Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 1124, relative to the right to compute.

Hearing Date: April 21, 2026

Time Opened: 1:21 p.m. **Time Closed**: 2:00 p.m.

Members of the Committee Present: Senators Gannon, Altschiller and Reardon

Members of the Committee Absent: Senators Abbas and Carson

Bill Analysis: This bill establishes the right to compute act.

Sponsors:

Rep. Ammon	Rep. Corcoran	Rep. Notter
Rep. Peternel	Rep. Sheehan	

Who supports the bill: Representative Keith Ammon, Representative Katy Peternel, Sarah Scott (Americans for Prosperity), Aubrey Freedman, Susanne R. White, Rowalo A. White, Curtis Howland, Daniel Richardson, and Pamela Harders.

Who opposes the bill: Lizz-Anne Platt, Sarah Burke Cohen (NHMA), Deborah Jakubowski, William Copeland Jr, Joyce Weston, Valerie Scarborough, Sarah Thorne, Caitlin Edwards-Appell, Judith Saum, Sally Widerstrom, Andrea Powers, Richard Hunnewell, Karen Chase, Anne Hunnewell, Julie Retelle, Rosemary D'Arcy, and Gary McCool.

Who is neutral on the bill: Brandon Garod (Attorney General's Office)

Summary of the testimony presented:

Representative Keith Ammon testified as the prime sponsor to introduce the bill. He stated that he wanted to give the committee his frame of reference for how he thinks about the issue and explain the impetus behind the legislation. He also stated that the bill still needs a little work and that he was willing to put that work in.

- He said the committee would hear from the attorney general’s office regarding what additional language might be needed, and that he was happy to work on those issues.

- He began by referencing the First Amendment to the United States Constitution and stated that the First Amendment contains what is famously known as freedom of the press. He explained that at the time the amendment was written, freedom of the press did not mean dinner and the evening news, but instead referred to the movable-type machine known as the printing press. He stated that the printing press used movable type consisting of letters of the alphabet that could be arranged in any combination desired.

- He explained that the founders included freedom of the press in the Constitution because during the period between the invention of the printing press and the writing of the Constitution, various governments attempted to stamp out or regulate the output of the press. He stated that kings would require registration of presses, taxation of presses, and approval of printed output because the press challenged authority, and that was the issue.

- He then stated that if one fast-forwards to the present day, computation is becoming the twenty-first century version of the printing press. He said there is a corollary that is simple to understand at a basic level: just as movable type was the building block of the printing press, computation is made up of individual units called logic gates.

- He explained that this is basic computer science and that the three most foundational logic gates are AND, OR, and NOT. He stated that combinations of those logic gates create all the things computers do, including artificial intelligence.

- He stated that the purpose of the bill, the Right to Compute Act, is to place into statute a twenty-first century corollary to the First Amendment by establishing that, by right and by default, citizens of New Hampshire have the right to compute.

- He stated that government should not be afraid of computation and should not seek to stamp it out or over regulate it. He said that from his perspective, much of the legislation appearing around the country resembles moral panics about artificial intelligence, encryption, and related technologies. He stated that the idea of the bill is to establish a baseline under which government must prove a compelling interest in order to pierce that baseline.

- He clarified that the bill is not intended to make fraud, theft, or slander legal, just as the First Amendment does not protect those acts. He stated that a person can still get in trouble for slandering someone. He said the purpose instead is to guarantee the right to compute to average citizens.

- He then stated that people hear a great deal about data centers and large companies with LLM models in the cloud, but may not realize that these models are rapidly becoming more efficient and able to run on smaller and smaller hardware.

- He gave the example of an Apple MacBook and stated that one could probably run a very powerful large language model on such a machine that could do many things while remaining self-contained on that device. He stated that this would preserve privacy and that this advancement is happening very quickly. He said he believes this will become an important issue and that he personally considers it a civil rights issue, acknowledging that some might consider that a stretch, but that is how he sees it.

- He noted that the bill did not face opposition in the House when it came through the House Commerce Committee. He reiterated that he was willing to work with the attorney general's office to make sure consumer protection is explicitly included in the bill.

