Senate Leaders Water Down 10-Year State AI Law Ban, Instead Tie it To Federal Funding Promise

Insights

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After bipartisan blowback from federal and state officials alike, Senate leaders veered from the House's plan to bar any state law restricting artificial intelligence for 10 years and instead introduced a revised proposal that would merely block a state from receiving federal tech funding if it regulates AI in the next decade. The Senate committee overseeing tech policy unveiled its response to the House budget and spending bill on Thursday, proposing the feds allocate $500M per year for states to help boost AI and automated decision system (ADS) development at the local level – but only if they pause any effort to regulate AI through 2035, subject to certain specified exceptions. Here's a quick overview of the latest development.

Timeline

- May 11 – The House Energy and Commerce Committee released its portion of the budget bill, including a provision to prohibit states from enacting or enforcing "any law or regulation regulating artificial intelligence models, artificial intelligence systems, or automated decision systems" for a full 10 years. Read our FP Insight here.

- May 14 – The committee voted to advance its portion by a 29-24 party-line vote.

- May 16 – A bipartisan collection of 40 state Attorneys General wrote a letter to Congressional leadership urging them not to pass the state AI law ban. You can read a copy of the letter here.

- May 22 – The full House passed the budget bill, including the 10-year AI regulation moratorium.

- June 3 – A collection of Congressional leaders, ranging across the political spectrum from Marjorie Taylor Greene (R-GA) to Sen. Elizabeth Warren (D-MA), announced their opposition to the 10-year ban and urged the Senate to scrap the proposal.

- June 5 – The Senate Committee on Commerce, Science, and Transportation released the section-by-section framework for its portion of the budget bill, including the tweaked 10-year AI regulation ban. You can read the full framework here.

What's in the Senate Proposal

- The Senate committee's June 5 framework proposes $500 million in FY2025 to carry out the "Broadband, Equity, Access, and Deployment (BEAD) Program" – which states can use to

"construct and deploy infrastructure for the provision of artificial intelligence models, artificial intelligence systems, or automated decision systems."

- Funds would only be made available, however, to states that pause the enforcement of any law that "limits, restricts, or otherwise regulates" AI models, systems, or ADS over the next 10 years.

- There are exceptions. States would be able to enforce AI laws that:

  - remove legal impediments or facilitate AI deployment;

  - streamline certain procedural activity; or

  - don't impose substantive design, performance, data-handling, documentation, civil liability, or similar requirements.

What's Next?

- **Full Senate:** Once all committees have released their framework language, the full Senate will formally take up its version of the budget bill. But we'll likely see further changes after committee hearings and floor debate, and the AI funding and regulation language could be further tweaked.

- **Debate and Adjustments:** Debate in the Senate is limited under reconciliation rules, and the bill can advance with a simple majority, bypassing the usual 60-vote filibuster threshold. But that's only if all portions of the bill comply with the Byrd Rule, which prohibits including provisions in reconciliation bills that are "extraneous" to the federal budget, such as those with no direct impact on government spending or revenue.

- **Procedural Hurdles:** By tying the AI regulation ban to the receipt of federal funding, the Senate committee appears to be angling to ensure compliance with this strict procedural rule. Legal experts and even Senate aides questioned whether a state preemption clause like the one passed by the House can survive a review Congressional parliamentarians.

- **Coordination with House:** Once the Senate passes its version, both the Senate and the House will appoint members to resolve differences and produce a single, unified bill. Key points of contention – such as the scope of state preemption on AI regulation and the conditions for federal tech funding – will be hammered out during these negotiations.

- **Final Passage:** Both the House and Senate will need to approve the reconciled bill in identical form. Only after both chambers pass the final version can it be sent to the President for signature or veto.

- **Timeline:** Congressional leaders have set an ambitious deadline of July 4 to complete this process, but given the complexity and the narrow margins in both chambers, the process could extend into mid- or late July.
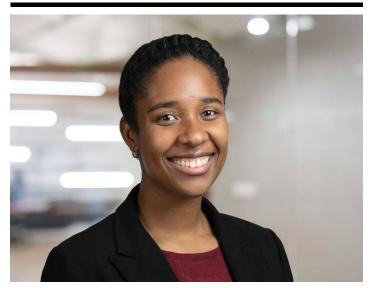
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Conclusion

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