requires hospitals to report adverse events and investigate their root causes. She explained that sometimes the investigation reveals a communication failure between people, and at other times it reveals an undisclosed issue on the developer or third-party vendor side. There is therefore no single answer to the question of liability, as it depends on the details of findings of the investigation. Senator Hinchey responded that there must be a clearer chain of legal accountability, and that there should be zero tolerance for harm caused by third-party AI platforms in healthcare settings, especially given that third-party vendors are not subject to HIPAA as hospitals are. Dr. Dupree agreed, noting that hospitals are accustomed to operating in high-risk environments and that caution around new technology is intrinsic to the healthcare environment.

E. Feedback

Dr. Onrej Linda (Zillow):

- Did not take a formal position on the bill but described Zillow's existing AI governance framework as substantively aligned with the bill's requirements of proactive risk review, continuous monitoring, human oversight throughout the product lifecycle, and documentation of decisions
- Supports a high-risk regulatory approach, highlighting that Zillow's AI tools exist on a spectrum of risk and that each tool should be evaluated case-by-case
- Supports holding deployers responsible for the AI tools they choose to use and the decisions those tools produce
- Argues that the inputs and outputs of any AI system should never be opaque to the company deploying it, and that proactive auditing for proxy variables and discriminatory bias is possible and necessary

Alex Peña (Partnership for New York City):

- Opposes the private right of action and rebuttable presumption of liability at the motion-to-dismiss stage as the bill's most detrimental provision, arguing it would create settlement pressure and defensive compliance costs before standards are even established
- Opposes the definitions of high-risk and substantial factor as overly broad, having the potential to cover any AI tool that influences any decision, even when humans remain meaningfully involved in the process
- Opposes the audit requirement as built on infrastructure that does not yet exist: without clear criteria for what it means to pass an audit, the mandate is undefined, costly, and may produce uneven outcomes
- Opposes the public reporting and database requirements as creating security, competitive, and operational risks without significant benefit to consumers
- Does not oppose the bill's goals and explicitly states that unlawful discrimination is unacceptable whether it comes from people or technology
- Proposes an AG-led review of existing civil rights, labor, and consumer law to assess whether current law falls short of protecting from all the potential harms of AI tools
- The written testimony argues that responsibly designed AI can reduce discrimination relative to purely human decision-making

Dr. Erin Dupree, Greater New York Hospital Association

- Opposes the bill's burdensome requirements for hospitals already working under extensive regulatory oversight audits. Written testimony focuses on the operational

challenge to clinical operations of the five-day advance notice requirement, given the already widespread use of AI tools in health care settings

- Opposes the bill's "length and burdensome" requirement for auditing and high-risk reporting
- Urges legislature to exercise caution on new legislation that could hinder emerging clinical AI tools, which hospitals are already evaluating through rigorous internal governance processes including data governance committees
- In-person testimony was largely constructive, focusing on what the bill should do in terms of insurance denials
- The most specific and urgent legislative task was to support strong regulation of insurer use of AI in the utilization review and claims denial process
- Insurance-related asks: denials must not be automated and must be made by qualified clinicians who document their review; AI in claims review must comply with all existing utilization review laws and regulations and cannot be used to circumvent coverage; regulators must have clear audit authority over insurers' AI use; and insurers must disclose to regulators, providers, and patients how AI is being used in claims decisions
- Supports requiring third-party vendors to be held to the same standards as hospitals themselves, noting that vendors are not currently subject to HIPAA in the same way hospitals are
- Acknowledges unequal AI adoption across the hospital membership, and notes that the Association is developing shared resources to support members earlier in their adoption

V. Panel 4: Academia and Service Providers

A. Overview

Chair Gonzalez framed Panel 4 as a rebuttal to the claims made by industry witnesses in Panels 2 and 3. While those panels argued that auditing is not a mature field, that there are no agreed-upon standards, and that the bill's compliance requirements are operationally unworkable, Panel 4 assembled four witnesses whose professional work directly contradicts each of those claims.

The witnesses were:

- Dr. Sorelle Friedler, Shibulal Family Professor of Computer Science at Haverford College, Chair of U.S. Technology Policy for the Association for Computing Machinery, and former Assistant Director for Data and Democracy at the White House Office of Science and Technology Policy, where she co-authored the AI Bill of Rights
- Danny Manimbo, Managing Principal at Schellman and leader of its ISO and AI services practice, testifying as an expert on AI governance standards and specifically ISO 42001
- Dr. Rumman Chowdhury, CEO of Humane Intelligence, a public benefit corporation specializing in independent AI evaluation and algorithmic auditing
- Dr. Julia Stoyanovich, Professor of Computer Science and Data Science at NYU and founding director of the NYU Center for Responsible AI

All four witnesses supported the bill's framework. Their feedback was constructive rather than oppositional, focusing on strengthening specific provisions and directly rebutting industry claims from the morning.

B. AI Governance in Tools with Known Errors

Dr. Friedler opened by establishing the foundational premise that AI is not designed to work all the time, and that the guarantees computer scientists make about AI systems are purely statistical. A system that achieves 98% accuracy sounds strong, she explained, but applied to New York's population as a hypothetical, a 2% error rate means approximately 400,000 people would receive the wrong result. AI governance is therefore not about preventing failure entirely, but should be about building overlapping layers of safeguards so that as few people are harmed by gaps in governance when failures inevitably occur.

Dr. Friedler illustrated this with cases drawn from her own research and from documented harms. Her research on predictive policing found that such systems do not identify where

crime will occur in the future – instead it sends police back to the same neighborhoods where arrests have historically been made. In predominantly Black neighborhoods, "predictive policing" perpetuates past policing bias regardless of actual crime patterns.

In one case, a woman who was hospitalized and in serious pain had her opioid prescription cut off after the NarxCare database—an analytics platform that analyzes Prescription Drug Monitoring Program data to evaluate patient risk for controlled substance misuse—flagged her as high-risk for addiction. Without any explanation or way of knowing that an AI system had been used in her care, she was discharged and her doctor terminated their relationship. Dr. Friedler explained that it later emerged that the reason for the AI system's determination was that it had confused the patient's medical record for her dog's, whose medications had been entered into the database under her name. Without transparency, notice, human review, and an appeals process, she furthered, there was no mechanism for this patient to identify or correct the AI error.

