HB 327-FN - AS INTRODUCED

2023 SESSION

23-0189
06/05

HOUSE BILL ***327-FN***

AN ACT prohibiting the state from requiring the public use proprietary software when visiting state websites.

SPONSORS: Rep. Gallager, Merr. 20

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill prohibits the state from requiring the public use proprietary software when visiting state websites.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 327-FN - AS INTRODUCED

23-0189
06/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT prohibiting the state from requiring the public use proprietary software when visiting state websites.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Free and Open Source Software. Amend RSA by inserting after chapter 21-V the following new chapter:

CHAPTER 21-W

FREE AND OPEN SOURCE SOFTWARE

21-W:1 Proprietary Software on State Websites. No person in the state of New Hampshire shall be required to allow the execution of proprietary javascript in their browser when visiting websites administered by the state of New Hampshire. The department of information technology shall verify that this is the case for each executive branch agency via the use of browser extensions of their choice that are designed to detect and block the execution of proprietary javascript in their browsers, or by confirming that no proprietary javascript blocks the functioning of any third-party online archiving services that are attempting to archive state websites.

2 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0189
Revised1/13/23

HB 327-FN- FISCAL NOTE
AS INTRODUCED

AN ACT prohibiting the use of proprietary software on state websites.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	$35.9M - $113.9M	$35.9M - $113.9M	$35.9M - $113.9M
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

METHODOLOGY:

This bill prohibits the state from requiring the public use proprietary software when visiting state websites.

The Department of Information Technology (DoIT) estimates the cost for application compliance using the following assumptions:

- Number of small systems * compliance cost for a small system = total cost for small systems
- Number of medium systems * compliance cost for a medium system = total cost for medium systems
- Number of large systems * compliance cost for a large system = total cost for large systems
- Number of extra-large systems * compliance cost for an extra-large system = total cost for extra-large systems

The Department provided both the low and high cost for compliance and estimated annual costs for contracted staff derived from an existing statewide contract for staff augmentation. The Department indicated there are 215 small systems, 36 medium systems, 17 large systems and 3 extra large systems that would be impacted by this bill. The Department determined it would take at least 5 years to make the necessary change for a total cost between $179.7 million and $569.6 million. See table below for annual costs:

Cost for Application Compliance:

Annual Cost

			(Spread Out over 5 Years)	
System Size	**Cost**	**QTY**	**Low**	**High**
Small Systems	$300,000 - $550,000	215	$12,900,000	$23,650,000
Medium Systems	$550,000 - $2,000,000	36	$3,960,000	$14,400,000
Large Systems	$2,000,000 - $12,000,000	17	$6,800,000	$40,800,000
Extra Large Systems	$12,000,000 - $50,000,000	3	$7,200,000	$30,000,000
Subtotal - Application Compliance			$30,860,000	$108,850,000

Cost of Supporting Staff:

	Position Cost	**QTY**	**Annual Cost**
Program Oversight			
1 Program Manager	$325,650	1	$325,650
1 Financial Analyst	$156,000	1	$156,000
Program Execution (Sprint Teams)			
7 Project Managers	$271,440	7	$1,900,080
7 Applications Systems Analysts	$183,554	7	$1,284,878
7 Business Analysts	$201,591	7	$1,411,137
Subtotal - Supporting Staff			$4,752,095

TOTAL ANNUAL COST	
Low	**High**
$35,937,745	$113,927,745

TOTAL 5YR PROJECT COST	
Low	**High**
$179,688,725	$569,638,725

This bill does not establish or provide an appropriation for new positions.

AGENCIES CONTACTED:

Department of Information Technology

CONSENT CALENDAR

January 18, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 327-FN,

AN ACT prohibiting the state from requiring the public use proprietary software when visiting state websites.

Having considered the same, report the same with the following resolution: RESOLVED, that it is

INEXPEDIENT TO LEGISLATE.

Rep. Tony Lekas

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Executive Departments and Administration**
Bill Number:	**HB 327-FN**
Title:	**prohibiting the state from requiring the public use proprietary software when visiting state websites.**
Date:	**January 18, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

There are legitimate concerns when proprietary JavaScript software is executed in a person's web browser. Such software has access to most information on the user's system and the user cannot know what such software is doing. The NH Department Of Information Technology (DOIT) is required to protect user privacy and makes an effort to ensure that proprietary JavaScript software that runs on the browser of a user accessing a state website does not put at risk the privacy or integrity of a user's information. The DOIT has plans to increase their efforts in this area. However, it would be better if users of state websites did not have to depend on such assurances. There are at least two problems with the solution mandated by this bill. First, the cost and effort to review all of the state's myriad websites and to update or replace those that do run such software on the user's browser is very large. Not only does the fiscal note have an estimate that could be as high as almost $114 million for each of the next three years it would take a great deal of DOITs staff time just to coordinate with outside contractors. This would likely delay the development of important IT work. Second, many of the standard tools used to develop websites and many of the vendors who work on websites make use of proprietary JavaScript software. The limitations this bill would put in place would likely increase the cost of developing all of the state's websites into the future. The potential benefit of this bill is not justified by the cost.

