BUSINESS MEETING

BEFORE THE

COMMITTEE ON RULES AND ADMINISTRATION
UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

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MAY 15, 2024

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Printed for the use of the Committee on Rules and Administration

COMMITTEE ON RULES AND ADMINISTRATION

SECOND SESSION

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FULL COMMITTEE BUSINESS MEETING

WEDNESDAY, MAY 15, 2024

The Committee met, pursuant to notice, at 10 a.m., in Room 301, Russell Senate Office Building, Hon. Amy Klobuchar, Chairwoman of the Committee, presiding.

Present: Senators Klobuchar, Fischer, Schumer, Warner, Merkley, Padilla, Ossoff, Bennet, Welch, Butler, Wicker, Hyde-Smith, and Britt.

OPENING STATEMENT OF HONORABLE AMY KLOBUCHAR, CHAIRWOMAN, A UNITED STATES SENATOR FROM THE STATE OF MINNESOTA

Chairwoman KLOBUCHAR. This meeting is called to order. Good morning. I am pleased to be here today with Ranking Member Fischer and our colleagues. I know that Leader Schumer is going to be joining us shortly. He is opening the floor.

Today, we are going to consider three important bipartisan bills. This comes on a very important day, not only the day after primary day but also because this is the day that the bipartisan framework on AI was released by our colleagues, Senator Schumer and Senator Young, Senator Rounds, and Senator Heinrich. Many of us had input into the framework, practically anyone that wanted to did, and it is very, very important for the future. I like the words used to explain it, that they do it with urgency, with bipartisanship, and with humility.

It was David Brooks that once said how he had trouble writing about AI. I will quote him exactly. He said a few months ago, "The people in AI seem to be experiencing radically different brain states all at once. I've found it incredibly hard to write about AI," he said, "because it is literally unknowable whether this technology is leading us to heaven or hell."

It can lead us into heaven in so many ways. As the Chair of this Committee and as a state which is proud to include the Mayo Clinic, I know the innovations that are possible with this. I know where we can go with this, and it is very exciting for our country, but only if we are willing to put some guardrails in place. If Elon Musk is asking for regulations maybe we should listen.

All of the platforms involved in this, American companies, have been very clear that we need to have some rules of the road in place. This bill that we are first considering on political deepfakes that Senator Hawley and I put together with Senator Collins and

others with input from election experts. Both Democrat and Republican lawyers combed through this bill carefully, of course, because it is so important to look at it for constitutional implications and make sure it followed the Constitution, as well as for the impact that it would have in a positive way. The fact that a number of the platforms have said yes, this is what we need to do because we cannot have people tuning into TV or seeing ads or videos or get robocalls and not actually know if it is their candidate or the other. That is the first bill we are going to vote on, the Protect Elections from Deceptive AI Act, which was introduced with Senator Coons as I mentioned, Senator Hawley is the lead Republican, and Senator Collins. Senator Bennet on this Committee is also an original cosponsor.

The kinds of things we have already seen are chilling. We had, in the Republican primary, used against Donald Trump, was an ad showing him hugging Dr. Fauci. It was not true. It was created by AI. There was one that got a lot of attention, robocalls made in New Hampshire that sounded exactly like Joe Biden. They were played by Senator Tillis and Senator Coons in a recent hearing in Judiciary, and you could not tell the difference. It was his voice telling people not to vote in the Democratic primary. That was recorded by a magician, and it just kind of goes to show you how we are going to see this resurgence of fakery and scams going on in our elections. Whether you are a Democrat or Republican, whether you are a conservative or a liberal, we cannot have our democracy undermined by ads and by videos and by robocalls when you literally do not know if it is the candidate you love or the candidate you dislike. We cannot have that happen to our democracy.

That is why so many states have come to the rescue, but they can only do their own state ads, and their own state robocalls, and their own state videos.

At least 14 states have now enacted some form of labeling so that at least the viewers of these videos know if they are real or not, if it is the real person or not. Several have looked at or adopted bans, including the State of Texas, which unanimously, in their legislature, passed a ban with the support of Governor Abbott.

To date, the states have been doing their work because they get the urgency, in the words of the authors of our bipartisan framework, they get that they must act urgently by bipartisanship and humility. As we head into this election, I would argue the hair on fire moment is that we actually take this on immediately and not wait.

The three bills are the first that I have mentioned here, which again, the states are doing different versions of this for state activity. Only on us, the Senate Rules Committee and the United States Senate and the United States House, and all these bills have or will have soon bipartisan companions. The first one I mentioned is led by Derek Kilmer, Democrat, and then Representative Gonzales of Texas. They have bipartisan counterparts in the House, and I spoke to the Speaker directly about this a few weeks ago. They are actually moving on bipartisan legislation as well. So far, this has not gotten into this partisan milieu, and we need to keep it there because we do not have much time left to get this done.

We have got this Protect Elections from Deceptive AI Act, which is Senate S. 2770. We also have the AI Transparency in Elections Act. I think of these as how they work together. We have got the ban bill for the most egregious examples of people pretending to be the candidates. Then we have this other bill which requires labeling—disclaimers—so you actually know if it was prepared for by AI. That does not cover things like changing the colors in an ad or making your hair look better, maybe hiding some of the gray. We did not include any of this in the bill, Senator Murkowski and I, because we get there are going to be practical uses of AI with cropping and the like, and we are not going to stand in the way of science. We made this specific, and this idea actually came out of the hearing that we had with one of the Republican witnesses, that we do not want to put it on everything for every use of it, or it is going to become ridiculous to have the disclaimer.