C. Federal Precedent for AI Regulation

Dr. Friedler closed her testimony by directly countering the claim repeated throughout the morning that the bill's requirements are unusual or unprecedented. She pointed out that both the Biden and Trump administrations issued federal requirements for AI used or procured by the federal government, and these requirements are remarkably similar to each other and to the New York AI Act. Both require scoping AI systems by high-impact use cases, conducting AI impact assessments, independent review, human oversight and intervention, timely human review and appeals processes, consultation with impacted users, and public transparency into AI use cases and governance processes. The Biden administration additionally required assessment and mitigation of algorithmic discrimination. Given that companies that supply AI systems to the federal government are already required to meet these standards, the bill is not asking for anything new that responsible companies have not already been asked to do.

D. AI Auditing: ISO 42001

Mr. Manimbo testified to counter what he described as a recurring and factually incorrect claim from the morning's panels: that there are no agreed-upon AI auditing standards and no infrastructure to conduct audits. He began by introducing Schellman as an auditing firm that has operated for nearly 25 years, specializing in security and privacy auditing, and is one of the first firms accredited to conduct ISO 42001 certifications.

Mr. Manimbo offered an overview of ISO 42001, which was published in late 2023 by the International Organization for Standardization and is the world's first international management system standard dedicated specifically to AI. This standard does not regulate

AI outputs or mandate specific technical approaches but rather establishes a structured governance framework (an AI Management System) for how AI systems are designed, deployed, monitored, and maintained. Mr. Manimbo argued that ISO 42001 addresses the actual root cause of most AI failures, which is not flawed algorithms, but organizational weaknesses. As Mr. Manimbo explained, the standard is specifically designed to remediate issues of unclear accountability, insufficient oversight, data governance gaps, and lack of ongoing monitoring. It requires organizations to perform impact assessments, identify AI-related risks, define risk acceptance criteria, assign clear ownership and oversight, implement controls, and continuously monitor performance.

Critically, as Mr. Manimbo highlighted, ISO 42001 is an international standard that produces a tangible deliverable: a certification that verifiably demonstrates governance maturity. This distinguishes it from NIST's AI Risk Management Framework, which is a voluntary national framework that produces no certification. The standard is also intentionally broad and scalable, meaning it is applicable to organizations of all sizes across any sector using AI in consequential environments. As Mr. Manimbo continued to explain, it is also flexible enough to absorb compliance obligations from multiple regulatory frameworks simultaneously. Thus, a company obligated to comply with both the New York AI Act and the EU AI Act can scope a single ISO 42001 certification to cover both.

Legislative Exchange: Audit Cost, Conformity, and Scope

Chair Gonzalez asked Mr. Manimbo what it costs for an organization to conduct an ISO 42001 audit, given industry claims that auditing is prohibitively expensive. In year one, the most intensive phase, Mr. Manimbo responded, costs range from $20,000 to $50,000. In years two and three, the cost of surveillance reviews—which examine material changes to the system, the ongoing effectiveness of the AI management system, and whether monitoring practices are serving their purpose—falls toward the lower end of that range. Chair Gonzalez responded that for companies deploying AI in the highest-risk use cases, meaning systems that materially affect a consumer's life, that is a reasonable cost of due diligence.

Senator Liu asked whether the New York AI Act conforms with ISO 42001, or whether adjustments would be needed to align with the international standard. Mr. Manimbo said the standard and the bill share common themes precisely because both are intentionally broad: the standard is role-specific to developers and deployers, and emphasizes risk analysis, ongoing monitoring, awareness, AI literacy, and anti-discrimination—all of which correspond with the bill's principle and framework. He furthered that this broadness allows a company to use a single ISO 42001 certification scoped around its high-risk AI use cases to demonstrate compliance with the bill. Senator Liu then asked whether innovation has

come to a complete standstill in the EU following its AI regulation. Manimbo confirmed it has not.

Chair Gonzalez also returned to a question left open at the end of Panel 3: the Partnership for New York City had been asked what a narrower audit scope might look like and had deferred to the auditors. Manimbo addressed the question by explaining that when a client is obligated to comply with a specific regulation, that regulation should be the primary input into how they scope their ISO 42001 certification. If a use case falls within the bill's purview, the certification should be scoped around that use case, ensuring the disciplines around impact assessment, responsibility assignment, and ongoing monitoring are aligned with the regulatory compliance obligation in each context. Chair Gonzalez noted that this perspective aligns with a key feature of the bill, in that it does not codify any specific auditing standard, providing flexibility for companies of all sizes to meet its requirements proportionate to their actual, specific high-risk use cases.

E. Auditing Standards

Dr. Chowdhury highlighted the distinction between an audit and an assurance, a difference that industry critics frequently blurred. An audit, she explained, is tested against a specific framework, which is why debates about which standard applies matter. Assurance, on the other hand, asks the more foundational question of whether the product is operating as expected. In Dr. Chowdhury's words, every company should be able to answer that question before making claims about what their AI system does. Dr. Chowdhury observed that wildly confident claims are currently being made about AI model performance with very little assurance behind them—and when assurance is given, it is seldom made public.

She directly challenged what she called the facile argument that we do not know how to audit AI. Her response was that if that is the case, companies should not roll out their products. Yet, she pointed out, a lack of understanding of how to audit AI five years ago did not prevent hundreds of billions of dollars of investment in building large language models. If even a fraction of that investment were directed toward safe, secure, and responsible AI evaluation, the technical and institutional capacity to conduct audits would exist at scale. Dr. Chowdhury summarized the argument that auditing is impossible as a funding choice rather than a technical claim.

Dr. Chowdhury's own work at Humane Intelligence operationalizes what effective evaluation looks like in practice. Rather than one-off checkbox bias scans conducted on sanitized data in a lab, her methodology involves context-specific, sociotechnical evaluations that combine technical measurement with experiential input from the communities affected by the system; these evaluations are then conducted continuously

across the system's lifecycle. For example, Humane Intelligence has run evaluation programs with scientists on misinformation, with architects on creative IP, with students and teachers on EdTech, and with UN delegations on gender bias in AI models. She also noted that Panel 2's industry witnesses had proposed a nonprofit secret shopper program as if it were a new idea, when in reality, this kind of community-embedded evaluation has been underway for years, by organizations that exist precisely because the private sector has not funded the work adequately.

