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THE VOICE OF THE
INNOVATION ECONOMY

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March 4, 2024

The Honorable C.T. Wilson
Chair
House Economic Matters Committee
Maryland House of Delegates
231 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401

RE: HB 1255 (Bartlett) - Labor and Employment - Automated Employment Decision Tools – Prohibition.

Dear Chair Wilson and Members of the Committee,

On behalf of TechNet, I'm writing to offer comments on HB 1255, related to automated employment decision tools.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

Artificial intelligence, machine learning, and the algorithms that often support artificial intelligence have generated policymaker interest. Our member companies are committed to responsible AI development and use.

We appreciate the high-risk threshold that is set in HB 1255, as it aligns with the well-established standard of unlawful discrimination that already exists in the context of employment, creating consistency with federal law and clear expectations for compliance.

In the definition of "Algorithmic Decision System", the term "facilitates decision making" is very broad and could include simple processes like search results for resumes, which is considered low-risk. We request shifting focus to any high-risk applications and using language from [NYC Local Law 144 \(2021\)](#). We request the

addition of "substantially assists or replaces" and striking "facilitates". The suggested definition would read:

(2) "ALGORITHMIC DECISION SYSTEM" MEANS A COMPUTATIONAL PROCESS THAT SUBSTANTIALLY ASSISTS OR REPLACES DECISION MAKING, INCLUDING DECISIONS DERIVED FROM MACHINES, STATISTICS, FACIAL RECOGNITION, AND DECISIONS ON PAPER.

Under the definition of "Algorithmic Employment Decision Tool", we suggest amending that definition to include "using criteria not set by a natural person". The suggested definition would read:

(3) "AUTOMATED EMPLOYMENT DECISION TOOL" MEANS AN ALGORITHMIC DECISION SYSTEM THAT, USING CRITERIA NOT SET BY A NATURAL PERSON, AUTOMATICALLY FILTERS:...

If a natural person tells the tool to automatically filter out certain types of candidates, then the human should be liable for any outputs, not the tool. The bill should aim to regulate only tools that use criteria set by the AEDT itself, not a natural person. Adding this language would achieve that.

Thank you for the opportunity to share our concerns on HB 1255. We look forward to continuing these discussions with you.

Sincerely,



Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic