

## **Reason Foundation Comments on Ohio HB 392 Right to Compute**

Dear Chair Claggett and members of the House Technology and Innovation Committee:

The Technology Policy Project at Reason Foundation has provided pro-bono consulting to public officials and stakeholders to help them design and implement technology policy reforms around the regulation of AI and other emerging technologies, digital free speech, data security and privacy, child online safety, and tech industry competition policy. Our team brings practical, market-oriented strategies to help foster innovation, competition, and consumer choice through technology policies that work.

We submit this written testimony on HB 392 as an interested party.

HB 392 is similar to other state legislation in that it creates a “Right to Compute.” This right to compute is a critical affirmative right for innovators in that it requires a state legislature to carefully weigh the compliance burdens of proposed, potentially heavy-handed legislation and offers innovators a right of redress when such burdens are imposed.

The bill is an excellent first start, but two areas for improvement currently limit its intended effect. These problems revolve around the bill’s definition of “compelling governmental interests.” As written, the bill would still allow for a state agency or political subdivision to impose burdens on innovators in two key areas.

First, the bill makes AI-generated content the basis of a “compelling governmental interest” for further regulation or legislation but does not specify the actor creating such content. Leaving this definition vague opens the door for laws that would punish an AI company rather than the person using an AI model with nefarious intent—an onerous legislative proposal that would be impossible to comply with. Such a law was proposed in California, and because of its unreasonable burdens on AI companies, Gov. Gavin Newsom vetoed the bill. These types of bills are not one-off bad ideas. Though well-intentioned, they fly in the face of the core intent of HB 392: to unburden innovators from impossible compliance demands so as to allow the U.S. to develop next generation technologies that compete with the rest of the world.

Second, aside from the public process of approving new construction on a data center, by carving out exceptions for laws and local ordinances that undermine data centers under the veil of “public nuisance” law would ignore the possibility that hostile localities would create ordinances after-the-fact to hike up energy rates and extract revenue from data centers once they’re built. The U.S. needs more—not less—data center capacity, which is contemplated in Right to Compute legislation passed elsewhere.

Thank you for the opportunity to submit this written testimony, and we welcome the opportunity to advise the legislature on this subject in the future.

Sincerely,

Caden Rosenbaum

Managing Director, Technology Policy

Reason Foundation