Dr. Stoyanovich added the foundational premise that auditing is not optional, as the question of whether AI systems work at all should precede any other governance-related question. She framed the necessity of auditing by explaining simply that if AI does not do what it claims to do, no one benefits from its proliferation. Dr. Friedler reinforced this from a software engineering perspective, noting that testing is a foundational tenant of the discipline, one she teaches her students as non-negotiable. The resistance to testing AI systems is, in her view, almost offensive to anyone with a background in engineering.

Legislative Exchange: Can Regulation Keep Pace with Technological Advancement?

Assembly Member Otis opened his questioning by asking: regardless of whether auditing is possible in principle, is the evaluation skill set actually capable of keeping pace with a technology evolving faster than the institutions designed to assess it? When companies bring on AI tools, he elaborated, the temptation is to simply assume they function and deploy them in production environments without meaningful testing. He asked the panel to be honest about where the state of auditing is, and whether there is genuine institutional humility required about the limits of current evaluation capacity.

Dr. Chowdhury answered from her vantage point of actively building evaluation infrastructure: the central tension in AI evaluation, she explained, is context versus scale. For instance, benchmark tests, which are automated evaluations with right or wrong answers, work well at scale but fail in context—if the benchmark was not designed for your specific use case, it tells you nothing meaningful. Red teaming, adversarial exercises where ethical hackers test real-world outcomes, provides contextual depth but is time-consuming and expensive, and so likely not feasible at scale. The emerging approach of using AI-generated judges trained on human evaluation data improves scalability but is imperfect.

In practice, therefore, organizations are using a mixed methodology: in some cases, automated tools are retrofitted to specific use cases, and in others, humans lead testing alongside domain experts. The field, according to Dr. Chowdhury, is creative and developing rapidly, but it is also small and underfunded. Dr. Chowdhury noted that her

community of evaluators is very much alive, though it is doing more work than it can manage and in need of more people to do this work alongside them.

Dr. Friedler added that the federal government is already moving forward with procurement requirements mandating this type of testing for any AI it uses or buys, and that the specifics coming out of that process will be instructive for states. Crucially, Dr. Stoyanovich added that we do not need to understand how an AI system works internally in order to test whether it works; rather, the scientific method should be used to apply to AI testing, just as it is used to evaluate drugs, medical devices, and environmental interventions. Thus, Dr. Stoyanovich concluded, the issue of AI regulation is not a new problem, but requires applying existing scientific standards rigorously to a new domain.

F. Job Displacement and Who Pays the Cost for AI

Senator Hinchey raised the question of job displacement that had run through the entire hearing, asking what the witnesses' perspective was on the future of layoffs at the hands of automation. Dr. Friedler's response to this concern was grounded in the bill itself, as she explained that the human review and appeal requirements in the New York AI Act could serve a secondary function as a partial mitigation of job displacement. In a well-functioning system, she continued, straightforward decisions would be handled efficiently while decisions requiring nuanced judgment—including those concerning termination of employment—would receive more human attention and care, thereby preserving the human role in consequential decisions.

Dr. Chowdhury specifically highlighted the ongoing and urgent elimination of entry-level work. She described a generation of young people entering the job market and finding that companies have already decided that their first jobs (including staffers, researchers, and administrative roles) are better automated by AI. Dr. Chowdhury cautioned against being distracted by Silicon Valley's framing around universal basic income, which she characterized as a paternalistic and inadequate response to a structural problem. She also noted an internal contradiction in industry's displacement claims, where every CEO who has announced massive AI-driven job cuts, including Salesforce, Klarna, and Duolingo among others, has subsequently quietly rolled back those numbers. She emphasized that the question of young people entering the workforce was paramount when considering the impact of AI automation on the job market.

Senator Hinchey doubled down on the concern of Fortune 500 companies functioning as nepotism-based oligarchies, especially in light of AI replacing entry-level jobs. If entry-level and mid-level positions are eliminated, she explained, access to good jobs at major companies will increasingly depend on knowing or being related to someone already in a

senior position. She characterized this trajectory as ultimately oligarchical, wherein economic mobility through merit will no longer be feasible, and the promised redistribution through universal basic income would never approach the scale of executive compensation at the companies driving displacement.

Dr. Stoyanovich identified the long-term solution in public investment as being in education and research, drawing a parallel to the first Sputnik moment. She noted that the RAISE Act's "E" nominally stands for Education but currently has not procured meaningful investment in new curricula or in training people currently in the workforce to use AI productively rather than be displaced by it.

Legislative Exchange: Should Companies Pay for Employee Retraining?

Senator Hinchey asked directly whether it is reasonable to require the companies profiting from AI and driving these layoffs to fund retraining systems for displaced workers. Dr. Stoyanovich's response was unequivocally affirmative, and pointed to Empire AI as an existing infrastructure that should be conceived as a democratizing platform for AI research, innovation, and development. Such a platform, she explained, should include a community of educators supported by company contributions with no strings attached, with the state serving as a neutral clearinghouse rather than allowing companies to dictate research priorities. Senator Hinchey connected this issue to the lessons legislators learned from social media regulation that waiting for harm to become undeniable before acting does not protect people. Rather, every day without a governance framework is a day closer to a point of no return.

G. Prohibitions on AI

Assemblymember Otis asked Dr. Friedler whether any jurisdiction has enacted a hard list of prohibited AI uses, and whether she has considered such a list of her own. Her answer reflected the bill's own approach, where most defensible prohibition frameworks are contextual rather than categorical. For instance, Dr. Friedler explained that the prohibition of facial recognition by law enforcement is not a prohibition on the technology itself, but it is a prohibition on a specific high-risk use case, involving the conditions of specific procedural requirements including a warrant and application only to high-burden crimes. At present, algorithmic emotional detection systems in law enforcement is Dr. Friedler's clearest candidate for outright prohibition. She explained that the science does not support its efficacy and that there are strong reasons to believe it will never work at the required threshold of reliability. However, law enforcement's continued incentive to purchase and deploy it regardless of this evidence creates conditions for systemic injustice masked by a veneer of technical authority.

