CONSENT CALENDAR

March 20, 2024

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 1688-FN,

AN ACT relative to the use of artificial intelligence by state agencies. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Carol McGuire

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Executive Departments and Administration**
Bill Number:	**HB 1688-FN**
Title:	**relative to the use of artificial intelligence by state agencies.**
Date:	**March 20, 2024**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2024-1254h**

STATEMENT OF INTENT

This bill defines artificial intelligence (AI) and establishes guardrails about its use by state agencies. The committee amendment aligns the definitions with those in other bills this session, removes some possibly problematic language, requires a warrant to use AI surveillance, typically facial or speech recognition, in public areas, and requires agencies to comply with the DOIT Code of Ethics for AI Systems. This bill imposes no constraints on individuals, private businesses, or local governments.

Vote 20-0.

Rep. Carol McGuire
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration
HB 1688-FN, relative to the use of artificial intelligence by state agencies. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol McGuire for Executive Departments and Administration. This bill defines artificial intelligence (AI) and establishes guardrails about its use by state agencies. The committee amendment aligns the definitions with those in other bills this session, removes some possibly problematic language, requires a warrant to use AI surveillance, typically facial or speech recognition, in public areas, and requires agencies to comply with the DOIT Code of Ethics for AI Systems. This bill imposes no constraints on individuals, private businesses, or local governments.
Vote 20-0.

Original: House Clerk
Cc: Committee Bill File

Rep. C. McGuire, Merr. 27
Rep. Grote, Rock. 24
Rep. Cormen, Graf. 15
March 20, 2024
2024-1254h
02/08

Amendment to HB 1688-FN

Amend RSA 5-D:1 as inserted by section 1 of the bill by replacing it with the following:

5-D:1 Definitions. In this chapter:

I. "Artificial intelligence" or "AI" is the ability of a machine to display human-like capabilities for cognitive tasks such as reasoning, learning, planning, and creativity. AI systems may adapt their behavior to a certain degree by analyzing the effects of previous actions and operating under varying and unpredictable circumstances without significant human oversight.

II. "Generative AI" is AI that can generate text, images, or other media in response to prompts.

III. "Deepfake" means a video, audio, or any other media of a person in which his or her face, body, or voice has been digitally altered so that he or she appears to be someone else, he or she appears to be saying something that he or she has never said, or he or she appears to be doing something that he or she has never done.

IV. "State agency" means any department, commission, board, institution, bureau, office, law enforcement, or other entity, by whatever name called, including the legislative and judicial branches of state government, established in the state constitution, statutes, session laws or executive orders.

Amend RSA 5-D:3 as inserted by section 1 of the bill by replacing it with the following:

5-D:3 Prohibition. The following uses of AI by state agencies shall be prohibited:

I. Classifying persons based on behavior, socio-economic status, or personal characteristics resulting in unlawful discrimination against any individual person or group of persons.

II. Real-time and remote biometric identification systems used for surveillance in public spaces, such as facial recognition, except by law enforcement with a warrant.

III. Deepfakes when used for any deceptive or malicious purpose.

Amend RSA 5-D:5 as inserted by section 1 of the bill by replacing it with the following:

5-D:5 Compliance.

I. All state agencies shall take the following actions no later than 9 months after the effective date of this chapter and report their compliance with the department of information technology:

(a) Review the use of AI in their computer systems to verify, to the best of their knowledge, that they comply with the provisions of this chapter and the department of information technology code of ethics for AI systems. Any AI system that is prohibited shall be removed.

(b) Modify all procedures relative to any use of AI that are inconsistent with this chapter so that these procedures are consistent with the requirements in this chapter.

II. Any AI systems newly deployed by a state agency after the effective date of this chapter shall comply with the provisions of this chapter and the department of information technology code of ethics for AI systems. All newly implemented procedures relative to any use of AI that are implemented by a state agency after the effective date of this chapter shall be consistent with the requirements in this chapter.

