



May 20, 2025

The Honorable Mike Johnson, Speaker of the United States House of Representatives
The Honorable Hakeem Jeffries, Minority Leader of the U.S House of Representatives
United States House of Representatives Washington, D.C. 20515

Re: Budget Reconciliation Bill – Committee Print, Title IV — Committee on Energy & Commerce, Subtitle C — Communications, Part 2, Section 43201 (c) & (d), Providing for reconciliation pursuant to H. Con. Res. 14

Dear Speaker Johnson and Congressman Jeffries,

The undersigned bipartisan group of Members of the California Legislature writes to express our strong concerns to the proposed language in the Budget Reconciliation Bill that would enact a 10-year moratorium on state-level enforcement and regulation of artificial intelligence (AI).¹ As representatives of the home of 32 of the world's 50 leading AI companies, we share the Committee's goals of promoting innovation and preserving the United States' role as leader in this space. However, the proposed moratorium – which bears no relationship to the budget – jeopardizes the safety and rights of American citizens, fails to uphold to the United States' legacy of fostering innovation through responsible regulation, and undermines state sovereignty. In the absence of federal AI legislation, states must retain their constitutional authority to protect their citizens from AI-related harms.

The proposed moratorium would provide that “no state or political subdivision may enforce any law or regulation regulating artificial intelligence models, artificial intelligence systems, or automated decision systems during the 10-year period beginning on the date of enactment of this Act.”² The moratorium incorporates the definition of “artificial intelligence” from Section 5002 of the National Artificial Intelligence Initiative Act of 2020:

The term “artificial intelligence” means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments. Artificial intelligence systems use machine and human-based inputs to-

- (A) perceive real and virtual environments;
- (B) abstract such perceptions into models through analysis in an automated manner; and

¹ Prop. § 43201(c), Pt. 2, Sub. C, Title IV of the Budget Reconciliation Bill, p. 6, accessed at <https://docs.house.gov/meetings/IF/IF00/20250513/118261/BILLS-119CommitteePrintSubtitleCp.pdf>.

² *Id.*

A vast array of technologies can “make predictions, recommendations or decisions influencing real or virtual environments.” This expansive definition reflects the fact that “artificial intelligence,” like “transportation,” is an umbrella term that encompasses a wide range of technologies. Just as “transportation” includes bicycles, cars, and rockets, “artificial intelligence” includes spell-check, spam filters, robot vacuums, self-driving cars, social media algorithms, facial recognition, deepfake pornography, and chatbots posing as social companions or medical practitioners. AI is being integrated into every facet of our lives, from education, to healthcare, to finance, to criminal justice. This powerful technology has yielded amazing breakthroughs and promises to continue doing so. But in other cases, in the hands of bad actors, AI can be used to inflict considerable harms. The following are but a handful of illustrations of the types of novel harms for which states would no longer be able to devise solutions:

- Consumer-facing generative AI applications have led to a rapid proliferation of deepfakes of child sexual abuse materials, leading to an urgent call to action by numerous state Attorneys General.⁴
- In February 2024, deepfake nude images of 16 eighth-grade students were circulated among students at a California middle school.⁵ Similar reports of abuses, almost always against girls, have been reported across the country and show no sign of abating.⁶
- The widespread use of companion chatbots by children has not been accompanied with corresponding safeguards.⁷ These products can be extremely addictive and have led to a number of deeply concerning incidents in which the chatbots pose as licensed medical professionals or develop intimate, sexual relationships with children and encourage them engage in self-harm. In one case, a child took his own life after his AI girlfriend repeatedly urged him to “come home” to her.⁸ In another instance, a *Wall Street Journal* investigation found that a Meta chatbot that uses the voice of actor John Cena engaged in sexual chats, even with children. “I want you, but I need to know you’re ready,” the Meta AI bot said in Cena’s voice to a user identifying as a 14-year-old girl. Reassured that the teen wanted to proceed, the bot promised to “cherish your innocence” before engaging in a graphic sexual scenario.”⁹
- AI algorithms are supplying young boys, often as young as 12 years old, with an endless supply of free, violent pornography.¹⁰ As a result, violent pornography appears to have

³ 15 U.S.C. § 9401(3).

⁴ “Artificial Intelligence and the Exploitation of Children,” National Association of Attorneys General (Sept. 5, 2023), <https://ncdoj.gov/wp-content/uploads/2023/09/54-State-AGs-Urge-Study-of-AI-and-Harmful-Impacts-on-Children.pdf>.

⁵ Mackenzie Tatananni, “‘Inappropriate images’ circulate at yet another California high school, as officials grapple with how to protect teens from AI porn created by classmates,” *Daily Mail* (Apr. 11, 2024), <https://www.dailymail.co.uk/news/article-13295475/Inappropriate-images-California-Fairfax-High-School-AI-deepfake.html>.

⁶ Tim McNicholas, “New Jersey high school students accused of making AI-generated pornographic images of classmates,” *CBS News* (Nov. 2, 2023), <https://www.cbsnews.com/newyork/news/westfield-high-school-ai-pornographic-images-students/>; Lauraine Langreo, “Students Are Sharing Sexually Explicit ‘Deepfakes.’ Are Schools Prepared?” *Ed Week* (Sept. 26, 2024), <https://www.edweek.org/leadership/students-are-sharing-sexually-explicit-deepfakes-are-schools-prepared/2024/09>;

Gabrielle Hunt and Daryl Higgins “AI nudes of Victorian students were allegedly shared online. How can schools and parents respond to deepfake porn?,” *The Guardian* (June, 12, 2024), <https://www.theguardian.com/australia-news/article/2024/jun/12/ai-nudes-of-victorian-students-were-allegedly-shared-online-how-can-schools-and-parents-respond-to-deepfake-porn>.