In the closing of this exchange, Chair Gonzalez pointed out the contradictions of the hearing's morning industry testimony: acknowledging that problems exist, but opposing any mechanism to address them, and claiming that the appropriate response is more collaboration, even though years of collaboration have only produced the very harms documented throughout the hearing. In response to Chair Gonzalez's inquiry about the witnesses' perspective on these contradictions, Dr. Friedler emphasized that the New York AI Act presented a proactive approach to regulation that does not merely require pursuing legal action after the harm has already occurred.

Dr. Stoyanovich connected the issue of AI regulation to the controversy surrounding Grok's creation of nonconsensual pornographic images with AI, highlighting that this issue was not an outlier to the conversation of AI governance, but is a symptom of the currently inadequate regulatory environment. Dr. Stoyanovich posed the question of whether New York wants to be known for producing companies like that, or for responsible innovation that is actually beneficial to the populace.

Mr. Manimbo added that ISO 42001 has received the same objection from the same opponents, who claim that existing security standards are sufficient and AI-specific standards are unnecessary. His response to this criticism is that existing security and privacy standards were not designed to account for risks unique to AI, which include questions of fairness, bias, ethical use, and unintended consequences. Governing AI responsibly, he continued, requires standards built specifically for AI, just as governing aviation safety requires standards built specifically for aviation.

H. Feedback

All four witnesses supported the bill's framework. Their feedback was constructive, focusing on strengthening specific provisions and on directly addressing the claims made by prior panels.

Dr. Sorelle Friedler (Haverford College):

- Strongly supports the bill's layered safeguards, including audit and transparency, human review and appeal, notice and explanation for affected individuals, governance and risk mitigation plans, and enforcement
- Described the bill's safeguards as standard in AI governance and already required by both the Biden and Trump administrations for federal AI procurement
- Supports contextual prohibition of specific high-risk AI uses, particularly facial recognition in law enforcement investigations without a warrant, and affective computing in law enforcement contexts where the technology does not work reliably

- Believes that the bill creates space for the responsible AI startup ecosystem, and that clear regulation helps smaller innovators compete on trust rather than on scale alone
- Emphasizes that many companies supplying AI to the federal government are already required to meet standards substantially similar to those under this bill, and that industry claims of unprecedented burden are factually inaccurate
- Suggests that human review and appeal requirements may serve a secondary function of preserving human roles in consequential decisions, functioning to partially mitigate job displacement

Danny Manimbo (Schellman):

- Directly refutes the claim that no AI auditing standards or auditor ecosystem exists: ISO 42001 is a published, internationally recognized standard with accredited certification bodies already conducting audits
- Confirms that ISO 42001 and the bill are structurally compatible, as both emphasize risk analysis, ongoing monitoring, and nondiscrimination, and the standard's breadth allows it to absorb compliance inputs from multiple regulatory frameworks such as the NYAIA
- Provides concrete cost data countering industry claims of prohibitive expense
- Explains that ISO 42001 fills the gap left by NIST's AI RMF; the AI RMF is a voluntary framework with no tangible certification whereas ISO 42001 produces a verifiable, deliverable certification demonstrating the maturity of governance standards
- Existing security and privacy standards were not designed to account for risks unique to AI, such as fairness, bias, ethical use, and cannot substitute for AI-specific governance standards
- Advises that companies obligated to comply with the bill should scope their ISO 42001 certification around the specific use cases the bill covers to ensure consistency with their regulatory compliance obligations

Dr. Rumman Chowdhury (Humane Intelligence):

- Strongly supports the bill's requirement for independent third-party audits, drawing a distinction between audit and assurance and arguing both are necessary and neither is currently standard practice in AI deployment.
- Directly challenges the claim that auditing is not feasible. Rather, the question to consider is whether companies choose to invest in evaluation, not whether it is technically possible.

- Supports the bill's whistleblower protections and safe harbor provisions as essential to building an ecosystem of independent evaluators who can speak about risks without fear of retaliation
- Supports community-embedded evaluation as part of the audit framework
- Argues that the entry-level job displacement problem requires targeted policy attention focused on young workers entering the job market today, not speculative long-term redistribution mechanisms

Dr. Julia Stoyanovich (NYU Center for Responsible AI):

- Strongly supports the bill's high-risk focus, as risk-based regulation strengthens competitiveness by giving developers and deployers clarity about where heightened obligations apply
- Risk-based frameworks enable freer innovation in low-risk settings while ensuring meaningful oversight in high-stakes cases
- Supports preserving and strengthening the bill's notice and opt-out requirements, as they are low-cost for deployers, high-value for markets, and address the information asymmetry that allows AI systems to make decisions about people without their knowledge
- Recommends treating validity and reliability as economic concerns, not merely ethical ones
- Points to Empire AI as infrastructure that should be expanded to support a community of independent evaluators and researchers, funded by companies profiting from AI with no strings attached
- Recommends pairing the bill with meaningful investment in education, auditor expertise, and government capacity
- Critiques the bill labeling people as users, which presupposes active choice to engage with a software system though it is often not an active decision for many people affected by high-risk AI decisions. She recommends returning to the language of people, which better reflects the distributed accountability framework the bill is trying to create
- Emphasizes that the shift to generative AI does not make the bill's algorithmic discrimination concerns obsolete, as the same discriminatory outcomes documented in machine learning systems are already appearing in generative AI research, and will continue to appear as consequential decisions are rebuilt on generative foundations

VI. Panel 5: Advocate Representatives

A. Overview

Panel 5 featured three witnesses from national nonprofit organizations whose work lies at the intersection of consumer protection, civil liberties, and digital rights:

- Kara Williams, counsel at the Electronic Privacy Information Center ("EPIC"), an independent nonprofit research organization established to protect privacy, freedom of expression, and democratic values in the information age
- Dr. Travis Hall, Director for State Engagement at the Center for Democracy and Technology ("CDT"), a civil liberties organization fighting to advance civil rights in the digital age, who previously spent ten years on technology policy at the National Telecommunications and Information Administration and worked on the Biden administration's AI Bill of Rights
- Ben Winters, Director of AI and Privacy at the Consumer Federation of America ("CFA"), an association of over 200 nonprofit consumer interest organizations.