III. One year after the effective date of this chapter, the department of information technology shall provide to the governor, the speaker of the house of representatives, and the president of the senate a report summarizing AI systems identified by state agencies recording which of those systems were prohibited and removed in compliance with this chapter, which systems are allowed according to this chapter, and what procedures have been implemented to ensure that the procurement and use of these systems will be in compliance with this chapter. This report shall be updated annually to include new systems that state agencies have purchased. All such reports shall also be posted on the department of information technology's website.

5-D:6 Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1688-FN

BILL TITLE: relative to the use of artificial intelligence by state agencies.

DATE: March 20, 2024

LOB ROOM: 306-308

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. C. McGuire Seconded by Rep. Grote AM Vote: 20-0

Amendment # 2024-1254h

Moved by Rep. C. McGuire Seconded by Rep. Grote Vote: 20-0

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

1/11/2024 9:32:29 AM
Roll Call Committee Registers Report

2024 SESSION

Executive Departments and Administration

Bill #: 1688 Motion: OTPA AM #: _____ Exec Session Date: 03-20-2024

Members	YEAS	Nays	NV
McGuire, Carol M. Chairman	✓		
Simon, Matthew J. Vice Chairman	✓		
Lekas, Tony	✓		
Bailey, Glenn	✓		
Santonastaso, Matthew	✓		
Dolan, Tom	✓		
~~Gerhard, Jason~~ PLETT	✓		
Sirois, Shane A Clerk	✓		
Boyd, Stephen E.	✓		
Brown, Carroll M	✓		
Grote, Jaci L.	✓		
Schmidt, Peter B.	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
~~O'Brien, Michael~~ B. SCHULTZ	✓		
Davis, Fred E.	✓		
~~Fitzpatrick, Daniel~~ W HOWARD	✓		
Gould, Sherry L	✓		
Smith, Juliet L	✓		
Mangipudi, Latha D.	✓		
TOTAL VOTE:	20	0	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/11/2024 9:32:29 AM
Roll Call Committee Registers Report

2024 SESSION

Executive Departments and Administration

Bill #: 1680 Motion: OTP AM #: 1254H Exec Session Date: 03-20-2024

Members	YEAS	Nays	NV
McGuire, Carol M. Chairman	✓		
Simon, Matthew J. Vice Chairman	✓		
Lekas, Tony	✓		
Bailey, Glenn	✓		
Santonastaso, Matthew	✓		
Dolan, Tom	✓		
~~Gerhard, Jason~~ PLETT	✓		
Sirois, Shane A Clerk	✓		
Boyd, Stephen E.	✓		
Brown, Carroll M	✓		
Grote, Jaci L.	✓		
Schmidt, Peter B.	✓		
Goley, Jeffrey P.	✓		
Schuett, Dianne E.	✓		
~~O'Brien, Michael B.~~ SCHULTZ	✓		
Davis, Fred E.	✓		
~~Fitzpatrick, Daniel W~~ HOWARD	✓		
Gould, Sherry L	✓		
Smith, Juliet L	✓		
Mangipudi, Latha D.	✓		
TOTAL VOTE:	20	0	

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1688-FN

BILL TITLE: **relative to the use of artificial intelligence by state agencies.**

DATE: **February 14, 2024**

LOB ROOM: **306-308** **Time Public Hearing Called to Order:** **11:31 a.m.**

Time Adjourned: **12:15 p.m.**

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

Bill Sponsors:

Rep. Cormen	**Rep. Summers**	**Rep. Preece**
Rep. Muns	**Rep. Ming**	**Rep. Brennan**
Rep. Santonastaso	**Rep. D. McGuire**	**Rep. Donnelly**
Sen. Watters	**Sen. Prentiss**	

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TESTIMONY

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

Rep. T. Cormen
- Grafton 15
- Prime Sponsor. Spoke about his background in computers and computer science. As the Chair of Computer Science, he made a point to stay informed about artificial intelligence and advancement. Concerned about artificial intelligence infringing on our rights. Defined different forms of artificial intelligence.

