September 6, 2024

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 1047 (WIENER) SAFE AND SECURE INNOVATION FOR FRONTIER ARTIFICIAL INTELLIGENCE MODELS ACT
REQUEST FOR VETO

Dear Governor Newsom:

The California Chamber of Commerce and the undersigned respectfully urge you to **VETO SB 1047 (Wiener).** We agree regulatory efforts to promote AI safety are critical, but **SB 1047** has missed the mark entirely in how it has chosen to get there, fixating on demanding unrealistic guarantees, imposing untenable liability risks regardless of culpability, prescribing extremely intrusive and industry-killing "know your customer" requirements, as well as kill switches and full shutdown mandates. For the number of times that the bill was amended during the legislative process, there was no fixing this bill for one reason and one reason only: you cannot fine-tune or clarify what its broken at its core.

In your symposium at UC Berkeley earlier this year, you stated it best: "if we over-regulate, if we overindulge, if we chase a shiny object, we could put ourselves in a perilous position." Make no mistake, **SB 1047** is precisely that bill. Regulating a technology that does not yet exist, for threats that in no way appear to be imminent, over the objections of the widest range of stakeholders to have banded together on any single AI bill to warn about the perils that will befall the AI ecosystem, is confounding at best. From a safety standpoint, from a technological innovation standpoint, and from an economic standpoint, we cannot afford to get this wrong.

While the author has repeatedly pointed to Congressional inaction on any number of issues from social media to data privacy to justify forcing this bill forward, those are not nearly the same situation as what is faced here. First, these are global issues warranting federal solutions. Second, the federal government not only has a responsibility to act, they *are* taking action. Fracturing the regulatory landscaping and undermining federal efforts do not make us safer in California. To be clear, we support the safe and responsible innovation of AI. That is why many of our members actively supported your Executive Order and the White House Executive Order, as well as the White House voluntary commitments, and others, to help move toward safe, secure, and transparent development of AI technology. We would even support doing something similar in California by way of an Executive Order or bill next year, perhaps building on the safety standards that were just released by NIST's U.S. AI Safety Institute pursuant to the White House EO. But one thing is clear: the solution is not **SB 1047**.

SB 1047 RISKS MAKING CALIFORNIA MORE VULNERABLE TO GLOBAL THREATS, UNDERMINING ECONOMIC AND TECHNOLOGICAL INNOVATION.

We cannot overemphasize the importance of ensuring consistency in the AI regulatory landscape, nationally, and the need to follow federal guidance on certain issues that transcend national borders. And however well-intentioned, **SB 1047** does precisely what the business community has warned against: regulating the technology itself, threatening California's footing as the home of the world's leading AI companies. By weakening our competitive advantage, it opens the door for other countries to dominate the future of AI—countries which may not play by the same rules that **SB 1047** seeks to force upon developers in California.

Regulatory inconsistency and uncertainty, high compliance costs, and significant liability risks imposed on developers for failing to guarantee against harmful uses of their models by third parties will ultimately have a dramatic and potentially devastating impact on the entire AI ecosystem, discouraging economic and technological innovation. Instead of making Californians safer, the bill would only hamstring businesses from developing the very AI technologies that could protect against dangerous models developed elsewhere.

SB 1047 IS NOT LIMITED TO LARGE DEVELOPERS. ITS IMPACT WILL FLOW DOWNSTREAM, DISRUPTING IF NOT DEVASTATING THE ENTIRE AI ECOSYSTEM.

During an incredibly challenging budget year, this bill risks significant costs to the State in the realm of tens of millions of dollars just in terms of the incredible potential for future tax revenue that the AI ecosystem can bring to California alone– meaning, not simply from AI companies, but also from all the industries and businesses looking to leverage AI to increase their efficiency and profitability. Enacting legislation that regulates the development of technology itself, instead of the implementation and uses of it, will be seen as creating a hostile environment for innovation and drive investment to other tech hubs both inside and outside the U.S., with far reaching implications for state revenues.