The disclaimer will truly help in places—as Senator Collins and I were talking about this weekend—the ban bill cannot, because of the Constitution, apply to things like satire or parody. We have made that very clear, Senator Hawley and Senator Collins and I, in our bill, but the labeling bill, the disclaimer bill is going to really help in those kinds of incidents. You have a parody that looks exactly like the Senator's opponent or a Senator themselves in a political thing, at least it will say prepared for using AI, in a statement on the ad. That way, at least, people will not be fooled into thinking it is the actual person. That is the second bill.

The third bill, Senate S. 3897, with Senator Collins, is the Preparing Election Administrators for AI Act, which is actually—I will get to that in a minute—but it is helping with the Election Assistance Commission and giving them some guidance on this.

We know this is going to become one of the most significant, if not already, technological advances of our time. We know there are risks. That is why we have a major effort going on in the Senate. We want these bills, or some form of them, and I am always open to changes, as we have done with all our bills. This is the Committee that got the Electoral Count Act through the United States Senate, and I note, we did that and we did that on a strongly bipartisan basis. We made changes and we got to the right place on it. I am hopeful we can do that with these bills as well.

The bipartisan roadmap signed off by the four leaders on this includes references to all three of these bills that involve common-sense rules of the road. In the last week, this Committee has heard from a bipartisan group of more than 40 national security experts and election officials calling on us to come together and advance the very bills that are before us today. That group includes former Secretary of Defense Chuck Hagel, a Republican, and Leon Panetta, a Democrat, of California—I had to say that for you, Senator Butler—along with current and former Secretaries of State from both parties, including former Republican Secretaries Trey Grayson of Kentucky and Kim Wyman of Washington.

As I note, this is a "hair on fire" moment, and here is why. AI has the potential to turbocharge the spread of disinformation and deceive voters. Like the robocalls, as I mentioned, used in New Hampshire, like the video, which was not true, of President Trump

hugging Dr. Fauci, whether you are a Republican or a Democrat, no one wants to see these fake ads or robocalls.

I note the states that have embarked on either ban or labeling bills include Texas, Mississippi, and Minnesota, as well—these are ban bills—in New York, Oregon, and California. Other states that have been involved in labeling bills are Florida, Idaho—these are not exactly bright blue states, as everyone knows—Utah, Wisconsin, Michigan, New Mexico, New York, Washington. It is all over the board. It is just simply that these Governors in these states said we are not going to tolerate deepfakes of our elected officials or those that are opposing them in political ads, and they were willing to stand up and say that.

Some companies are also taking action because they know that this technology has the capacity to sow chaos in elections if it is not addressed now, but we cannot rely on a patchwork of state laws and voluntary commitments. Our bill does not touch the state laws. Our bill is very clear that those laws will be allowed to go on. This is about federal ads.

Today, we will consider the three bills. It is supported, as I noted, by experts across the spectrum, including Republican Secretary of State David Scanlan of New Hampshire, whose state, as I noted, had the deepfake robocall, and that is being investigated right now, of who is behind that. He was a recent witness at a hearing. While we must ban deepfakes, as I note, we also need disclaimers and that is the bill with Senator Murkowski.

Finally, we need to make sure those on the frontlines of our elections are prepared to respond to AI. We are going to take up the bill with Collins to require the Election Assistance Commission to issue guidelines. That bill also includes a proposal, a very good proposal, from Senator Butler to require a report next year on AI's impact in the 2024 elections.

With more primaries this spring and summer and the general election in November, today we have the opportunity to pass these bipartisan bills. I look forward to a productive markup.

I will now turn it over to Ranking Member Fischer.

OPENING STATEMENT OF HONORABLE DEB FISCHER, A UNITED STATES SENATOR FROM THE STATE OF NEBRASKA

Senator FISCHER. Good morning, and thank you, Chairwoman Klobuchar. I would like to welcome my colleagues to this markup.

Today the Rules Committee will consider legislation related to the use of artificial intelligence, or AI, in the context of political speech and election administration. Like many of my colleagues I am concerned about AI-generated deepfakes. AI can increase the speed, scale, and sophistication of content used for impersonation or identity theft. It can cause serious harm to an individual's reputation and privacy. I believe it is worth discussing how we can address these issues.

That said, I think two of the three bills we are marking up today, the Protect Elections from Deceptive AI Act and the AI Transparency in Elections Act of 2024, miss the mark on addressing these concerns.

As we discussed in the hearing last year, the issues surrounding AI and elections are complicated. We have to balance the potential

for innovation with the potential for deceptive or fraudulent use. On top of that, we cannot lose sight of the important protections our Constitution provides for free speech in this country. These two bills do not strike that careful balance.

First, they are over-inclusive and they sweep in previously unregulated speech that goes beyond deepfakes. The Protect Elections from Deceptive AI Act restricts unpaid political speech. There is no precedent for this restriction in the 50-year history of our federal campaign finance laws. Political speech, like this, is an essential part of our democracy, and it is the primary means for ensuring government accountability. That is why government regulation of this speech has always been limited.