- Rep. Dan McGuire
  - Merrimack 14
  - Cosponsor of HB1688-FN. Stated that this bill is ahead of the curve. Wonders if the state is currently in violation of things listed in this bill concerning recent law changes. Pointed out that this bill is specifically about state action

*Denis Goulet
- DOIT
- In opposition to HB1688-FN. Says some of the language in the bill addresses things that could be good. Believes facial recognition is a good safety tool. Feels this bill will impair is ability to adapt quickly to advancements in artificial intelligence.

Respectfully Submitted,

Rep Shane Sirois, Clerk

SIGN UP SHEET

Register Your Opinion If Not Testifying

Committee: ED&A

Bill #: 1688

Date: 2/14/24

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

Name	Address	Phone	Representing	Pro	Con
Tamara Hester	Concord, NH	603-223-8623	NHSP		
Denis Goulet	27 Hazen Dr	603 545 5998	DoIT		X

HB 1688 - FN
DENIS GOULET

NEW HAMPSHIRE STATE GOVERNMENT CODE OF ETHICS FOR THE USE AND DEVELOPMENT OF GENERATIVE ARTIFICIAL INTELLIGENCE AND AUTOMATED DECISION SYSTEMS

Need for a Code of Ethics

The State of New Hampshire Department of Information Technology (DoIT) recognizes the business advantage of, and supports the adoption and use of, generative artificial intelligence and automated decision systems (AI Systems). These systems can be used to optimize the delivery of essential government services and improve the experience of residents, visitors and businesses that do business with the State of New Hampshire.

To maximize the business benefits and minimize the risks of AI Systems, there must be continuous adherence to the principles that guide the State of New Hampshire's development and use of these technologies. For several years now, scientists, ethicists, policy makers and corporations from around the world, and from all political systems, have engaged in debate about what is "right" as applied to the creation and use of these new technologies. These ongoing debates have informed DoIT's recommendation.

DoIT provides and recommends the application of the following Code of Ethics for the Use and Development of Generative Artificial Intelligence and Automated Decision Systems (Code of Ethics), by all State of New Hampshire Government Organizations, based on the *European Union guideline on ethics in artificial intelligence*.[1]

Operational Definitions

Algorithm. A computerized procedure consisting of a set of steps used to accomplish a determined task.

Automated decision system. Any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support government decisions, judgments, or conclusions.

[1] The EU guidelines were chosen due to their "Human" focus, which, for the State of New Hampshire, translates as a "Residents, visitors, and businesses" focus versus many of the U.S. models that are developed mostly through private-sector initiatives and self-regulation. The full analysis is available here: EU guidelines on ethics in artificial intelligence: Context and implementation (europa.eu)

Automated final decision system. An automated decision system that makes final decisions, judgments, or conclusions without human intervention.

Automated support decision system. An automated decision system that provides information to inform the final decision, judgment, or conclusion of a human decision maker.

Artificial intelligence systems. Systems capable of perceiving an environment through data acquisition and then processing and interpreting the derived information to take an action or actions or to imitate intelligent behavior given a specific goal. An artificial intelligence system can also learn and adapt its behavior by analyzing how the environment is affected by prior actions.

Generative artificial intelligence. Algorithms that create new content, including audio, code, images, text, simulations, and videos.

New Hampshire State Government Code of Ethics for AI Systems

A. **Fundamental Rights**: The following fundamental human rights are critical to a human-centric code of ethics and serve as the foundation of ethical use and development of AI Systems:

i. **Human Dignity**: AI Systems technology shall be developed such that it respects, serves and protects humans' personal and cultural sense of identity, physical and mental integrity, and satisfies basic needs.

ii. **Individual Freedom**: Humans have freedom to make life decisions for themselves, without sovereign intrusion, except to ensure that individuals or people at risk of exclusion have equal access to AI Systems benefits and opportunities, when used by the State of New Hampshire.

iii. **Respect for democracy/justice/law**: AI Systems shall serve to maintain and promote democratic processes, to honor the rule of law, and to respect the values and life choices of individuals, and the norms of the State of New Hampshire.

iv. **Equality, non-discrimination, and solidarity**: Equal respect for the moral worth and dignity of all human beings shall be ensured by development of AI Systems whose operations cannot generate unfairly biased outputs to any individual or group.

v. **Residents' and visitors' rights**: AI Systems shall not infringe upon the wide array of residents' and visitors' rights, including the right to vote, the right to good administration or access to public documents, and all other rights and freedoms of the residents and visitors of New Hampshire.