- Senator Reardon stated that she appreciated the printing press analogy and thought it was a good precursor for the mindset needed to think about the bill. She then asked whether, just as freedom of the press ended up in the Constitution because there was concern about what might happen without a free press, he could analogize that concern to the present situation and explain what is happening now.

  - Representative Keith Ammon responded that he wanted to be careful because he did not view this as a partisan issue. He stated that executive action is occurring at the federal level and that the impetus for this legislation came in part from a very similar law that had passed in the state of Montana, which he said was the first state to do so. He described the right to compute movement as a nascent movement that is very small and just getting started, with other states now looking at the concept.

  - He stated that the specific impetus was Executive Order 14110 issued by the Biden administration. He explained that the executive order required registration with the government if a large language model had a certain number of parameters or a certain amount of compute. He stated that the number was fixed, but that these models are getting faster and better over time. He compared this to inflation, saying that if one places a dollar amount into law, eventually it is not worth what it once was. He said the concern was that the government was trying to make companies register their large language models and that this affects open-source developers, not just large companies. He stated that it affects an entire community of people trying to use these technologies to make lives more prosperous.

- Senator Reardon then stated that she appreciated his point that a fixed number can be outgrown and asked whether there are other guardrails that make more sense than a fixed numerical threshold.

  - Representative Keith Ammon responded that artificial intelligence and computation are tools. He stated that the proper guardrails should apply when someone uses the tool to commit a crime. He explained that the

issue is not some intrinsic aspect of the technology itself because the technology is neutral and does not have evil intent. He stated that when someone uses a printing press to slander another person, ruin a reputation, or commit fraud, it is not the printing press at fault but how it is used. He stated that the same principle applies here.

- Senator Reardon replied that she understood and thanked him.

Aubrey Freedman of Bridgewater NH, testified in support of the bill. He began by stating personally that he is somewhat of a luddite himself and does not particularly like new technologies, new software, or similar developments. However, he said that he appreciates and is thankful that there are other people, whom he described as brainy people, who are able to write software and create programs that make life better for everyone.

- He stated that such innovation benefits health care, education, manufacturing, energy, and almost every field. He said that because of that, he views the issue as one where society should embrace the future rather than attempt to impose too many rules and regulations that would hamper innovation going forward.

- He then stated that the bill is also important as a private property rights issue and, as had been mentioned earlier, a First Amendment issue. He said that individuals should have the right to create and run software on their own computers because that is private property.

- He then referred to what he described as a landmark case, Bernstein v. United States Department of State. He stated that the case involved a professor who wrote software and wanted to make it open source, but encountered difficulties with the Department of State, which wanted him to license it and comply with other restrictions. He stated that the matter went to the United States Supreme Court and that the ruling recognized that software source code is protected free speech. He stated that this was something the committee should note.

- He then stated that the bill does not create a wild west environment. He said that regular restrictions the government can impose would still remain in place. He stated that as Representative Ammon had mentioned, laws concerning fraud would still apply, as would laws addressing harms caused by deepfakes. He added that common law nuisances would still apply, such as the kinds of noise complaints neighbors might raise regarding data centers.

- He further stated that if critical infrastructure is controlled by artificial intelligence, there would still need to be a risk-management policy in place. He stated that these guardrails remain and that nothing in the bill changes them.

- He concluded by stating that the state should continue to allow innovation without unnecessary restrictions.

Sarah Burke Cohen testified on behalf of the New Hampshire Municipal Association in opposition to the bill. She stated that, as written, the bill would create vague new constitutional-style rights for individuals that are not currently tested in law.