Second, these bills increase burdens on speech. They rely on difficult-to-define terms like "reasonable person" and "materially deceptive." Those vague terms create uncertainty about what speech is regulated and about whether a speaker could be subject to litigation or penalties.

I understand that several AI companies have offered their support for these bills. That is helpful context. But it seems that the people who would be most affected by these restrictions and by this uncertainty are those who would use AI to create political speech, not tech companies.

Third, these bills seek to federalize this issue and preempt state law. Supporters of these bills point to several newly enacted state laws as reasons why Congress should pass them. It is true that several states have acted independently to restrict the use of AI. The Constitution empowers them to do so. I support states in their efforts to regulate their own elections.

Political campaigns themselves are already able, under existing laws, existing state laws, to address fraudulent and defamatory ads and quickly seek their removal, whether or not those ads were created using AI. State laws may provide faster ways to seek removal of such ads than the federalized enforcement process in these bills.

Finally, it is worth mentioning that these bills seem familiar. That is because they are recycled versions of other election-related bills my Democrat colleagues have offered in recent years. S. 1, the For The People Act, contained a provision remarkably similar to the Protect Elections from Deceptive AI Act. The AI Transparency in Elections Act echoes the Honest Ads Act and the DISCLOSE Act. We did not pass those bills because they dramatically expanded federal authority over states' abilities to run their own elections and because they created new federal burdens on the rights of Americans to speak. Adding a new definition of AI to the text does not resolve those concerns.

I hope my colleagues will join me in opposing the Protect Elections from Deceptive AI Act and AI Transparency in Elections Act, and instead having a sincere conversation about how to thoughtfully address the real concern posed by AI-generated deepfakes.

The final bill before us today, the Preparing Election Administrators for AI Act, requires the Election Assistance Commission to give additional guidance to election officials about AI. It also requires the EAC, which is an independent, bipartisan agency, to study how these officials use AI technology during the 2024 elections. I believe it will benefit our country to learn how AI can help

election workers solve the challenges they face as they work to en-sure the security and integrity of our elections. For that reason I plan to support that bill.

Leading up today's markup we have received very informative feedback about these bills, and I ask unanimous consent that the following letters and op-ed be entered into the record: a letter signed by the ACLU California Policy Center, Competitive Enter-prise Institute, Electronic Frontier Foundation, FIRE, and Tech Freedom; a letter signed by Americans for Prosperity; and an op-ed in the Washington Examiner, authored by Brad Smith, former Chairman of the Federal Election Commission.

I look forward to our discussion today. Thank you, Madam Chair.

[The information referred to was submitted for the record.]

Chairwoman KLOBUCHAR. Thank you very much, Senator Fisch-er, and I would also like to submit for the record the following doc-uments: A letter from Issue One, signed by a bipartisan group of more than 40 national security experts under both Republican and Democratic Presidents, including former Secretaries of Defense under Republican and Democratic Presidents, election officials, and former high-ranking government officials, supporting all three bills. I also enter into the record a letter from former Republican Chair-man of the Federal Election Commission, Trevor Potter, supporting all three bills. Letters from Republican Secretary of State of New Hampshire, David Scanlan, in support of the Protect Elections from Deceptive AI Act and the AI Transparency in Elections Act; sup-portive statements from OpenAI, Microsoft, and IBM, and I also note that there are other platforms supporting the bill, as well, knowing that we need to get ahead here and put guardrails in place. The Senate's bipartisan roadmap I put on the record, that I just discussed, that speaks to the need to take action on AI.

Without objection, entered into the record.

[The information referred to was submitted for the record.]

Chairwoman KLOBUCHAR. I thought we could start with the third bill that Senator Fischer just discussed. I know that Senator Schu-mer is going to be joining us soon, so I thought I would leave those two remaining bills for when he gets here, and we can have some comments on this first bill. I know that Senator Butler has a provi-sion in it. Then maybe on the second one hear from some other Members.

But the Committee will now proceed to the consideration of S. 3897, the Preparing Election Administrators for AI Act. I offer a Manager's Amendment in the Nature of a Substitute to the bill and recognize first myself and then Senator Butler to speak on this Amendment.

AI is developing quickly, and election officials are grappling with its impact on their work. This bill, that Senator Collins and I lead, requires the Election Assistance Commission to work with the Na-tional Institute of Standards and Technology to issue guidelines for state and local election offices on the use of AI in our elections so that they have the information that they need to support their work.

The Manager's Amendment includes a proposal from Senator Butler to direct the EAC to issue a report on the use of AI during this year's election. It is a commonsense addition to learn more

about AI in elections, and I thank Senator Butler for this provision, which is also supported by Senator Collins.

In the House, Representatives Houlahan of Pennsylvania; Brian Fitzpatrick, Republican of Pennsylvania; Abigail Spanberger, Democrat of Virginia, the Commonwealth of Virginia; and Doug Lamborn, Republican of Colorado, lead a bipartisan version of this bill.

This bill, as I noted, has support from a number of election officials at the state and local level. I ask my colleagues to support it.

Senator Butler, if you want to say a few words.