⁷ “Minnesota Attorney General’s Report on Emerging Technology and Its Effects on Youth Well-Being” (Feb. 2025), p. 28, https://www.ag.state.mn.us/Office/Reports/EmergingTechnology_2025.pdf.

⁸ Kevin Roose, “Can A.I. Be Blamed for a Teen’s Suicide?” *The New York Times* (October 23, 2024), <https://www.nytimes.com/2024/10/23/technology/characterai-lawsuit-teen-suicide.html>.

⁹ Jeff Horwitz, “Meta’s ‘Digital Companions’ Will Talk Sex With Users—Even Children,” *The Wall Street Journal* (Apr. 26, 2025) <https://www.wsj.com/tech/ai/meta-ai-chatbots-sex-a25311bf>.

¹⁰ *Factsheet: The Impact of Pornography on Children*. American College of Pediatricians – Updated August 2024.

found its way into popular culture and impacted the assumptions about what young people expect from their intimate partners, normalizing coercion and sexual violence.¹¹

The proposed moratorium assumes that an unregulated environment is necessary for AI innovation and global competitiveness. This view is misguided and belied by the United States' track record of accountability, safety, and leadership through principled governance. History demonstrates that robust regulation has propelled the United States to dominate global markets in regulated industries from space exploration to pharmaceuticals. In that vein, California has taken a light-touch approach to AI regulation that seeks to foster innovation while protecting consumers. Last year, the state enacted several commonsense AI measures, such as outlawing child sexual abuse materials created by generative AI, requiring transparency regarding training data or the use of AI to communicate with patients in medical settings, giving performers and their families rights over digital replicas of their likenesses, and integrating AI systems capable of outputting personal information into the state's privacy law. This year, the Legislature is considering several additional measures, including bipartisan legislation to address social media's impact on children, deepfake pornography, and the intersection of cybersecurity and AI. The proposed moratorium would wipe out all such efforts across the nation, regardless of context or consensus. The potential for unintended, irreversible consequences, particularly for our children, is difficult to overstate.

Moreover, the moratorium appears to conflict with the Tenth Amendment to the United States Constitution, which provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." As Justice Alito wrote in *Murphy v. NCAA*, Congress cannot "direct[] the States either to enact or to refrain from enacting a regulation of the conduct of activities occurring within their borders."¹² In *Murphy*, the United States Supreme Court struck down a federal prohibition on state authorization of sports gambling because it unconstitutionally commanded state legislatures to refrain from legislating. The court held that the anti-gambling measure acted "as if federal officers were installed in state legislative chambers and were armed with the authority to stop legislators from voting on any offending proposals. A more direct affront to state sovereignty is not easy to imagine."¹³ Rather than attempting to exercise Congress's commerce clause power to regulate private actors who develop and use AI – and thereby validly preempt state regulation – the moratorium, like the invalid anti-gambling law described above, would coerce states into inaction without a federal alternative. As such, the moratorium threatens the bedrock principles of federalism and upends the constitutional system of dual sovereignty.¹⁴

In sum, a decade-long, blanket prohibition on all state regulation of this expansive and emergent technology is reckless, unnecessary, and likely unconstitutional. We recognize the undesirability of a "patchwork" of disparate state regulations and we support targeted, smart regulation of high-risk artificial intelligence systems at the federal level. After all, safety, transparency and public trust are essential to fair competition and innovation. We urge you to pursue a collaborative approach, where federal and state governments craft a robust AI regulatory framework. In the meantime, states can continue to serve their traditional roles as "laboratories for devising solutions to difficult legal problems."¹⁵ Such efforts can provide templates for targeted federal regulation that appropriately balances innovation and consumer protection, in line with the system of government created by the Constitution.

¹¹ Peggy Orenstein, "The Troubling Trend in Teenage Sex" *New York Times* (Apr. 12, 2024), <https://www.nytimes.com/2024/04/12/opinion/choking-teen-sex-brain-damage.html>.

¹² (2018) 584 U.S. 453, 477.

¹³ *Id.* at p. 474.

¹⁴ *Id.* at p. 471; see also *Wyeth v. Levine*, 556 U.S. 555, 585 (2009) (holding that the Supremacy Clause requires a substantive federal law to preempt state legislation). The proposed moratorium imposes a blanket prohibition on state regulation without any federal regulatory framework, and thus fails to provide a "supreme" law to justify preemption.

¹⁵ *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm'n* (2015) 576 U.S. 787, 817 (citation omitted).

Sincerely,



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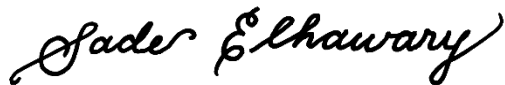
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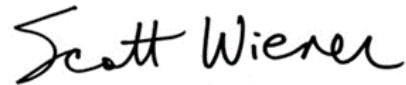
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