B. **Ethical Principles**: The four AI Systems ethical principles align to the fundamental human rights detailed above. They serve to optimize the delivery of essential government services and improve the experience of residents, visitors and businesses that do business with the State of New Hampshire through the responsible development of AI Systems.

i. **Respect for human autonomy**: In New Hampshire, humans interacting with AI Systems must be able to keep full and effective self-determination over themselves and be able to partake in the democratic process.

ii. **Prevention of harm**: AI Systems should neither cause nor exacerbate harm or otherwise adversely affect human beings and the natural environment.

iii. **Fairness**: When used by government, the development, deployment and use of AI Systems must be fair, ensuring equal and just distribution of both benefits and costs, and ensuring that individuals and groups are free from unfair bias, discrimination and stigmatization.

iv. **Explicability**: AI Systems processes need to be transparent, the capabilities and purpose openly communicated, and State of New Hampshire government decisions – to the extent possible – explainable to those directly and indirectly affected.

C. **Requirements for AI Systems**: The following technical and social requirements are recommended to support the implementation of the AI Systems ethical principles that were detailed above:

i. **Human agency and oversight**: Fundamental rights, human agency and human oversight must be applied in every use and development case of AI Systems across the State of New Hampshire. Automated final decision systems should not be used by any government organization in the State of New Hampshire. Automated decision support systems should be widely used by government entities in the State of New Hampshire.

ii. **Technical robustness and safety:** Resilience to attack and security, continuity plans, and general safety, accuracy, reliability, and reproducibility must be applied in every use and development case of AI Systems.

iii. **Privacy and data governance**: The State's respect for privacy, quality and integrity of data, and access to data must be applied in every use and development case of AI Systems used by government entities.

iv. **Transparency:** Across New Hampshire, traceability, explainability and communication must be applied in every use and development case of AI Systems.

v. **Diversity, non-discrimination, and fairness**: Accessibility and equity-focused design, stakeholder participation and the avoidance of unfair bias must be used in every use and development case of AI Systems by government entities.

vi. **Societal and environmental wellbeing**: Across New Hampshire, sustainability and environmental friendliness, social impact, society, and democracy should be considered in every use and development case of AI Systems.

vii. **Accountability**: Auditability, minimization and reporting of negative impact, trade-offs and redress must be included in every use and development case of AI Systems used by the State of New Hampshire.

D. **Maintenance of the Code of Ethics for Generative Artificial Intelligence and Automated Decision Systems**: The Department of Information Technology will review the Code of Ethics annually, or when significant changes occur in the best practices for use and development of, or ethical determinations relating to, AI Systems.

HB1688-FN
DENIS GOULET

State of New Hampshire
Department of Information Technology
Office of the Chief Information Officer (CIO)

State of New Hampshire Use of Artificial Intelligence (AI) Technologies Policy

1. PURPOSE

This policy, guided by the New Hampshire *Code of Ethics for the Use and Development of Generative Artificial Intelligence and Automated Decision Systems (AI System)* outlines the principles, guidelines, and requirements for the responsible and ethical use of various AI technologies across State Government Departments and Agencies, with a strong emphasis on protecting Personal Identifying Information (PII) and restricted or sensitive data.

2. APPLICABILITY

All New Hampshire State Employees and affiliates are responsible and accountable to their supervisor and Agency Head to **adhere to the following principles** when using AI to enable the delivery of government services:

- **Human-Centric Approach**: A human-centric approach shall be used to develop and deploy AI technologies, prioritizing the well-being, rights, and interests of users and stakeholders.
- **Transparency and Accountability**: All AI systems used by State Government shall be transparent, explainable, and accountable, especially when handling PII and sensitive data.
- **Fairness and Nondiscrimination**: AI technologies shall be designed and integrated to avoid bias, discrimination, and unfair treatment, particularly when dealing with PII and sensitive information, while ensuring equitable accessibility and level of service for all users. AI user interfaces shall be designed to comply with the current published version of the web content accessibility guidelines (WCAG).
- **Privacy and Data Protection**: The collection, storage, and use of user data, especially PII and sensitive data, shall adhere to relevant data protection laws and prioritize user privacy, in alignment with the New Hampshire Statewide Information Security Manual and New Hampshire Privacy Laws.
- **Continuous Improvement**: Any employee or Agency using AI shall continuously monitor, evaluate, and improve AI technologies to ensure their effectiveness, accuracy, and ethical use, with special attention to data security.