- She explained that because those rights are undefined, courts and lawsuits would be required to determine what the guardrails look like.
- She stated that the bill sets the stage for ordinances that municipalities currently use at the local level to balance the rights of individuals to be overridden by this new framework.
- She further stated that it would essentially give special rights to one group of people over another group because of the compelling interest or strict scrutiny standard contained in the bill.
- She stated that what the association seriously opposes is that the bill takes away local decision-making on these matters and instead grants that authority in a way favoring a specific group. She then stated that she would take questions.
- Senator Reardon stated that she had not previously read Bernstein v. United States Department of State but had just searched for it online and looked at it. She asked if Sarah Burke Cohen had looked at it before.
    - Sarah Burke Cohen replied that she had not read or heard about it before.
        - Senator Reardon stated that it appeared to say certain restrictions were unconstitutional and that there might be more conversation about it later.
- Senator Altschiller stated that from her reading of the bill it defines computational resources as any tool, technology, system, or infrastructure, whether digital, analog, existing, or otherwise. Senator Altschiller stated that these things do not exist in a vacuum and asked whether that raised red flags for the Municipal Association, particularly in the context of someone operating a cryptocurrency or other data centers that can draw an enormous amount of electricity, which could be a real problem for some small towns, and referenced prior legislative efforts to address those concerns elsewhere. Senator Altschiller specifically asked whether Sarah Burke Cohen had looked into the electrical and water issues.
    - Sarah Burke Cohen responded that she believed those concerns are part of the issue. She stated that the bill appears to override the tools a municipality could currently use when it comes to ordinances and zoning. She stated that it appears to replace what is now a rational basis

standard for ordinances and zoning regulations with a compelling interest standard. She added that such a standard would be difficult for any municipality to overcome. She also stated that it transforms everyday local decisions that are ordinarily about balancing the rights of everyone in a municipality into constitutional legal arguments that would likely have to be resolved in court.

- Senator Altschiller asked whether that language on lines 15 through 18 of the bill would supersede any zoning regulations a town might have. She stated that if there is residential zoning, commercial zoning, or agricultural zoning, and if this is a right to compute by right wherever because the bill does not say according to local zoning, then it would override all local controls over where certain things should happen in certain parts of a community. Senator Altschiller asked whether that was how the New Hampshire Municipal Association had analyzed the language in the bill.
    - Sarah Burke Cohen confirmed that this was in fact how the New Hampshire Municipal Association analyzed the language.

Senior Assistant Attorney General Brandon Garod testified neutrally on behalf of the New Hampshire Attorney General's Office. He stated that he was also the Chief of the Consumer Protection and Antitrust Bureau at the Attorney General's Office.

- He explained that, based on conversations with Representative Keith Ammon as well as Representative Ammon's testimony that day, his understanding was that the bill's purpose was to place a restriction on the government's ability to legislate in a way that overly impacts individuals' ability to use computational resources.
- He then stated that the concern of the Attorney General's Office with the bill as currently drafted is that this is not really what the bill says. He stated that the bill is difficult to understand at best. He explained that it does not strictly apply to artificial intelligence. Instead, he said, it prevents any government entity from restricting anyone from making use of computational resources for lawful purposes or otherwise infringing on a person's rights to property, free expression, or privacy regarding such resources.
- He then discussed the definition of computational resources which he characterized as incredibly broad and stated that it could encompass almost any type of technological equipment used in any way, shape, or form for any sort of processing of information.

- He testified that this language could be interpreted as a prohibition or a hurdle preventing the Attorney General's Office or other state entities from enforcing laws unless they can demonstrate a compelling government interest. He stated that compelling government interest is a standard typically associated with constitutional First Amendment protected activity.

- He then gave an example involving RSA 507-H. He stated that RSA 507-H is now law in New Hampshire and has been on the books for over a year. He explained that while it is potentially criminal in some respects, it is also a civil statute that creates restrictions on businesses' ability to process information about people in a number of different ways, while requiring disclosures and giving people rights to make decisions about how their data is processed. He stated that if businesses do not comply with that law, the Attorney General's Office has the ability to go into court and seek an injunction to compel compliance.

- He stated that this bill could reasonably be read to mean that the Attorney General's Office could no longer enforce that statute unless it could show an additional compelling government interest beyond merely proving a violation of existing state consumer protection laws.

- He stated that he understood the bill was not intended to increase the burden of proof for the Attorney General's Office or any other law enforcement agency when there is criminal conduct or other legal violations. However, he stated that the bill needs to be seriously reviewed and revised to make clear that nothing in it should be interpreted to impose such a restriction if the legislation is to move forward in a similar form.

- He also stated that when he first reviewed the bill he looked at the definition section concerning government action to determine whether the conduct that concerned him would be covered. He stated that government action is defined on page two under Roman numeral III. However, he explained that this definition is not otherwise incorporated anywhere else into the statute, meaning that the defined term government action does not actually apply elsewhere in the bill. He characterized that as another issue that should be closely reviewed.