These witnesses represent national policy and advocacy organizations that have studied AI's discriminatory impacts closely, publishing research and advising legislators across the country on AI governance.

Chair Gonzalez opened Panel 5 by framing it within the broader arc of the hearing, particularly after the morning's testimony by industry witnesses who argued that: existing law is sufficient, auditing is not yet a mature field, the bill's definitions are overly broad, and regulation at the state level risks harming New York's competitiveness. She highlighted the Panel's dialogue as an opportunity to open those specific critiques to witnesses whose professional work in AI regulation, civil rights, and consumer protection informs their opposition to those claims, and stated that her constituents deserve a government willing to take on Big Tech in their interest rather than support corporate interests.

All three witnesses supported advancing NYAIA, and their feedback was largely constructive and additive.

B. Information Asymmetry and the Limits of Existing Laws

Throughout the panel, witnesses highlighted the argument that AI creates a structural informational asymmetry between developers and deployers of AI and the people affected by their decisions. Existing civil rights, labor, and consumer protection laws cannot adequately remedy these harms in the AI context, largely because they cannot be invoked when the people they are meant to protect have no way of knowing when they have been

harmed by AI. Ms. Williams framed this as the foundational problem of the AI ecosystem today, where New Yorkers have no way to know whether AI is being used to make decisions about their jobs, housing, healthcare, or access to legal services, let alone how those systems work or whether they are accurate. Dr. Hall characterized AI's defining feature as its opacity: unlike conventional, non-algorithmic decisions, automated systems obscure how decisions are made (including what data the algorithm was trained on) and who bears the responsibility.

When visibility does exist, Mr. Winters added, it comes almost entirely through external actors like whistleblowers and investigative journalists. As an example, he cited ProPublica's reporting on Cigna's algorithm mass-rejecting policyholders' claims and threatening physicians who pushed back, highlighting how these harms have only become visible incidentally rather than through legal enforcement.

Dr. Hall argued that while there are laws on the books about discrimination in employment, housing, and civil rights, the obfuscation of responsibility within the process of AI decision-making makes it difficult for a regulator or individual to figure out how they've been discriminated against to defend their rights. Ms. Williams corroborated this idea by stating that the first step to exercising any rights is to establish knowledge of how an AI system was used. Without this transparency, she continued, existing civil rights laws can only offer help after the harm has happened.

All three witnesses pointed to the specific provisions in the NYAIA that would help mitigate these issues. Mr. Winters asserted that transparency does not only entail revealing when AI is used, but the assurance of accountability through the reporting requirements that the bill would enforce. Similarly, Ms. Williams added that the bill will actively prevent harm from occurring through the required independent audits and risk management programs.

C. Documented Harms as a Consequence of Opacity

In his written testimony, Mr. Winters raised documented harms of automated decision-making across sectors, underscoring the urgency needed in updating existing law. He raised the following cases: Workday's resume scanners are the subject of an ongoing age-bias lawsuit; Amazon admitted in 2017 that its hiring algorithm had learned from historically male-dominated data and penalized applicants with features associated with women; the Epic Sepsis Model was independently validated at roughly 63% accuracy against its marketed 76-83%, generating alert fatigue while missing 67% of actual sepsis cases; the Apple Card was approved women at substantially lower credit limits than men with comparable financial profiles; and rental screening tools like RentGrow produce inaccurate reports that lead to unjustified housing rejections.

Dr. Hall's testimony similarly referenced CDT's research documenting how algorithmic hiring tools discriminate against disabled job candidates, how bossware systems threaten disabled workers' rights, and how tenant screening algorithms disproportionately exclude disabled people and other marginalized groups. These examples demonstrate how data-driven systems are already producing harmful discriminatory outcomes at scale across sectors, much of which is not accounted for under existing regulation. These harms, according to Dr. Hall, are also symptoms of the absence of transparency requirements.

D. NYAIA's Impact on Innovation and New York's Competitiveness

Echoing concerns by industry witnesses earlier in the hearing, Chair Gonzalez asked witnesses directly what they thought about the idea that the NYAIA would interfere with innovation. Dr. Hall addressed this concern by arguing that for innovation to be possible, businesses would need to ensure that the systems they are procuring from other businesses to make consequential decisions like hiring and other assessments will work safely and not put them in legal jeopardy. He raised the analogy of the necessity of the FDA in verifying that food isn't poisoned for small restaurants to be able to use it. Ms. Williams added that, just as Americans broadly would prioritize the safety of the products they use, they would not want AI to be innovated without being centered around the human values of safety, transparency, and responsibility that are core to the bill.

On the topic of innovation and the impact of regulation on small businesses, Dr. Hall added that to empower small businesses to utilize the benefits of AI systems and to continue to innovate, they need to minimize their liability by verifying the safety and efficacy of AI systems early in the development process. Mr. Winters also pointed out that having no regulation would only benefit the biggest companies with teams of lawyers to defend them if harms occur, who "want innovation all to themselves" and to exclude small businesses. NYAIA, however, will even the playing field by allowing for the safe innovation that will enable small businesses to thrive.

Chair Gonzalez related these responses to the underlying motivation behind the NYAIA: constituents deserve to trust that government is acting in constituents' interests first, before those of corporations. She mentioned another piece of criticism the bill regularly receives, that slowing innovation will benefit our global rivals and make New York state less attractive for business. This argument, she explained, has motivated significant federal pushback to state regulations, including repeated threats of preemption of state law.

In response to these concerns, Ms. Williams highlighted that the federal government's posture on state regulation echoed the notion of "waiting and figuring it out." However, as she explained, little federal progress has been made at present and states should not wait

for federal action to put safeguards on these technologies. Rather, states must take a proactive approach to prevent harms before they occur.