All New Hampshire State Employees may use a variety of AI-powered technologies to enhance government services, streamline processes, and provide users with timely and accurate information. All employees and affiliates shall **adhere to specific requirements for each use case**:

- **Decision Support Systems**: Automated decision systems may assist human decision-makers by providing data-driven insights, but final decisions shall remain under human oversight and judgment.

- **Public Engagement**: AI-powered chatbots and virtual assistants may be used for public engagement, answering frequently asked questions, and providing users with information on government initiatives and services, while adhering to stringent data protection measures found in the Statewide Information Security Manual.
- **Predictive Analytics**: AI technologies may be used for predictive modeling and data analysis to inform policymaking, resource allocation, and future planning, with strict controls on data access and sharing for PII and sensitive data.
- **Image and Video Analysis**: AI systems may be used for analyzing images and videos to support efforts such as law enforcement, emergency response, and environmental monitoring, while ensuring the confidentiality and security of PII and sensitive data, in line with applicable federal and New Hampshire law.
- **Natural Language Processing**: AI-driven natural language processing tools may be employed to analyze public sentiment, engage in open-ended user feedback, and gather insights for policymaking while safeguarding user privacy and guided by the New Hampshire Code of Ethics for the Use of AI Systems.
- **Generative Content**: AI technology may be used to create content such as images and draft publications, including media releases, guidance documents, etc., but final publications must have human review and approval.
- **Healthcare and Public Health**: AI technologies may be used to analyze healthcare data for disease trends, resource allocation, and public health initiatives, ensuring the security and privacy of medical information, in accordance with applicable laws and directives for the protection of sensitive data.
- **Environmental Monitoring**: AI systems may be deployed to analyze environmental data for detecting pollution, predicting natural disasters, and supporting conservation efforts, while adhering to data protection regulations stipulated by Federal Law or New Hampshire Statutes and regulations promulgated by the New Hampshire Department of Environmental Services.
- **Transportation and Infrastructure**: AI technologies may be utilized to optimize transportation systems, manage traffic flow, and assess infrastructure maintenance needs, with a focus on data security and protection, but final decisions shall remain under human oversight and judgment.

All New Hampshire State Employees and affiliates are responsible and accountable to their supervisor and Agency Head to adhere to the following **technical and ethical requirements** when using AI to deliver government services:

- **Algorithmic Transparency**: AI systems shall provide explanations for decisions and actions, especially those involving PII and sensitive data, enabling users to understand the basis for responses.
- **Data Quality**: Data used to train and operate AI systems shall be accurate, representative, and relevant, with specific attention to maintaining the security of PII and sensitive information. PII and sensitive data shall never be used in an "open" AI instance; that is, where the AI is not instantiated in a manner where the State controls both the application and the data.
- **Human Oversight**: Critical decisions, policy changes, and high-stakes interactions require rigorous human oversight and intervention at the same level as if AI was not used in the process.
- **Ethical Review**: High-risk AI systems shall undergo ethical reviews, by a committee composed of the program owner, a representative of the Attorney General's Office, and the Agency Head, with a specific focus to assess potential societal impacts, bias, and unintended consequences.

All New Hampshire State Employees and affiliates are responsible and accountable to their supervisor and Agency Head to adhere to the following **data governance and cybersecurity requirements** per the Statewide Information Security Manual when using AI to deliver government services:

- **Data Protection**: All data, especially PII and sensitive data, processed by AI technologies shall adhere to established data protection protocols and comply with heightened measures for encryption, access controls, and secure storage as required by specific programs or regulatory bodies in addition to any SISM requirements.
- **Cybersecurity**: AI systems shall be designed and maintained with robust cybersecurity measures to protect against unauthorized access, data breaches, and potential compromise of PII and sensitive information, as mandated by the Statewide Information Security Manual and regulatory bodies.