Senator BUTLER. Thank you, Senator Klobuchar. It has been a real pleasure for my team to work with you and your office as we work to put together legislation that is, as you noted, common sense, and to align myself with the comment of our Ranking Member, Senator Fischer. The inclusion of the provision of a study, for me, is about how we learn, how we adjust, and how we move forward in ways that are informed by our experiences. It is just, again, a commonsense approach to how we can implement our legislation, make change without delay, learn from that change, and make adjustment as we move forward.

I have been thrilled to work with you and your team on this, and I would appreciate my colleagues' support.

Chairwoman KLOBUCHAR. Thank you very much, and I note that Senator Collins is also strongly supportive of the amendment.

Are there other Members wishing to speak on the amendment? [No response.]

Chairwoman KLOBUCHAR. Okay. Seeing no further debate on the amendment we will proceed to the vote.

The question is on the adoption of the Manager's Amendment. I believe we are going to have roll call votes for all the votes today. We will start with this.

Do you want to call the roll then, the Clerk.

The Clerk. Senator Schumer?

Chairwoman KLOBUCHAR. We do not have proxy votes here, so continue on.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

[No response.]

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. Aye.

The Clerk. Senator McConnell?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator FISCHER. [No response.]

The Clerk. Senator Hyde-Smith?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Britt?

Senator BRITT. Aye.

Chairwoman KLOBUCHAR. Okay. Senator Padilla is here to vote on the amendment which includes his colleague's provision, from California.

Senator PADILLA. Aye.

Chairwoman KLOBUCHAR. Very good. Thank you. I will note that while the proxies do not count, Senator Schumer would be aye by proxy, so I will add that in for the record. But the way our Committee rules work, for a long time, the proxy votes do not count.

With that could we have the Clerk report on the amendment?

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Aye.

Okay. The report on the amendment?

The Clerk. On this vote the ayes are 14, the nays are 0.

Chairwoman KLOBUCHAR. Okay. Excellent.

The next one we are doing is voting on the actual bill. Is that correct? We will call the roll on the actual bill. This was the amendment.

The Clerk. Senator Schumer?

Chairwoman KLOBUCHAR. Aye by proxy.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. Aye.

The Clerk. Senator McConnell?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator WICKER. Aye.

The Clerk. Senator Hyde-Smith?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. Aye by proxy.

The Clerk. Senator Britt?

Senator BRITT. Aye.

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Aye.

The Clerk. Of the numbers present at the time of the vote to report, the ayes are 11 and the nays are 0.

Chairwoman KLOBUCHAR. Okay. The bill passes.

Next we are going to move to the Protect Elections from Deceptive AI Act. That is the bill that I discussed in the opening. I know Senator Warner is going to make a few comments. Others are welcome to, as well.

I first offer a Manager's Amendment in the Nature of a Substitute to the bill, and recognize myself to speak on the Amendment.

This bipartisan bill, as noted, introduced with Senators Hawley, Coons, and Collins, bans materially deceptive AI-generated content of federal candidates to influence elections, the deepfakes that show candidates doing and saying things they never did, but no one can tell if it is you or not. Every elected official needs to put themselves in those shoes and pretend that an ad is running that shows themselves saying something and it is not really them. That is what we are dealing with. That is what we are dealing with for any challengers. That is what we are dealing with on our elections. This is why so many states are stepping in and banning this kind of material.

The bill allows federal candidates for office—federal candidates—to have this content taken down, and it enables them to seek damages in Federal Court. It does so within the framework of the Constitution with exceptions for news organizations, parody, and satire. I think anyone that knows Senator Hawley, and Senator Collins knows, that they are precise, they know the Constitution, and that we were very careful to draft this bill in a way that followed the Constitution.

This Manager's Amendment includes a small number of technical adjustments, including to update the definition of AI to account for future developments in this technology. It also removes a clause on defamation per se that is not essential to the bill's purpose, that has been addressed by litigation since the bill's introduction.

As I noted, the bill is supported by more than 40 election officials, from national security experts from both parties, including former Secretaries of Defense Chuck Hagel and Leon Panetta, former Republican Chairman of the Federal Election Commission Trevor Potter, and a bipartisan group of Secretaries of State, including Republican Secretary David Scanlan from New Hampshire. I will also note Democratic Secretaries Steve Simon from Minnesota and Adrian Fontes from Arizona.

The House companion bill is led by Representatives Derek Kilmer, Democrat of Washington, and Tony Gonzales, Republican of Texas.

This is a very serious effort that has been worked on for six months, and I am proud of the work we have done.

Senator Warner?

Senator WARNER. Thank you, Madam Chair. I appreciate you recognizing me. I want to make two comments.

One, later this afternoon the Senate Intelligence Committee—and I will be joined by Senator Ossoff and Senator Bennet—are going to have the first of a series of open hearings on foreign intervention in our elections. I think we all remember 2016, where Russia launched an extraordinary effort, both in terms of bots, in terms of fake representations on websites, literally tried to incite Americans to commit violence against one another at a fake rally—or not a fake rally, a rally that took place in Houston, Texas.

I am, in many ways, afraid in 2024 we may be less protected than we were in 2020, and there are three reasons for that. One, our adversaries realize that interference in our elections is cheap and relatively easy. In the past we saw, disproportionately, actions from Russia, but we are seeing indications from China, Iran, and other nation states that have plans to interfere in our elections.