Dr. Hall argued that it is a disingenuous stance to argue for slowing innovation in the interest of caution and simultaneously support the federal push to preempt state regulation. On the matter of New York's impact on national security and competitiveness, Dr. Hall reframed the AI "race" of today not as a question of development of the next big models, but a question of responsible adoption in a way that does not hurt the economy. If New York and the United States more broadly want to "win" this race, he argued, we must prioritize passing the laws and regulations that allow society to absorb these tools responsibly.

Legislative Exchange on the Idea of "Building the regulatory plane while flying it"

Senator Hinchey launched her questioning by raising the framing used by opponents of the NYAIA that we can "build the plane while flying it," or figure out needed regulation further down the line, once innovation and adoption progress. Turning to the panelists, she asked whether they believe that, if AI development were wholly unregulated, there would be an imminent threat to our workforce.

Mr. Winters responded that an unregulated technology industry extracts as much as possible from the people. Current practices of AI development and deployment have created a false need for automation, which leads to rapid hiring, firing, and "playing with people's lives." Senator Hinchey followed up by asking whether playing with people's lives is a threat to the economy overall. Dr. Hall responded affirmatively, adding that unregulated AI overall is a threat to the economy. Senator Hinchey built off this response by raising whether AI left unchecked is a threat to our democracy. Ms. Williams responded with a clear yes, and that we can compare the longstanding harms of the internet and social media on democracy as a precursor. Dr. Hall concluded the line of exchange by reiterating that guardrails and trust are necessary for people to be responsible with the technology.

Legislative Exchange: the "Patchwork" Problem and AI's Unique Threat to Democracy

Chair Gonzalez opened her second round of questioning by addressing the tension between the simultaneous lack of federal regulation of AI and the criticism of the patchwork of state regulation across the country. Highlighting the committee's efforts to align with approaches taken in Colorado and Connecticut, Chair Gonzalez asked the panel to address that critique.

Ms. Williams pushed back on the term "patchwork" itself, arguing that it has been deployed pejoratively by industry advocates to discourage necessary state-level action. Divergent regulatory frameworks, she pointed out, have always been common in the United States:

fifty states maintain fifty distinct tax and zoning laws, which industries navigate without difficulty. She argued that states develop their own regulation by iterating on one another, collaborating with and learning from what works and what doesn't; the existence of varying approaches in other states does not obligate New York to settle for another state's standard or preclude it from developing its own more extensive protections.

Dr. Hall addressed the patchwork concern by noting that high-risk use cases that the bill targets, such as employment, housing, credit, public benefits, are all state-level regulated domains where companies already navigate state-specific requirements alongside national law. Because there are areas where local and national law already coexist, Dr. Hall argued that the claim that complying with both New York and national AI regulation is untenable is not accurate. He also noted that the bill's built-in safe harbor allows developers who do not want to engage in high-risk use cases within New York to simply opt out, undermining the compliance burden argument for products that are market-specific by design.

Chair Gonzalez responded by summarizing the debate around AI as a question of its impacts on democracy, asking the panelists what they perceive the differences, unique risks, and implications are for AI chatbots on democracy and legislation.

Mr. Winters addressed this directly by rejecting the idea that generative AI is categorically different from traditional automated decision systems in ways that would place it beyond the bill's reach. He described both as operating through the same processes: a training and data stage, an input stage, processing stage, and output stage. Regardless of the output, he pointed out, the regulatory questions at stake are the same. He added that AI-powered chatbots are in some ways even less accountable than prior automated systems, given how interactions with chatbots can mislead users into thinking they are speaking with a person, and the vast, opaque training data informing their outputs.

Dr. Hall grounded the discussion in recent history, noting that the Biden administration's AI Bill of Rights predated the public release of ChatGPT, meaning that the governance questions that generative AI raises were already relevant before it became a widespread phenomenon. He argued that both traditional algorithms and generative AI produce their outputs because of human design choices and that the unpredictable nature of generative AI outputs does not diminish that accountability.

Ms. Williams closed the exchange by reiterating that technical distinctions between technologies like chatbots and resume screening tools are not the relevant objective of legislative discussions. The bill, she highlighted, provides a regulatory framework that is appropriate for a vast range of technology from traditional algorithms to large language

models. Chair Gonzalez added to Ms. Williams' assessment by noting that the bill's definitions are not overbroad but rather appropriately inclusive precisely because the harms are ubiquitous across both categories of systems.

E. AI, Cybersecurity, and Data Privacy

Assembly Member Otis opened the discussion on the intersection between AI, cybersecurity, and data privacy, asking the panelists whether they have any recommendations to legislators about the need to understand these components as parts of a greater whole. Explaining the relationship between AI, data, and privacy, Mr. Winters responded that there is no AI without the data it is trained on, meaning that privacy concerns are always integrated in the consideration of AI. In particular, the development and deployment of AI is one of the biggest and most current ways that data is being used, abused, and commercialized for private gain. Dr. Hall cited the specific and emerging concern of commercialization, in which a chatbot uses personal data to recommend products or share political messages. He also refuted the point that privacy restrictions should be minimal as extensive data is required for AI use, highlighting that the regulation of transparency in the use of AI in high-risk cases should function alongside data privacy legislation.

While panelists raised several examples of newly developing AI technology that creates dangers within this intersection, Ms. Williams was clear during the exchange that lawmakers should focus on the root cause of these harms, rather than attempting to address every individual emerging technology.

F. Feedback

Kara Williams (EPIC):

- Strongly endorses the bill's transparency requirements, including notice, opt-out rights, and human review and appeal, framing transparency as the precursor for every other right the bill creates
- Supports Bill's independent audits and risk management programs that will prevent harm from occurring
- Strongly Supports the private right of action as essential to enforcement, and the public repository of high-risk AI reports as a mechanism to remedy the information asymmetry between companies and the people subject to their systems
- Urges lawmakers to focus on the root cause of these harms, rather than attempting to address every individual emerging technology

- Supports New York developing independent state regulation despite criticisms of the "patchwork" model

Dr. Travis Hall (CDT):

- Strongly supports the bill's narrow scope on systems that are a substantial factor in consequential decisions or that materially impact constitutional rights, civil liberties, safety, or welfare
- Supports safe harbor built into the bill which says that one can opt out of engaging with high-risk use cases of AI
- Believes the "race" in AI today to be a matter not of development but of adoption and absorption of responsible regulation, which the NYAIA works towards