All New Hampshire State Employees and affiliates are responsible and accountable to their supervisor and Agency Head to **ensure**:

- **Transparency in Communication**: Users interacting with AI technologies shall be informed when they are interacting with automated technology and provided with information on how their PII and sensitive data are handled and protected.
- **Use of AI Education Initiatives**: Agencies using AI engage in public education initiatives to increase user awareness of AI technology usage, benefits, and potential risks.
- **Fair Competition Between AI Vendors**: Agencies shall contractually prohibit all vendors who supply AI technology to that agency, whose AI technology is trained or improved using state-owned data, from selling those improved AI Technologies outside the New Hampshire State Government.

NIST CONTROLS

This policy has been mapped to the current NIST-800-53 R5 standard and the standard tags are contained in the procedure's metadata and listed here:

- **PERSONALLY IDENTIFIABLE INFORMATION PROCESSING AND TRANSPARENCY (PT)**
- **SYSTEM DEVELOPMENT LIFE CYCLE (SA-3)**
- **RISK ASSESSMENT (RA)**

3. ROLES AND RESPONSIBILITIES

This policy applies to all State of New Hampshire Employees. Accountability for adherence to this policy is the responsibility of Agency heads.

Agencies shall report all instances of AI Technologies in development and production to DoIT's Business Relationship Management Division (BRMD) for inventory purposes.

4. REFERENCES

- Statewide Information Security Manual (SISM)
- State of New Hampshire Code of Ethics for AI Systems

REVISION HISTORY:

Owner	Date of release and description of change
K. Weeks	08/18/2023 Initial Issue and editing with Kate Michener, Director, User Experience Division. Ken Weeks and Kate Michener reviewed, verified, and approved any AI Generated text in this policy. Generated portions of the text in this policy with ChatGPT version 3.5. Regenerated text 6 times to tailor the text to align with the New Hampshire Use Case and adjust to align with the *New Hampshire Code of Ethics for the Use and Development of Generative Artificial Intelligence and Automated Decision Systems (AI Systems)*.
K. Weeks	11/1/2023 V2-Added Fair Competition Between AI Vendors section. Emergency change approved by CIO.

Daniel Richardson

No to artificial intelligence. Use real human intelligence.

HB 1688-FN - AS INTRODUCED

2024 SESSION

24-2510
02/10

HOUSE BILL ***1688-FN***

AN ACT relative to the use of artificial intelligence by state agencies.

SPONSORS: Rep. Cormen, Graf. 15; Rep. Summers, Rock. 20; Rep. Preece, Hills. 17; Rep. Muns, Rock. 29; Rep. Ming, Hills. 35; Rep. Brennan, Merr. 9; Rep. Santonastaso, Ches. 18; Rep. D. McGuire, Merr. 14; Rep. Donnelly, Rock. 25; Sen. Watters, Dist 4; Sen. Prentiss, Dist 5

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill prohibits state agencies from using artificial intelligence to manipulate, discriminate, or surveil members of the public.

- -

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.

24-2510
02/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the use of artificial intelligence by state agencies.

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

1 New Chapter; Use of Artificial Intelligence by State Agencies. Amend RSA by inserting after chapter 5-C the following new chapter:

CHAPTER 5-D

USE OF ARTIFICIAL INTELLIGENCE BY STATE AGENCIES

5-D:1 Definitions. In this chapter:

I. "Artificial intelligence" or "AI" is the ability of a machine to display human-like capabilities for cognitive tasks such as reasoning, learning, planning and creativity. AI systems can adapt their behavior to a certain degree by analyzing the effects of previous actions and operating under varying and unpredictable circumstances without significant human oversight.

II. "Generative AI" is AI that can generate text, images, or other media in response to prompts.

III. "Deepfake" means a video of a person in which their face or body has been digitally altered so that they appear to be someone else, they appear to be saying something that they have never said, or they appear to be doing something that they have never done. A deepfake is typically used maliciously or to spread false information.