Second, kind of whether we like it or not, Americans of all political stripes are more willing to believe certain outrageous theories these days, and we see conspiracy theories on either end of the political agenda are simply believed too easily. That can be exacerbated by foreign actors.

Then third, the subject of today's hearing, artificial intelligence. The artificial intelligence tools that the Chair and the Ranking Member have talked about can take place at speed and scale that is unprecedented. As the Ranking Members talked, there are rules already against false representations, but AI changes the whole nature and game of how a bad actor, in terms of what the intelligence community will look at will be foreign bad actors, can interfere using these tools. Point number one.

Point number two, Senator Lindsey Graham and I have been working with a consortium of technology companies about this issue of AI in elections. Half the world is going to be voting in elections this year. As a matter of fact, the Indian elections are ongoing even as we speak.

At the Munich Security Conference, 20 technology companies from Facebook and Google and Twitter, even TikTok, et cetera, and AI companies, OpenAI, Anthropic, and others, agreed on a voluntary basis to go about on political advertising and try to put watermarking or labeling and then try to act to take those down and try to educate. Well, that is all well and good, and there was much fanfare in Munich about this announcement, where we and our European partners thanked the tech companies.

The challenge is that was over 60 days ago. We have elections going on in India now. The European elections will take place in June. So far we have not seen, from these 20 tech companies, at least I have not seen, and we have asked repeatedly, to coin the old political phrase, "Where is the beef?" Where are the actions that they are taking to take down content, to show manipulated activity?

I would point out a country like Slovakia, where two years ago, at the beginning of the Russian invasion of Ukraine, 75–80 percent of the Slovaks supported Ukraine. Russia launched a massive amount of misinformation, disinformation, sometimes even using

deepfakes. Slovakia now has a pro-Russian president, and literally 55 percent of the Slovak people believe that the United States started the war in Ukraine. This is the power we are talking about, disinformation campaigns, which can be even brought about even at a greater level through artificial intelligence tools.

I commend the Chair and her bipartisan coalition. Unfortunately, I do not think voluntary guardrails are enough, as we have seen from the Munich Accord, again, much bandied about by the tech companies but we have not seen specific actions taken. I do think we need to join, at the federal level, the various states who have taken on this procedure, and I look forward to supporting the legislation.

Chairwoman KLOBUCHAR. Well, thank you very much, Senator Warner. Thank you for giving us that worldwide perspective.

To give us the domestic perspective, we have Senator Schumer here. Before you got here, Senator Schumer, we were addressing the AI framework, and I laud you for putting that out with Senator Young and Senators Rounds and Heinrich, especially the way you describe it, that it is done with bipartisanship, it is done with urgency, it is done with humility. I think nothing describes the urgent need to move quickly and move right as those three words. Thank you for being with us and a Member of this Committee.

Senator SCHUMER. Well, thank you, Chairwoman Klobuchar and Ranking Member Fischer. Thanks for giving me a chance to say a few words at the Committee. I appreciate my colleagues all being here.

Look, we are here today because in a short time generative artificial intelligence has changed our world in dramatic ways and has permanently changed our understanding of what it takes to protect our elections. As we all know, Americans go to the polls in a few months. It is fair to say the 2024 elections will be the first national elections held in the age of AI. Congress has a responsibility to adapt to this brave new world.

I am deeply grateful to Chair Klobuchar and the Members of this Committee for holding this important and timely markup. Chair Klobuchar has been an outstanding leader on this issue, and I appreciate everything she has done to keep this bipartisan. I have worked to do the same, in the way the Senate works and with the House's Republican. If you do not do it bipartisan, you do not get it done, so it is a great start to get that done.

I have done the same thing. Last fall I worked with, as you all know, Senators Heinrich, Rounds, and Young, to create the bipartisan Senate AI Working Group. This morning, after months of hard work, we released our policy roadmap, summarizing the findings of our insight forums. I will make sure everybody gets a copy as soon as possible.

I am proud to say the bipartisan roadmap embraces action to protect elections that mirror the proposals before us today. Because if we are not careful, AI has the potential to jaundice, or even totally discredit our election systems. If deepfakes are everywhere and no one believes the results of the elections, woe is on democracy. This is so damn serious.

That is why it is so important to get something done, and that is why it going to take bipartisan cooperation if we have any hope to get legislation enacted into law.

The three bills taken up by the Rules Committee represent a very good start. They will prohibit deepfakes of federal candidates, require disclaimers when AI is heavily featured in political ads, and offer guidance for administrators to keep our election structure safe. Each bill enjoys bipartisan support. All three have been endorsed by more than 40 current experts and election officials, national security experts. They are supported by former Secretaries of Defense, the Vice Chair of the Joint Chiefs, industry leaders.

I encourage Members of this Committee, on both sides of the aisle, let's not make this a partisan issue. Deepfakes can occur to Democrats, can victimize Democrats and Republicans equally, in primaries and general elections, et cetera.

The clock is ticking on our democracy from a technology more powerful than we have ever seen. I hope my colleagues who question the need for congressional action think carefully about the consequences of doing nothing, and our AI report, bipartisan supports these proposals, supports these proposals.

