

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE PROTECT DEMOCRACY PROJECT, INC., <i>Plaintiff,</i> v. OFFICE OF THE NATIONAL CYBER DIRECTOR, et al., <i>Defendants.</i>	Civil Action No. []
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**DECLARATION OF SENATOR JOSH BECKER IN SUPPORT OF
PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION**

I, Josh Becker, declare as follows pursuant to 28 U.S.C. § 1746:

I. BACKGROUND

1. I am a member of the California State Senate, representing the 13th Senate District, which includes portions of San Mateo and Santa Clara Counties, an area that is home to many of the technology companies and workers most directly affected by the federal actions described in this declaration. I serve as Chair of the California Senate Select Committee on Economic Development and Technology Innovation. I make this declaration based on my personal knowledge and my experience as a legislator. If called as a witness, I could and would testify competently to the matters stated herein.

2. As a legislator representing this district and chairing this committee, my responsibilities include understanding the regulatory environment governing California’s technology sector, informing my colleagues and constituents about that environment, and

legislating where state action is warranted. In addition to Chairing the Senate Select Committee on Economic Development and Technology Innovation, I also chair the Natural Resources and Water Committee and the Human Services Committee, and I serve on the Energy, Utilities and Communications Committee, the Insurance Committee, and the Joint Legislative Audit Committee.

3. I submit this declaration to describe, from a state legislator's firsthand vantage point, how AI standards legislation can be developed with public transparency, as we have been doing in California, and how the secrecy of the federal review framework at issue in this case concretely affects legislative work happening now. In this declaration, I take no position on the merits of any federal AI policy, on any enforcement action, or on the conduct of any company.

II. CALIFORNIA IS BUILDING VOLUNTARY AI STANDARDS — ENTIRELY IN PUBLIC

4. The California Legislature is currently considering Senate Bill 813 (McNerney), a measure I have supported and voted for. As amended, SB 813 would establish a California AI Standards and Safety Commission and a process for designating independent verification organizations (i.e., private entities, nonprofits, academic consortia, or multistakeholder partnerships) that set the baseline for safety using the latest benchmarks, standards, and methodologies to evaluate the risks posed by AI systems. The framework is voluntary and does not require any developer to seek certification. The bill requires the state to collaborate with leading experts in AI to identify specific, appropriate technical standards that will be used to inform future policymaking and requires independent verification organizations to submit what standards and methodologies they use in evaluating models.

5. I describe SB 813 in this level of detail to contrast with how the federal government has pursued basic frontier AI governance employing a similar philosophy of developing

voluntary, cooperative standards with industry rather than imposed by command. In contrast to the Administration's approach, every step of SB 813's development has been public. The Legislature has published the text in every version, opened committee hearings to the public and published its committee analyses, and printed amendments for anyone to read. Our votes are recorded, and we are accountable for the framework we have set. For example, after an earlier version that included a liability-related certification provision drew opposition from consumer advocates, we amended out the provision in public, and the opposition was withdrawn. That is what the ordinary, functioning process for developing voluntary AI standards looks like. Openness is what makes a voluntary standard legitimate and usable.

III. THE UNDISCLOSED FEDERAL REVIEW REGIME

7. Based on public reporting and government statements, I understand that the White House issued an executive order on June 2, 2026, establishing a framework under which "covered frontier models" are identified through a non-public benchmarking process and reviewed by federal agencies before release. Later in June 2026, export-control directives resulted in the worldwide suspension of public access to leading frontier models, with restored access to one model initially limited to approximately 100 organizations identified in a non-public annex. On July 14, 2026, the administration announced a multi-agency initiative ("GOLD EAGLE") that coordinates AI-related cybersecurity information sharing between the government and industry under undisclosed terms of participation. And in early August, an administration official stated that a voluntary disclosure and pre-release review framework required by that order was completed by August 1, 2026, but the government has declined to release the framework's text, the identity of participating companies, or its effective date. Pre-release evaluations of frontier models are reported to run through a program operated by the Commerce Department's Center for AI Standards and Innovation.

IV. HOW THE SECRECY CONCRETELY IMPAIRS CALIFORNIA'S LEGISLATIVE WORK

8. First, the Legislature cannot harmonize with what it cannot see. As it makes its way through the state legislative process, SB 813 has focused on establishing state-designated verification organizations that could potentially set or apply standards addressing cybersecurity, model autonomy, and exfiltration, among other things. That could implicate the same subject matter the completed federal framework and the federal pre-release evaluation program reportedly govern. Whether the state framework should incorporate, complement, or depart from the federal baseline is exactly the kind of question legislators should answer before final passage and early in the process of implementing the enacted laws. We cannot answer those questions because no member of the Legislature is permitted to read the federal framework.

9. Second, the secrecy operates alongside a threat of preemption. I note, as a legislative fact, that Congress has considered and declined to enact federal preemption of state AI laws, most prominently in a 99-to-1 Senate vote in 2025 rejecting a proposed moratorium on state AI regulation. Nonetheless, public reporting indicates that federal officials have taken the position that state AI laws may be preempted or may expose companies to federal liability, and that the Department of Justice has intervened in litigation against a sister state's AI statute. Thus, California legislators face the practical problem of enacting legislation under the shadow of possible claims of federal preemption with a framework that we are not permitted to read.

10. Third, my committee responsibilities are directly impaired. The Select Committee on Economic Development and Technology Innovation exists in part to understand and explain the conditions facing California's technology economy. In June 2026, a federal directive required a company headquartered in this state to cut off worldwide access to its models on roughly ninety minutes' notice, affecting employers and workers in and around my district. Constituents and

colleagues reasonably ask what federal rules now govern this industry, whether such a shutdown could recur, and on what criteria. I cannot fully answer those questions because the governing framework, the participation terms, and the relevant criteria are undisclosed.

V. WHY DISCLOSURE IS URGENT: THE LEGISLATIVE CALENDAR

11. The California Legislature's 2025–2026 regular session is nearing completion. SB 813 and related AI measures are presently pending before the legislature and will face final votes before the session ends.

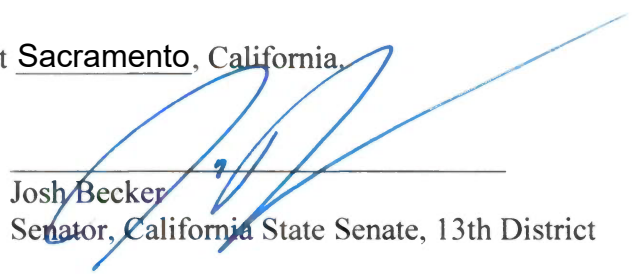
12. Records disclosed after adjournment cannot inform this session's votes. For the legislative decisions now pending, disclosure on ordinary FOIA timelines is not sufficient. Nor are they sufficient after the session ends, when the work of implementing any new state safety regime begins, including assessing where it is working and/or whether further modifications are required. New models and risks emerge almost monthly, if not weekly. Advances in this technology and the required regulatory responses, simply put, are moving too fast for normal FOIA timelines.

VI. INDEPENDENCE

13. No party to this litigation compensated me for this declaration, and its contents are my own.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 30th, 2026, at Sacramento, California.



Josh Becker
Senator, California State Senate, 13th District