IV. "State agency" means any department, commission, board, institution, bureau, office, law enforcement, or other entity, by whatever name called, including the legislative and judicial branches of state government, established in the state constitution, statutes, session laws or executive orders.

5-D:2 Applicability. This chapter shall apply to all computer systems operated by any state agency as defined in RSA 5-D:1, IV. Excepted are systems used in research by state-funded institutions of higher learning. Also excepted are installed consumer systems in common personal use, including, but not limited to facial recognition used to unlock a smartphone.

5-D:3 Prohibition. The following uses of AI by state agencies shall be prohibited:

I. Cognitive behavioral manipulation of individual persons or specific groups of persons.

II. Classifying persons based on behavior, socio-economic status, or personal characteristics resulting in:

(a) Unlawful discrimination against any individual person or group of persons; or

(b) Unlawful disparate impact on any individual person or group of persons based on any actual or perceived differentiating characteristic, including, but not limited to, age, genetic information, color, ethnicity, race, creed, religion, national origin, ancestry, sex, gender identity or

expression, sexual orientation, marital status, familial status, pregnancy, veteran status, disability, or lawful source of income.

III. Real-time and remote biometric identification systems used for surveillance in public spaces, such as facial recognition, except when used to locate a missing or abducted person.

IV. Deepfakes when used for any deceptive or malicious purpose.

5-D:4 Permitted Uses and Restrictions. Use of AI by state agencies shall be allowed under the following circumstances and with the following restrictions:

I. If an AI system produces a recommendation or a decision, and this recommendation or decision once implemented or executed cannot be reversed, then the recommendation or decision must be reviewed by a human who is in an appropriate responsible position and is aware of the limitations of the AI system before the recommendation or decision takes effect.

II. Such recommendations and decisions pertain to, but are not limited to, the following:

(a) Situations in which limitations on rights and freedoms of an individual person or group of persons are determined.

(b) Biometric identification to verify the identity of an individual person.

(c) Management and operation of critical infrastructure.

(d) Actions taken by law enforcement at the state and local levels.

(e) Interpreting and applying the laws of the state, including sentencing.

III. Any material produced by generative AI and that has not been reviewed, and possibly edited by a human in an appropriate responsible position, must be accompanied by disclosure that the content was generated by AI.

IV. In all other circumstances in which a human user is interacting with an AI system, either directly or indirectly, the user must be informed that they are interacting with an AI system.

5-D:5 Compliance.

I. All state agencies shall take the following actions no later than 9 months after the effective date of this chapter and report their compliance with the department of information technology:

(a) Review the use of AI in their computer systems to verify that they comply with the provisions of this chapter. Any AI system that is prohibited shall be removed.

(b) Modify all procedures relative to any use of AI that are inconsistent with this chapter so that these procedures are consistent with the requirements in this chapter.

II. Any AI systems newly deployed by a state agency after the effective date of this chapter shall comply with the provisions of this chapter. All newly implemented procedures relative to any use of AI that are implemented by a state agency after the effective date of this chapter shall be consistent with the requirements in this chapter.

III. One year after the effective date of this chapter, the department of information technology shall provide to the governor, the speaker of the house of representatives, and the

president of the senate a report summarizing AI systems identified by state agencies recording which of those systems were prohibited and removed in compliance with this chapter, which systems are allowed according to this chapter, and what procedures have been implemented to ensure that the procurement and use of these systems will be in compliance with this chapter. This report shall be updated annually to include new systems that state agencies have purchased. All such reports shall also be posted on the department of information technology's website.

2 Effective Date. This act shall take effect July 1, 2024.

LBA
24-2510
12/11/23

HB 1688-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the use of artificial intelligence by state agencies.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as introduced, as it is awaiting information from the Department of Information Technology. The Department was originally contacted on 11/07/23 and most recently contacted on 12/04/23 for a fiscal note worksheet. When completed, the fiscal note will be forwarded to the House Clerk's Office.

AGENCIES CONTACTED:

Department of Information Technology