Regardless of proponents' claims otherwise, the impact of **SB 1047** goes far beyond "Big Tech". AI startups, small businesses, researchers, independent labs, academics, and federal policy experts – these are just some of the voices out there detailing exactly how this bill will hurt their interests, as opposed to the interests of Big Tech. These are entities that stand to lose the possibility of building on the latest, more capable AI models in order to enter into the market or to stay competitive in the market. These are entities that rely on access to those models to apply them toward society's biggest challenges, and they are entities that do not often all align on the same side of an issue. **Refusing to heed to their warnings is a mistake**. It would also be a mistake to presume that amendments have made any significant improvements to the bill. While they have touched on certain issues at the edges of the bill (e.g. penalty of perjury), they have failed to address the vast majority of the bill's core concerns:

- **SB 1047** Imposes Untenable Liability Risks on Developers, Foreclosing Open-Sourcing Large Models.

  We absolutely support holding bad actors accountable for their bad acts—which existing law already does. That is not what this bill is about. Instead of holding bad actors accountable for the harm they cause, **SB 1047** holds developers liable for any potential harm caused by a model built off their original model, even if they had no role in building that other model and regardless of the acts of intervening third parties. For instance, a third party could fine tune a model on Chemical, Biological, Radiological, and Nuclear (CBRN) data that the original developer did not. Yet the original developer is being asked to make guarantees about what the third party may or may not do, years, if not decades, down the line.

  Imagine requiring designers or developers of engines of a certain horsepower to guarantee that no one can use or misuse the engine to build a car or other product developed in the future that would be unreasonably dangerous, and then holding them automatically liable for

any resulting harm from the end product, even if the engine component was not defective and they had no role in the development of the end product.

- **SB 1047** Imposes Intrusive and Unreasonable Know Your Customer Obligations and Kill Switch Requirements.

  The bill includes problematic requirements for operators of computing clusters (e.g. data centers or cloud computing companies that provide cloud compute for frontier model training) to collect personally identifiable data from their prospective customers, predict if a prospective customer "intends to utilize the computing cluster to deploy a covered model," and requires the developer to implement a kill switch to enact a full shutdown in the event of an emergency. These obligations violate customer privacy and security creating significant risk that customers will move away from US-based cloud providers.

- **SB 1047** Creates Regulatory Uncertainty and Suffers from Vagueness, and Overbreadth.

  For example, the bill still defines "critical harms" so broadly that it includes not only weapons of mass destruction, but also automated phishing campaigns. As another example, when mandating "reasonable care" in the context of speculative CBRN risks, is it ever reasonable to move forward with a model if a developer cannot totally eliminate the possibility of a critical harm based on future intervening acts of a third party?

  A third example: the bill continues to fixate on computing power and cost rather than capability to define covered models. By equating model size to risk, the bill is simultaneously overly broad and too narrow, meaning, critical harms caused by less costly and more efficient AI models can continue to be developed, unchecked.

We implore you to not let hyperbolic statements or unknown outcomes of upcoming elections push California into making hasty and unwise public policy – especially when election outcomes do not preclude California from acting next year. Let us evaluate the work already done by the Biden administration and consider true public policy that would promote the safe and secure innovation. **We can afford to be thoughtful and deliberate about this**. But we cannot afford to hamstring developers from innovating the technologies that can protect Californians and discourage the growth of the AI economy in a state that currently houses 35 of the 50 leading AI companies in the world, 21 of them in San Francisco alone. Because, as stated by **Speaker Emerita Nancy Pelosi**, "**SB 1047** is well-intentioned but ill-informed", we respectfully urge your **VETO** of **SB 1047 (Wiener)**.

Sincerely,

Ronak Daylami
Policy Advocate
on behalf of

Association of National Advertisers (ANA)
California Chamber of Commerce
California Land Title Association
Civil Justice Association of California (CJAC)
Computer and Communications Industry Association
Insights Association
Los Angeles Area Chamber of Commerce
National Association of Women Business Owners (NAWBO-CA)
National Venture Capital Association
San Diego Regional Chamber of Commerce

Silicon Valley Leadership Group
Tech San Diego
TechNet
Technology Councils of North America (TECNA)