Mr. Winters (CFA):

- Urges the committee to advance the bill urgently, arguing that documented algorithmic discrimination is only intensifying
- Offers one recommended amendment to incorporate the content of Section 88's high-risk AI system reporting requirements into the consumer-facing opt-out notice, so that individuals have the information they need to make an informed choice about whether to submit to automated decision making
- Argues that consumers deserve to know whether they are dealing with an AI system with potentially discriminatory output before opting in
- Supports high risk reporting requirements throughout the bill as a way of ensuring accountability and transparency

VII. Panel 6: Community Representatives

A. Overview

Panel 6 was the final panel of the public hearing on the NYAIA and featured four witnesses representing community organizations with experience of AI-driven harms among low-income New Yorkers, communities of color, and other marginalized groups:

- Rahnold Thomas, Chair of the Tech and Innovation Committee for the NAACP New York State Conference, who brings over two decades of experience advising Fortune 500 companies on responsible technology strategy
- Corinne Worthington, Advocacy and Community Engagement Manager at the Surveillance Technology Oversight Project ("STOP"), which advocates and litigates for New Yorkers' privacy rights
- Maren Hurley-Matz, representing New Economy Project, an economic justice organization that provides legal assistance to low-income New Yorkers through its financial justice hotline
- Steven Choi, Director of the Artificial Intelligence Community Engagement ("AICE") Initiative, whose career has focused on ensuring that grassroots communities have a role in shaping the public policy that affects their lives.

All four witnesses supported the principles underlying the NYAIA. Their testimony was grounded in documented, on-the-ground experience of AI harms drawn from legal hotline cases, community organizing, and firsthand implementation of AI systems rather than from policy, advocacy, or industry perspectives. The panel's overarching theme was that the communities most harmed by unregulated AI are also the least positioned to identify or seek remedy for those harms, and that the bill's transparency, accountability, and private right of action provisions are essential because of that asymmetry.

B. AI's Discriminatory Impacts

Witnesses across the panel agreed that AI systems are already producing harmful discriminatory outcomes at scale, and that those harms are the product of historical structural biases and inequalities embedded in the systems' training data.

Mr. Thomas opened by drawing on his experience implementing AI systems in Fortune 500 companies, describing a workforce support program targeting low-income communities in which the AI system quietly shifted the demographic profile of successful applicants. He explained that this shift occurred not through explicit discriminatory intent, but because a data point indicating that some applicants were late to work led the algorithm to filter for proximity to the office, effectively excluding residents of outer boroughs like Queens and

the Bronx. Communities that were 90% of the intended target population found themselves screened out by a geographic variable that functioned as an unintended proxy for race and class.

Ms. Hurley-Matz focused on AI's role in supercharging predatory financial practices targeting low-wage workers. Financial technology companies have designed app-based products to evade New York's prohibition on payday lending, marketing supposed no-interest cash advances while charging triple-digit interest rates through hidden fees. Those apps require users to grant broad access to their financial data, which is then fed into proprietary AI-powered underwriting systems and used to monitor workers' finances, predict paycheck timing, and automatically debit accounts. Ms. Hurley-Matz pointed to a pattern emerging in debt collection, where AI tools are enabling collectors to scrape public data, predict who is most susceptible to pressure, and target those individuals more aggressively and frequently.

C. Adequacy of Existing Law

A notable thread running through the panel was the inadequacy of existing civil rights and consumer protection law to address AI-driven discrimination, because those laws were not designed to account for algorithmic decision-making and the opacity of AI systems makes such laws nearly impossible to enforce without heightened transparency requirements.

Mr. Thomas argued directly against the claim that existing civil rights law is sufficient by pointing to AI systems that can automate inequity without the requisite intent, producing discriminatory outcomes that are technically legal under present law's disparate treatment frameworks. He emphasized that the challenge is not only evaluating outputs, or the actual decisions made, but how, given that equitable inputs can produce inequitable outputs, to address discrimination at the training data stage, where bias is most deeply embedded but is the least visible.

Ms. Hurley-Matz corroborated this idea by pointing to the New York State Department of Financial Services' ("DFS") 2024 Circular Letter on AI in insurance underwriting as evidence that regulators already recognize the inadequacy of general civil rights frameworks in the context of AI. DFS required insurers to demonstrate that proxy factors were not used in underwriting or pricing, mandated disclosure of AI use and data sources, and affirmed consumers' right to request specific reasons for adverse decisions. She argued that what DFS has done by guidance in insurance must be extended across sectors and that the NYAIA does exactly this.

D. Auditing and Gaps in the Current Framework

Both Ms. Worthington and Mr. Thomas engaged with the question of auditing infrastructure, and their assessments were more critical than those of prior panels, focusing on whether the framework the bill currently relies on is adequate.

Ms. Worthington argued that the NIST AI RMF was not developed as an auditing framework and does not contain the criteria necessary for an assessment to be deemed independent or for grading and evaluating AI systems. She argued that there is currently no way to look at NIST's guidelines and determine whether a given algorithm would pass or fail. Ms. Worthington proposed that rather than relying on existing federal frameworks, New York should develop its own comprehensive and consistent auditing regulations, either through the state attorney general or through a legislative commission convened by the bill, in consultation with experts, privacy advocates, and impacted communities. She also requested clarification on whether joint and several liability between developers and deployers would be made explicit, and whether a deployer's reliance on a developer's audit would shield the deployer from liability if that audit proved inadequate.

Legislative Exchange: The Limits of Auditing

Assemblymember Otis asked Mr. Thomas whether he is confident in the ability of auditing tools to properly analyze and detect bias in AI systems. Mr. Thomas expressed confidence that tools to identify bias in AI systems exist, but emphasized that the critical issue at hand is whether people are held accountable for using these tools, a question of institutional design rather than technical capacity.

Assemblymember Otis then asked Ms. Worthington to elaborate on STOP's assessment of the quality of existing auditing frameworks and what a more rigorous approach would look like. She reiterated that no consistent and effective auditing framework currently exists that can reliably grade algorithmic systems: existing standards, she explained, provide aspirational guidance but offer no clear criteria for what constitutes an adequate finding, who qualifies as an auditor, or how to determine whether a system passes or fails. She argued that New York has a genuine opportunity to be at the forefront of developing such a framework, and that the bill should embed the development of that infrastructure rather than deferring to inadequate federal standards.