- He stated that if the actual idea of the bill is to prevent legislation or legislative impediments to individuals' private rights to use artificial intelligence and similar tools for lawful purposes, then he would recommend rewriting the bill to say exactly that in a clear and unambiguous way that cannot be misinterpreted to impose unintended restrictions on law enforcement agencies trying to enforce consumer protection and other laws already on the books in New Hampshire.

- Senator Altschiller stated that the committee had heard from the New Hampshire Municipal Association that this bill essentially provides a right to compute regardless of location. She stated that this would leave nothing to

enforce regarding zoning, noise complaints, or water quality, and asked whether she was on the right track in reading the legislation that way.

  - Brandon Garod responded that if those kinds of problems were to arise, there is certainly an argument that could be made that without a compelling government interest, as defined by the statute, any attempt to impose restrictions in those ways would require more than simply proving a violation of a town ordinance.

  - He stated that a municipality would also have to show a compelling government interest in enforcing that ordinance. He clarified that it would not be a complete bar to enforcement, but it would pose a significant hurdle that, to his knowledge, is currently associated mainly with government action infringing First Amendment rights and not with ordinary regulatory matters.

- Senator Gannon stated that current standards such as rational basis are lower burdens, while compelling interest is the highest level requiring no better less restrictive alternative. The senator questioned if what the bill is doing is changing the standard.

  - Brandon Garod agreed and stated that it adds another burden.

- Senator Altschiller stated that the committee knew, from research on another bill involving data centers, that data centers consume approximately 17.4 billion gallons of water, and that figure was from three years ago. She asked whether, if a data center were built under this right to compute framework, a small town would be forced to deal with the ramifications of a data center that had not completed a water quality or water consumption study before construction, and similarly with electricity demand.

  - Brandon Garod responded that the Attorney General's Office itself is not empowered to deal with that specific issue, as those matters are generally left to towns to enforce through local zoning ordinances and similar mechanisms. However, he stated that in the scenario described, if a town had an ordinance requiring certain approvals before new business developments could proceed, under this bill enforcing those ordinances would infringe on a claimed right to compute. The town would then need to demonstrate a compelling government interest in order to enforce those ordinances. He stated that the same logic applies to government entities trying to enforce otherwise valid laws already adopted and effective in New Hampshire.

  - He explained that current burdens of proof are already established: criminal matters require proof beyond a reasonable doubt, while civil matters are usually decided by a preponderance standard, which he referred to as 51 percent. He stated that by passing this bill as written, an argument could be made that an additional burden would be imposed,

namely that enforcement of an otherwise valid law must also rise to the level of a compelling government interest above and beyond simply enforcing state law.

  - He stated that this creates unintended consequences both in the senator's data center scenario and in the Attorney General's own enforcement scenario because it increases burdens on government entities trying to enforce valid laws or ordinances already on the books.

- Senator Altschiller said that she appreciated his clarification but said that New Hampshire does not currently have ordinances or regulations addressing the specific challenges presented by data mining. She stated that under this bill there would be a right to build data mining operations, a right to use all the water needed, and a right to independently negotiate with electrical providers. She asked whether she was missing some laws that could still be used.

  - Brandon Garod responded that he was not sure and stated that one has to look at how the bill is defined. He stated that an argument could likely be made that the bill does not apply to the construction of data plants or data processing centers and instead is more focused on private individuals' rights to use certain technologies. However, he stated that this uncertainty goes directly to the core of his testimony, namely that the bill is incredibly broad and broader than is probably necessary to accomplish the policy goal. He stated that the senator's interpretation was not unreasonable, but that a counterargument could also be made. He concluded that the question might be better directed to the sponsor.

- Senator Gannon stated that if he could show a project would wipe out an aquifer, that could constitute a compelling state interest and allow the government to stop the data mining operation. Likewise, if noise were excessively high and would ruin the community, it would be a harder standard to meet but still possible. He asked Brandon Garod to confirm that the bill simply makes it harder to stop such projects.

  - Brandon Garod agreed and stated that it adds another burden.He said that one would have to look at the bill's listed categories A, B, C, and D, and determine whether a situation fits them. He noted that common law nuisance could possibly be argued because the bill specifically references actions to prevent or abate common law nuisances created by physical data center infrastructure. He added that what constitutes a compelling government interest beyond those listed items is similarly unclear and would leave room for argument.

