February 29th, 2024:

To: Chair, Rep. Julie Fahey and Committee Members House Committee on Rules

Re: SB 1571-1 – Disclose Artificial Intelligence use in campaign ads – OPPOSE

My name is Kaliko Castille and I'm the co-founder of Thndrstrm Strategies a PoC owned/operated, digital marketing and communications firm working with clients in the cannabis industry and the political campaign ecosystem. I am also a former candidate for State Rep. in HD41.

The reason I'm writing today is to raise my concerns around the definitions of "synthetic media" in SB1571. While I do understand and support the need to regulate and ban "deepfakes" and other forms of A.I. based media whose purpose is to impersonate a real human being that the public would know, I believe that as written, this legislation could have a disproportionate impact on small, grassroots campaigns like I ran in 2022.

My concerns center around the use of A.I. to create what is basically stock photography and videography. I believe that having to disclose the use of A.I. in these sort of scenarios would put smaller campaigns who cannot afford to hire expensive consulting firms or shell out thousands of dollars to a photographer or videographer at a disadvantage when being evaluated by a voter who knows that the image or video was made using A.I.

While we should definitely make sure we regulate the ability to impersonate a public (or private) figure and create fictional scenes and or speech, I can't imagine that we would also require campaigns to disclose when using stock photography or videography. Campaigns regularly employ the use of stock photos or stock videos in their campaign materials with the purpose of creating visual narratives that speak to a campaign's values or vision for the future.

They also regularly hire actors/extras to appear in their campaign ads without any expectation from voters that each scene is real and that all of the people in them will actually be voting for and supporting that candidate.
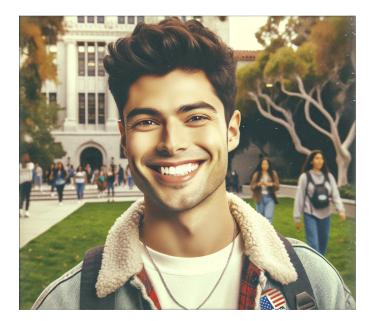
Requiring the disclosure of all "synthetic media" could fundamentally alter the dynamics of political campaigning. Imagine a scenario where a voter receives two campaign mailers side by side—one featuring imagery labeled as AI-generated and the other presenting traditional media. In this scenario, the stark contrast between the two could inadvertently sway the voter's perception, leading them to favor the candidate associated with "real" media. This dynamic

underscores the potential for unintended consequences in the application of such disclosure requirements. While the intention may be to enhance transparency, the practical implications could tilt the playing field in favor of those with the financial means to produce conventional media, thus undermining the principles of equitable access and fair competition in our democratic process.

To demonstrate my point, I've provided two examples of "synthetic media". Both created with A.I. using the same prompt. One was created using OpenAI's DALL-E and the other was made using Midjourney.

Upon first glance, it's obvious that one of them (the one on the left) is made with artificial intelligence. The other (on the right) looks like it could have been taken by an actual photographer during the course of a campaign shoot for a mailer on college affordability.

In conclusion, while I acknowledge the importance of regulating AI-generated media to prevent deception in political campaigns, it is crucial to refine the definition of "synthetic media" in SB 1571 to exclude its use in stock photography and videography.

The current broad scope risks unfairly disadvantaging smaller campaigns and perpetuating inequalities in political representation. By adopting a more nuanced approach that focuses on addressing the specific threats posed by deepfakes and similar malicious uses of AI, we can

uphold the principles of transparency and fairness without unnecessarily burdening campaigns that rely on legitimate and increasingly more commonplace media production techniques. I urge the committee to consider this refinement to ensure that any regulations enacted strike the appropriate balance between combating deception and preserving the accessibility and integrity of our democratic process.

Mahalo for your attention to this matter.

-Kaliko Castille