I hope my colleagues will think about the consequences of doing nothing. You know, as Theodore Roosevelt said, we are in the arena right now. It would be easy, politically probably easier to sit back, for Senator Klobuchar and the other sponsors, to sit back and do nothing. But it will not accomplish anything. Then, when things go bad in the elections, everybody is going to say, "Why didn't you do something?"

Do we really want to live in a democracy where political campaigns or other unscrupulous actors have free rein to use AI-generated deepfakes to smear political opponents? Do we want to be inundated with political ads that utilize AI day after day without a shred of transparency or accountability? When you see one image of the Presidential candidate and another and another, and they are not real, it is obvious it is going to screw up our elections to a fare thee well and diminish people's trust in government.

Once damaging misinformation is sent to 100 million homes it is hard, and often impossible, to put the genie back in the bottle. Our democracy may never recover if we lose the ability to differentiate at all between what is true and what is false, as AI threatens to do. That is why Congress needs to pass bipartisan bills like the one presented today.

Mark Warner mentioned tech companies should be doing more, of course they should. But what happens if you do not have a government regulation? The corner cutter, the least defined deviancy down, as my predecessor, Senator Moynihan said. Because if one company does not do it, all the others will not do it, because they will be at some kind of competitive disadvantage. You need governmental guardrails, on this area and so many others.

The Federal Government is behind the states. No fewer than 14 states—red and blue alike, Texas, Florida, Idaho—all put in legislation here, proving it is not a partisan issue.

Most of the bills were bipartisan. Texas supported things unanimously, as I am sure Senator Klobuchar has reminded you, because she has reminded us repeatedly.

Chairwoman KLOBUCHAR. 144 to 0 in the House, 31 to 0 in the State Senate in Texas for a ban.

Senator SCHUMER. Let's get this done. Let's get it done in a bipartisan way. Let's not make this issue, which affects our democracy, which we all love, even if we have different ideological prescriptions as to how it should proceed, let's get this done together. It would be a good moment for the Congress, for this Committee, for the Senate, for America.

Thank you. I am proud to vote for these bills.

Chairwoman KLOBUCHAR. Very good. Thank you. Senator Merkley, did you have——

Senator FISCHER. I would like to comment.

Chairwoman KLOBUCHAR. Okay, go ahead.

Senator FISCHER. We have heard that many states, including Texas and Mississippi, already have enacted laws governing the use of AI in political ads, and it is time for Congress to do the same. This sentiment reveals a desire to federalize elections. There are significant differences between the states' laws and S. 2770 and S. 3875.

There are also significant differences between the states about how to regulate AI in elections. Mississippi's law does not focus only on AI-generated content, unlike S. 2770 and S. 3875. It also does not prohibit this content. If there is a disclaimer on the content, the law says that is a defense to prosecution.

Texas' law also does not focus only on AI-generated content. It also only addresses content that is sent out within 30 days of an election, far fewer days than S. 2770 or S. 3875. Texas law has been challenged in the state court, and litigation is ongoing.

Thank you, Madam Chair.

Chairwoman KLOBUCHAR. Thank you, Senator Fisher. I would note very clearly our bills apply to federal candidates, federal elections. We do not preempt the state laws. Let me go through quickly those state laws.

Minnesota bans deepfakes of candidates 90 days before an election. Passed the House 131 to 0, passed the Senate 66 to 1, with 32 Republicans supporting.

Texas bans deepfake videos only, not audio, of candidates 30 days before an election. House 144 to 0, Senate 31 to 0, enacted June 2019.

California bans materially deceptive media of candidates distributed with actual malice 60 days before an election, unless there is a disclaimer. Again bipartisan.

Michigan bans materially deceptive media intended to harm a candidate or influence an election 90 days before an election unless there is a disclaimer.

Mississippi—two Members of the Committee are from that state—bans deepfakes of candidates—bans deepfakes of candidates—90 days before an election unless there is a disclaimer. Bipartisan, House 119 to 0 in Mississippi, Senate 35 to 13, with 34 Republicans supporting. Enacted April 2024.

New Mexico bans materially deceptive media of candidates 90 days before an election.

Florida requires disclaimers on AI-generated media intended to harm a candidate or deceive voters. Passed the House 104 to 8, the

Senate 32 to 0, with 21 Republicans supporting. Enacted April 2024. Signed into law by Governor DeSantis.

Indiana requires disclaimers on AI-generated or computer-altered media intended to injure a candidate or influence election. Bipartisan, 95 to 0, 48 to 0.

Idaho requires declaimers on deceptive AI-generated or computer-altered media.

New York requires disclaimers on materially deceptive political communications.

Oregon—thank you, Senator Merkley—requires disclaimers on campaign communications with AI-generated.

Utah requires disclaimers. House 66 to 0, Senate 25 to 0. Signed into law by a Republican Governor.

Washington requires disclaimers on AI-generated or computer-altered media.

Wisconsin requires declaimers.

There it is. I hope my colleagues will talk to the Republican Governors and legislative leaders in these states. They have realized that the rubber hits the road on the local level. They are not going to be responsible for our democracy to be taken over by fake videos and fake ads and fake robocalls. We are unguarded on the federal level. We do not have this law in place, that states, across the country, are adopting, which is why we are doing it.