Vote 18-0.

Rep. Tony Lekas
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 327-FN, prohibiting the state from requiring the public use proprietary software when visiting state websites. **INEXPEDIENT TO LEGISLATE.**

Rep. Tony Lekas for Executive Departments and Administration. There are legitimate concerns when proprietary JavaScript software is executed in a person's web browser. Such software has access to most information on the user's system and the user cannot know what such software is doing. The NH Department Of Information Technology (DOIT) is required to protect user privacy and makes an effort to ensure that proprietary JavaScript software that runs on the browser of a user accessing a state website does not put at risk the privacy or integrity of a user's information. The DOIT has plans to increase their efforts in this area. However, it would be better if users of state websites did not have to depend on such assurances. There are at least two problems with the solution mandated by this bill. First, the cost and effort to review all of the state's myriad websites and to update or replace those that do run such software on the user's browser is very large. Not only does the fiscal note have an estimate that could be as high as almost $114 million for each of the next three years it would take a great deal of DOITs staff time just to coordinate with outside contractors. This would likely delay the development of important IT work. Second, many of the standard tools used to develop websites and many of the vendors who work on websites make use of proprietary JavaScript software. The limitations this bill would put in place would likely increase the cost of developing all of the state's websites into the future. The potential benefit of this bill is not justified by the cost. **Vote 18-0.**

Original: House Clerk
Cc: Committee Bill File

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB 327-FN Date: 1/18/23

Committee: ED+A

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Charles McIntyre	NH Lottery	271-3391			✓
Denis Goulet	DoIT	603 545 5999	DoIT		✓
John Williams	DHHS	(603) 271-9345	DHHS		✓

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 327-FN

BILL TITLE: **prohibiting the state from requiring the public use proprietary software when visiting state websites.**

DATE: **January 18, 2023**

LOB ROOM: **306-308** **Time Public Hearing Called to Order:** **1:15 pm**

Time Adjourned: **1:45 pm**

Committee Members: Reps. C. McGuire, Simon, Sirois, T. Lekas, Bailey, Santonastaso, True, T. Dolan, Abare, Gerhard, Grote, P. Schmidt, Goley, Schuett, O'Brien, F. Davis, Fitzpatrick and S. Gould

Bill Sponsors:
Rep. Gallager

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Eric Gallager**: Specifically about state websites. Explained the "Javascript Trap" that installs tracking data. This
bill would give users freedom to disable that from happening. "Good way to give users control while interacting with the state."
Return control back to us so we know exactly what our software is doing.

***Denis Goulet** (DOIT): In opposition to bill 327. Says they are very careful to not track. Doesn't believe that iin s done in State
websites at all. Believes this bill would be extremely expensive.Would have to look at each and every process to be sure if
there is or is not any proprietary javascript within. Heavy impact on state labor cost wise.
"If we had a Chief Privacy Officer our hands would not be tied, but would be liberated."

Respectfully Submitted,

Rep Shane Sirois, Clerk

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB327 on 2

Support: 1 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	1
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	1

Daniel Richardson

Javascript (or any proprietary process software) should never be a requirement of a citizen's computer software to have access to state or local websites for the purpose of equal access under the law.

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 327-FN

BILL TITLE: prohibiting the state from requiring the public use proprietary software when visiting state websites.

DATE: January 18, 2023

LOB ROOM: 306-308

MOTIONS: **INEXPEDIENT TO LEGISLATE**

Moved by Rep. T. Lekas | Seconded by Rep. Schuett | Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Shane Sirois, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:25:09 PM
Roll Call Committee Registers Report

2023 SESSION

Executive Departments and Administration

Bill #: 327 Motion: ITL AM #: _____ Exec Session Date: 1-18-23

Members	YEAS	Nays	NV
McGuire, Carol M. Chairman	✓		
Simon, Matthew J. Vice Chairman	✓		
Lekas, Tony	✓		
Bailey, Glenn	✓		
Santonastaso, Matthew	✓		
True, Chris	✓		
Dolan, Tom	✓		
Abare, Kimberly L	✓		
Gerhard, Jason	✓		
Sirois, Shane A	✓		
Grote, Jaci L.	✓		
Schmidt, Peter B.	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
O'Brien, Michael B.	✓		
~~Wilhelm, Matthew B.~~	—		
Davis, Fred E.	✓		
Fitzpatrick, Daniel W	✓		
Gould, Sherry L	✓		
~~Smith, Juliet~~ L	—		
TOTAL VOTE:			

18 - 0