- Senator Altschiller stated that there are documented noise issues in Texas involving this type of facility and documented water issues in Tennessee and Virginia, after which those states created boundaries around the industry. She asked why New Hampshire should wait until a community has already been

harmed and forced to sue, rather than proactively create protections knowing what has happened elsewhere. She asked whether the bill allows for that in any way.

  - Brandon Garod responded that subsection D of the bill's definition of compelling government interest appears directly applicable to that concern, because it specifically includes actions to prevent or abate common law nuisances created by physical data center infrastructure.
  - He stated that in the hypothetical of a data center creating common law nuisances, the possibility of regulation would still exist. However, it would be more difficult for towns because they would have to demonstrate a compelling government interest, even though that specific concern is expressly recognized in the bill.

- Senator Altschiller referred to page two, Roman numeral I, and stated that compelling government interest is defined there but she did not see it proactively applied in the operative language of the bill. She suggested that the phrase should appear between lines 15 and 18 in the sentence stating that no government entity shall restrict the ability to privately own or make use of computational resources for lawful purposes unless a compelling government interest is shown. She asked whether that language was missing.
  - Brandon Garod responded that if one reads to the end of the paragraph, it is there.
    - The senator then asked how one gets there in practice. She asked whether a town or any government entity seeking to enforce a law or ordinance that infringes on a claimed right to compute would have to prove both the underlying violation and that enforcement in that case serves a compelling government interest.
      - Brandon Garod responded that yes, the government entity whether it be a town, the Attorney General's Office, a local prosecutor, or another state agency, would not only have to prove a violation of law or ordinance, but would also have to prove that enforcement of that law or ordinance in that particular case serves a compelling government interest as defined by the statute.

Sarah Scott testified in support of the bill on behalf of Americans for Prosperity of New Hampshire. She stated that the organization supports the legislation because it believes in the transformative potential of artificial intelligence and other emerging technologies.

- She said that these technologies are moving at a rapid pace and that their potential can only be fully realized when government does its part by getting out of the way and avoiding wrapping new technologies in unnecessary red tape.

- She stated that innovation in computing and artificial intelligence is moving very quickly, and that states across the country are beginning to consider regulations on computing tools that are often vague. She said the organization views the bill as a way to ensure that businesses, both small and large, know that New Hampshire is open for business when it comes to artificial intelligence technologies.

- She noted that, as had been mentioned earlier, Montana passed similar legislation the prior year. She added that other states are also looking at similar proposals during the current legislative cycle. She stated that many companies are presently looking at state legislation and restrictions surrounding these technologies when deciding where to open businesses. She stated that because of this, state policy matters in business location decisions.

- She then stated that, without going into too much detail, there is also a compelling national security interest related to artificial intelligence. She explained that the United States should ensure these companies are established domestically rather than allowing them to move overseas.

- She further stated that just as society protects fundamental rights such as free speech and assembly, it should also protect what she described as the right to compute. She stated that individuals should not be arbitrarily denied access to the digital tools they need to fully participate in the twenty-first century economy.

- She said the bill affirms a simple but important principle: that New Hampshire is open for business, innovation is welcomed rather than feared, and individuals and businesses can confidently build for the future in the state.

- Senator Gannon stated that he had towns in his district that experience water shortages in the summer, including wells going dry and that artificial intelligence facilities would likely demand large amounts of power and could raise electric rates unless they generated their own electricity. He said that such development could take water away from local residents while also increasing electricity costs and straining power availability.

- Senator Gannon then stated that under current law, towns might only need to meet a rational basis standard to show harm to the community, but this bill would raise the standard dramatically through a compelling state interest requirement. He then asked for her comments.

    - Sarah Scott acknowledged that the phrase compelling state interest also concerned her to some degree. She then stated that from her reading of the bill and her understanding of the sponsor’s intent, data centers are

really a separate issue and that the legislation is instead intended to address a much more abstract type of computation.

- She referenced line 29 of the bill, stating that language specifically concerning physical data center infrastructure appeared designed to address those concerns. She stated that, from her understanding, she views the data center issue as separate from the broader issue addressed by the bill.

BMB
Date Hearing Report completed: April 24, 2026