Senator MERKLEY.

Senator MERKLEY. Well, thank you very much, Madam Chair, and Senator Warner really covered the international threat of foreign manipulation, and thank you for doing so and bringing the insights from the Intelligence Committee to bear.

Leader Schumer really acknowledges the deep and damaging corruption to the legitimacy and integrity of our federal elections if we do not act in response to this threat. Just seeing the diverse number of states that are acting really puts an exclamation mark on these concerns, our bipartisan concerns, across the country.

Madam Chair, I would like to mention an area that I would like to see us think about in the future. It is not part of this bill, but I think it would be an important one to consider.

As I understand it, we are really here addressing political ads on whom to vote for and also issue ads 90 days before an election that mentions an individual.

Chairwoman KLOBUCHAR. It is also robocalls as well as other videos, to be clear, that are produced. But continue on.

Senator MERKLEY. Thank you. The piece that I would like to see addressed in the future, and perhaps it is implicitly addressed, but is things that do not mention candidates and not say how to vote but present false information, AI-generated false information about the time, place, and manner of elections. I think it is an area worth addressing.

Second, I have a lot of concern about AI-powered databases that are designed to do mass purges of voter registration rolls. This is something that came up in the Georgia Senate runoff. You had some 300,000 folks challenged. That was really without AI involved. Now we are talking about such challenges on steroids that really work to discriminate against certain communities.

Those are concerns. I know that that is just a point to say how narrowly you have tailored this, how appropriately you have tailored it. This should be acted on, and it should be a bipartisan vote.

Chairwoman KLOBUCHAR. Thank you. Any other comments on this bill?

[No response.]

Chairwoman KLOBUCHAR. We are going to vote on the Manager's Amendment on the Protect Elections from Deceptive AI, S. 2770, Klobuchar, Hawley, Coons, and Collins, with support from many others.

A roll call vote is requested. Is there a sufficient second?

Senator MERKLEY. Second.

Chairwoman KLOBUCHAR. Okay. If the Clerk could call the roll.

The Clerk. Senator Schumer?

Senator SCHUMER. Aye.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. No.

The Clerk. Senator McConnell?

Senator FISCHER. No by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. No by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator WICKER. No.

The Clerk. Senator Hyde-Smith?

Senator FISCHER. No by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. No by proxy.

The Clerk. Senator Britt?

Senator FISCHER. No by proxy.

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Yes.

The Clerk. On this vote the ayes are 9 and the nays are 7.

Chairwoman KLOBUCHAR. The proxies do not count, so the Clerk, in the final vote, could we please get the final vote?

Okay. We will turn to the final passage, and then we will announce the vote.

A roll call vote is requested. Is there a sufficient second? There is. The clerk will call the roll.

The Clerk. Senator Schumer?

Senator SCHUMER. Aye.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. No.

The Clerk. Senator McConnell?

Senator FISCHER. No by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. No by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator WICKER. No.

The Clerk. Senator Hyde-Smith?

Senator FISCHER. No by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. No by proxy.

The Clerk. Senator Britt?

Senator FISCHER. No by proxy.

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Aye.

The Clerk. Of the Members present at the time of the vote to report, the ayes are 9, and the nays are 2.

Chairwoman KLOBUCHAR. Excellent. 9 to 2.

Now we go on to the AI Transparency in Elections Act, which is S. 3875. The Committee will now proceed to consideration of that bill, the AI Transparency in Elections Act. I offer a Manager's Amendment in the Nature of a Substitute to the bill. I recognize myself to speak, and also ask if Senator Bennet wants to say a few words on the disclaimer subject, since you were an original co-sponsor of this bill.

Senator BENNET. I just want to thank you, Madam Chair, for pushing this bill forward. I think it is critically important for us, and the voters that I represent want to be as informed as possible by the work here, and they are worried about what is happening in our elections. Thank you very much for what you are doing.

Chairwoman KLOBUCHAR. Thank you. While we must ban deceptive deepfakes of candidates—that was our last 9 to 2 vote—this bipartisan bill that Senator Murkowski and I have put together, with Senator Bennet's help, improves transparency so that voters are informed if the political ads they see are making use of AI. This

bill requires disclaimers—and I will not list all the states again, but many of them involve disclaimer laws—on political ads, substantially generated by AI.

As I noted earlier, in response to testimony we had at our hearing from Republican witnesses, we amended this bill to make sure that when AI is used for minor uses, cosmetic adjustments, cropping, things like that, that we do not require the disclaimer. We did that because it will make the disclaimer useless if we put it on every single use of AI.

The Manager's Amendment includes a minor technical edit to carry over a clause from the section of the Federal Election Campaign Act that describes disclaimers.

It is supported, as I note, by all of the current and former officials from both sides of the aisle that I mentioned earlier, including former Cabinet officials of both Democrat and Republican Presidents, Secretaries of State, and local election officials on the frontlines of our democracy.

I welcome my colleagues' support for this commonsense bill to provide more transparency in the elections, which versions of this have already been enacted in states from Mississippi to Minnesota.

With that we will call up the Manager's Amendment. Are there other Members wishing to speak on this amendment?

[No response.]

Chairwoman KLOBUCHAR. All right. Seeing no further debate on the Amendment we will proceed to the vote. The question is on the adoption of the Manager's Amendment.