E. Community Power, AI Literacy, and Workforce Development

Mr. Choi's testimony was centered on the concern that the communities most affected by AI are being governed without their substantial participation. Alongside the bill's substantive protections, he argued, the legislature should address this democratic deficit itself.

Mr. Choi argued that AI policy must be built with communities rather than presented to them after they are created. Doing so requires addressing the foundational barrier that most affected communities are not yet familiar with AI because technical debates are structurally inaccessible. He urged the Senate to invest in grassroots AI literacy statewide, make impacted community participation a foundation requirement of AI policymaking, and ensure that marginalized communities are both protected from AI's harms and equipped to benefit from its opportunities.

Mr. Thomas reinforced the urgency of this point by noting that in communities of color, AI is often met with skepticism or outright opposition. He also emphasized that embedding transparency requirements at the front end of AI development accelerates responsible innovation rather than impeding it, citing his own implementation experience to argue that having accountability built in from the start is faster and more efficient than retrofitting systems after the fact.

Ms. Hurley-Matz added that AI literacy alone is insufficient when people are unaware that AI is being used to make decisions about them at all. Literacy, she argued, cannot substitute for the right to opt out, the right to notice, and the right to challenge the use of AI; these are all protections that the NYAIA provides and that are critical for communities that have historically borne the costs of the unchecked deployment of technology.

Chair Gonzalez concluded the panel by affirming that the only parties who benefit from inaction are large technology companies maximizing profit at the expense of consumers, and that while no single bill will be sufficient, NYAIA must be the start of years of sustained cooperation between the legislature, advocates, and the communities they serve.

F. Feedback

Rahnold Thomas (NAACP New York State Conference):

- Strongly supports the bill's transparency and auditing requirements
- Disagrees that existing civil rights law is sufficient to address AI-driven discrimination
- Argues that existing disparate treatment frameworks are not equipped to capture inequitable outcomes produced by these systems
- Urges the legislature to pair the bill with robust workforce development investments to ensure that communities of color are positioned to benefit from AI's opportunities
- Argues that embedding transparency requirements at the front end of AI development accelerates responsible innovation rather than impeding it, and that having accountability built in from the start is more efficient than retrofitting systems after deployment

Corinne Worthington (Surveillance Technology Oversight Project):

- Strongly supports the bill's private right of action and burden shifting mechanism
- Recommends eliminating the bill's reliance on the NIST AI Risk Management Framework in favor of building a New York-specific auditing standard, arguing that NIST was not designed as an auditing framework and does not define what constitutes an independent assessment or provide criteria for grading AI systems
- Argues that no existing framework was built for auditing with the purpose of grading and evaluating AI systems for legal compliance
- Proposes that a more robust auditing infrastructure be developed either by the Attorney General or by a legislative commission convened by the bill in consultation with experts, privacy advocates, and impacted communities
- Requests that joint and several liability between developers and deployers be made explicit in the bill
- Requests clarification that the safe harbor provision in Section 89-B does not apply when a developer knows or should know that their model is being used for consequential decisions by a deployer, and that the deployer's reliance on a developer's audit does not shield the deployer from liability if that audit proves inadequate

Maren Hurley-Matz (New Economy Project)

- Endorses the bill's opt-out rights, disclosure requirements, private right of action, audit requirements, and prohibition on AI social scoring as essential baseline protections
- Supports the position that consumer lending, housing, and tenant screening are areas where the likelihood of AI-driven harm is high enough to warrant a comprehensive framework and potentially a moratorium pending adequate safeguards
- Recommends that notice provisions be strengthened to include mandatory disclosure of the risks of AI use, companies' liability for discriminatory outcomes, and individuals' rights under the law
- Recommends that the 45- to 90-day investigation period for appeals be shortened arguing that it unfairly burdens people facing time-sensitive financial harms
- Argues that the right to notice and opt out must accompany investments in community education

Steven Choi (AICE Initiative, Just Futures)

- Supports the bill as a critical step toward transparent, accountable, and responsible AI governance
- Urges the Senate to make impacted community participation a foundational requirement of AI policymaking, recommending engaging communities early
- Urges the Senate to invest in grassroots AI literacy statewide through trusted community-based organizations
- Urges the legislature to ensure that marginalized communities are positioned to benefit from AI's opportunities through workforce pathways, support for small business innovation, and procurement standards that prevent exclusion

VIII. Conclusion

Over the course of the hearing, several common themes emerged, most notably:

- **On the sufficiency of existing anti-discrimination law to resolve algorithmic bias**
    - Industry representatives testified that existing state anti-discrimination laws are sufficient to address AI-sourced issues of algorithmic bias. Generally, they opined that there is no need for new AI-specific legislation to address these harms.
    - Academic, advocate, and community representatives responded that existing anti-discrimination laws are insufficient to address AI-sourced issued of algorithmic bias, because AI decision-making is opaque and lacks discriminatory intent required to state a claim under existing laws.
- **On the difficulty and value of external review of AI systems**
    - Many industry representatives cited the high cost, limited value, and underdeveloped auditing ecosystem as reasons to reject an auditing framework in algorithmic discrimination legislation.
    - Academic, service provider, advocate, and community representatives stated that external review is a developed industry, cost-effective, and could improve substantially if industry invested a fraction of what they invest in the development of AI systems.
- **On the overall challenge of AI regulation**
    - Industry representatives argued that comprehensive AI regulation would be so prohibitive, especially to small businesses, as to effectively cease AI innovation.
    - Academic, advocate, and community representatives pushed back, contending that not only is AI regulation possible, as illustrated in the Biden and Trump administrations, but that it would lead to a stronger AI ecosystem with better products and better outcomes for those affected by AI.

On behalf of the Senate Standing Committee on Internet & Technology, we extend our thanks to all legislators and witnesses who participated in this hearing. We look forward to continuing to engage with all stakeholders on the critically important issue of the safe, responsible, and fair use of artificial intelligence.