Congress of the United States
House of Representatives
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

www.science.house.gov

August 7, 2024

The Honorable Scott Wiener
California State Senate
1021 O Street, Suite 8620
Sacramento, CA 95814

Dear Senator Wiener,

As you know I rarely contact the California Legislature to provide my views on state legislation. I had not expected SB 1047, *the Safe and Secure Innovation for Frontier Artificial Intelligence Models Act,* to move quickly. Now that it has, I feel an obligation to provide input as the Ranking Member of the House Committee on Science, Space, and Technology (Science Committee), which has jurisdiction over Artificial Intelligence (AI). The Science Committee has extensive experience with AI, including writing one of the first Federal AI laws: *The National Artificial Intelligence Initiative Act*. I have carefully reviewed the proposals in SB 1047, and I have some concerns that I wanted to relay to you. To be clear, I firmly support AI governance to guard against demonstrable risks to public safety; unfortunately, this bill would fall short of these goals – creating unnecessary risks for both the public and California's economy.

The science surrounding AI safety is still in its infancy. The current state of the technical solutions that would underpin implementation of SB 1047, including standards, benchmarks, and evaluations, is significantly underdeveloped. The bill requires firms to adhere to voluntary guidance issued by industry and the National Institute of Standards and Technology, which does not yet exist. For example, even though we do not yet have the standardized evaluations necessary for a developer to confirm with confidence that an AI system could cause a "critical harm," the bill bases its liability provisions upon such hypothetical guidance. Such premature requirements based on underdeveloped science call into question from the outset the efficacy of the bill in achieving its goals of protecting public safety.

Further, SB 1047 seems heavily skewed toward addressing hypothetical existential risks while largely ignoring demonstrable AI risks like misinformation, discrimination, nonconsensual deepfakes, environmental impacts, and workforce displacement. There is little scientific evidence

of harm of "mass casualties or harmful weapons created" from advanced models.[1] On the other hand, there is ample evidence of real-world AI risks like discrimination and misinformation which are already a problem in our communities. By focusing on hypothetical risks rather than demonstrable risks, the efficacy of this legislation in addressing real societal harms – including those faced by Californians today - is called into question.

I'm also concerned that SB 1047 could have unintended consequences from its treatment of open-source models. Advanced models developed are already deployed widely in open source and are having large economic impact. Smaller companies have access to many of the advanced AI models, not because they have the resources to develop them, but because bigger companies have made them available. This bill would reduce this practice by holding the original developer of a model liable for a party misusing their technology downstream. The natural response from developers will be to stop releasing open-source models. Further, the bill would require developers to add kill switches to their AI systems, which would allow them to turn off the AI system at any time. Kill switches, while they sound good in theory, would decimate the ecosystems that spring up around AI models. No entrepreneur would want to build a product around an AI system if the developer could pull the plug at any time. Maybe it is the case that the risks posed by open sourcing models with potentially dangerous capabilities justify this precaution. But current evidence suggests otherwise. After seeking comment from the community and looking at the risks, the National Telecommunications and Information Administration released a report last month saying government should not restrict access to open-source models with widely available model weights at this time, but instead should actively monitor the ecosystem should risks arrive.[2] Given that most of the discoveries that led us to this moment were achieved through open source and open science[3], SB 1047 could have a pernicious impact on U.S. competitiveness in AI, especially in California.

In short, I'm very concerned about the effect this legislation could have on the innovation economy of California without any clear benefit for the public. High tech innovation is the economic engine that drives California's prosperity. This is particularly the case in the Bay area. There is a real risk that companies will decide to incorporate in other jurisdictions or simply not release models in California. This is not entirely speculative. As an example, Meta recently decided not to release advanced multimodal AI systems in Europe due to their precautionary rules.[4]

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[1] Sayash Kapoor et al., "On the Societal Impact of Open Foundation Models," Stanford, accessed on ARVXIV, February 27, 2024, https://arxiv.org/pdf/2403.07918v1 .

[2] "Dual-Use Foundation Models with Widely Available Model Weights," National Telecommunications and Information Administration, July 2014, https://www.ntia.gov/sites/default/files/publications/ntia-ai-open-model-report.pdf.

[3] For example, see Jakob Uszkoreit, "Transformer: A Novel Neural Network Architecture for Language Understanding," Google Research, 2017, https://research.google/blog/transformer-a-novel-neural-network-architecture-for-language-understanding/.

[4] Jess Eatherbed, "Meta won't release its multimodal Llama AI model in the EU," *The Verge*, July 18, 2024, https://www.theverge.com/2024/7/18/24201041/meta-multimodal-llama-ai-model-launch-eu-regulations.

I support some provisions of the bill, like CalCompute research and the whistleblower protection provisions. But I'm deeply concerned that much of the bill is legislating requirements without a sound evidentiary basis. I strongly urge the legislature to put this bill aside for further study and consideration. I am confident of the good intentions that you, the principal author have, but I'm equally confident that this bill would not be good for our state, for the start-up community, for scientific development, or even for protection against possible harm associated with AI development.

If you have any questions, please contact Alan McQuinn of the Committee's Minority staff at (202) 225-6375.

Sincerely,

Zoe Lofgren
Ranking Member
House Committee on Science, Space, and Technology