A roll call has been requested. Is there a sufficient second? There is. The Clerk will call the roll.

The Clerk. Senator Schumer?

Senator SCHUMER. Aye.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. No.

The Clerk. Senator McConnell?

Senator FISCHER. No by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. No by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator WICKER. No.

The Clerk. Senator Hyde-Smith?

Senator FISCHER. No by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. No by proxy.

The Clerk. Senator Britt?

Senator FISCHER. No by proxy.

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Aye.

The Clerk. On this vote the ayes are 9 and the nays are 7.

Chairwoman KLOBUCHAR. Now we will vote on the final vote, on the final bill before us. The question is on reporting Senate S. 3875, the AI Transparency in Elections Act, with the Amendment in the Nature of a Substitute.

Before we get to the vote I want to note if any of the Members want to stay after the vote to give statements. I note we have a former Secretary of State, Padilla, here, who knows a little bit about this topic, from the State of California. I also want to thank Senator Ossoff who has been such an advocate for voting rights in the State of Georgia, which has been kind of ground zero for some of these discussions, and Senator Welch, who is one of the highest voter turnouts in the country, in Vermont, but not as high as Minnesota. We also thank Senator Wicker for being with us.

Anyone who wants to make a statement after the vote, we welcome you.

If we could proceed to a roll call vote, since it has been requested. Is there a sufficient second? There is. The clerk will call the roll.

The Clerk. Senator Schumer?

Senator SCHUMER. Aye.

The Clerk. Senator Warner?

Senator WARNER. Aye.

The Clerk. Senator Merkley?

Senator MERKLEY. Aye.

The Clerk. Senator Padilla?

Senator PADILLA. Aye.

The Clerk. Senator Ossoff?

Senator OSSOFF. Aye.

The Clerk. Senator Bennet?

Senator BENNET. Aye.

The Clerk. Senator Welch?

Senator WELCH. Aye.

The Clerk. Senator Butler?

Senator BUTLER. Aye.

The Clerk. Senator Fischer?

Senator FISCHER. No.

The Clerk. Senator McConnell?

Senator FISCHER. No by proxy.

The Clerk. Senator Cruz?

Senator FISCHER. No by proxy.

The Clerk. Senator Capito?

[No response.]

The Clerk. Senator Wicker?

Senator WICKER. No.

The Clerk. Senator Hyde-Smith?

Senator FISCHER. No by proxy.

The Clerk. Senator Hagerty?

Senator FISCHER. No by proxy.

The Clerk. Senator Britt?

Senator FISCHER. No by proxy.

The Clerk. Chairwoman Klobuchar?

Chairwoman KLOBUCHAR. Aye.

The Clerk. Of the Members present at the time of the vote to report, the ayes are 9 and the nays are 2.

Senator SCHUMER. Excellent.

Chairwoman KLOBUCHAR. Excellent. That is a 9 to 2 vote.

With that, if any of the other Members would like to make comments. Any of you? Senator Padilla.

Senator PADILLA. Thank you, Madam Chair. I wanted to make some brief comments relative to the Preparing Election Administrators for AI Act that we supported earlier in this hearing. I do believe it represents an important step toward better understanding how generative AI technologies are going to interact with our election system. It is a good step toward equipping our state and local election offices to productively address generative AI.

I want to take a moment to highlight the work that the Federal Government is already doing on this front, and I have been familiar with it since my days as Secretary of State in California, in partnership with CISA, who has researched and developed tools for election officials to use as they begin to confront and utilize generative AI. As the primary cybersecurity agency in the Federal Government, I think it is going to be critical for the EAC to engage with CISA in developing these guidelines in a way that can be most effective for our election offices.

I look forward to not just having supported the bill in Committee today but on the floor and future efforts, but particularly working with the EAC to develop these important resources in coordination with the tremendous talented officials at CISA.

Thank you very much.

Chairwoman KLOBUCHAR. All right. Without objection, the staff are authorized to make any necessary technical and confirming changes to the three measures ordered reported by the Committee during today's markup.

I want to thank Senator Padilla for his meaningful closing comments there. We are pleased that all three of these measures have passed out of Committee, two on a 9–2 vote and the third on a unanimous vote, not that you are counting, but 11–0.

I do note that these bills have significant bipartisan support outside of this Committee, in the United States Senate and in the House. I also note that I am very much looking forward to working with our colleagues, any concerns they have that are specific, that we can work through, so that these bills are either passed in some way in the next few months or that they are part of the major framework that will be passing the Senate.

I want to thank Ranking Member Fischer and the Members of this Committee for a productive markup. Today we have taken an important step forward to put in place commonsense rules of the road to address the threats that AI poses for our democracy. I am so pleased that Republican and Democratic Governors and legislatures in states across the country have acknowledged this threat,

are upholding our democracy by passing these laws, and we have to do the same thing here in the Senate when it comes to federal elections, which we know includes the presidency, the United States Senate, and the House of Representatives in the United States Congress. I cannot think of a more important mission we have. Let's go forward with, in Senator Schumer's words, urgency, bipartisanship, and humility.

Thank you, and the meeting is closed and adjourned.

[Whereupon, at 11:02 a.m., the hearing was adjourned.]

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