



# *Your State House* Concord, New Hampshire



February 12, 2021

To my constituents in [Allenstown](#), [Epsom](#), & [Pittsfield](#):

This week, my committee had two full days of hearings. We heard a constitutional amendment, CACR 7, that would add a lieutenant governor, to take over if the governor resigns or is incapacitated during his term. This has happened at least three times in the last 30 years or so, and the Senate President was sworn in as governor. Two cases involved a governor who had been elected to the US Senate, and resigned in December. The sponsor was more concerned about a longer term replacement, since the Senate President could not really do both jobs simultaneously. The opposition was concerned that this position would have no defined duties, and felt that the change was not necessary. Others were concerned with the cost of staff for a lieutenant governor, and that she would invent duties to occupy her. Another issue was that having a legislator succeed the governor muddled the separation of powers by linking the legislature with the executive, and so a different successor would be better. After a brief discussion, we voted 16-3 to kill the amendment. My concerns were that this new position was so undefined, there was no need to establish it.

HB 298, adding a drone user to the aviation users advisory board, had passed last year. It was supported by the Department of Transportation Bureau of Astronautics, who mentioned that the advisory board is also a hearings board for aviation users, and any drone user that violated the law would come before them. The advisory board also testified in support, mentioning that drones have become a good part of their activity. We voted 18-1 to pass the bill, with a minor amendment to correct a reference to the federal rules licensing drone operators.

HB 302, on the creation and use of electronic records, clarifies the authority of the department of information technology (DOIT) to set standards for such records. It also confirms that municipalities can use electronic records using best practices without waiting for the state to set standards. It was supported by the Municipal Association and the counties, as well as DOIT. No opposition testified, but the committee pointed out that hard copy is readable for a long, long time, while electronic records can and have become unreadable with technology changes. Nonetheless, we voted 19-0 to recommend the bill.

HB 452, prohibiting the secretary of state from running for another office while serving as secretary state, is a good government policy. The secretary of state is the chief election officer of the state, and to certify a ballot that includes his name as a candidate could easily appear to be a conflict of interest. There was no opposition.

HB 456, on disclosure of information from vital records, is a request of the department of corrections to obtain some data on deaths, marriages and divorces to fulfill their obligation to collect restitution for various crimes. The secretary of state pointed out that this and other vital records data is shared with Health & Human Services, so that department can fulfill its obligations, and there is no issue with sharing with corrections, if authorized. The committee is working on language to more narrowly define the shareable data, but there was no opposition to this idea.

I presented HB 72, my bill to adopt amendments to the building code and fire code, which had passed last year but was vetoed in an omnibus bill. No opposition, but I'm working on an amendment to incorporate changes to the fire code that were approved in December.



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I also presented HB 137, exempting some DOIT standards and protocols (on the state telephone system and cybersecurity) from rulemaking requirements. In most cases these are technical documents, frequently industry standards, and converting them to rules (which must comply with the formatting set up by the lawyers) would confuse the users of these standards, rather than make them simpler. The director pointed out that it also clarified when rules needed to be written. We voted, 19-0, to approve the bill.

HB 357, establishing a study committee on updating administrative rules, was presented as an attempt to find a way to eliminate expired rules and to notify agencies when their rules need to be updated. No opposition, but leadership doesn't want to pass any study committees this year. So we voted, 19-0, to kill the bill and study the issue over the summer: administrative rules are within our scope of authority, and we can study them without a bill telling us so.

HB 457, on the duties and membership of the legislative youth advisory council, had testimony from the legislative and two youth members of the council. Since the council had not had a chance to formally recommend or oppose the bill (and the members present had some issues with the duties) the hearing was recessed to allow them to do so.

We also voted on a number of bills we had heard earlier. HB 94, my bill on license renewal dates, was recommended to pass, 19-0, with only a little discussion. HB 377, allowing the fire marshal to exempt recovery houses from the sprinkler requirements of the fire code as long as other protections were in place, was also recommended, 19-0. HB 345, establishing a license for wild mushroom harvesters, was debated but passed, 12-7. I voted against it after some thought: I want to

encourage local businesses, but don't like the idea of an additional professional license; the requirement is federal and, in my opinion, excessive.

HB 591, setting fees for tobacco sales licenses, was discussed, and we passed the sponsor's amendment to correct an error that resulted in inappropriate fees for tobacco-only licenses compared to alcohol plus tobacco licenses. We debated another amendment that deleted the new positions, primarily over whether they should be investigators (with police powers) or examiners (auditors.) Before coming to a vote, we noticed that this amendment was incompatible with the bill as previously amended! The discussion was recessed until we could straighten out our amendments.

HB 274, having the state pay 5% of the employer's contribution to the pension system, was debated at length. A motion to kill the bill failed, 8-10. An amendment to restrict the state's contribution to Group II (police and fire), thereby cutting the cost by 2/3, was also debated and passed, 10-9. However, the motion to pass the bill with the amendment failed, 7-12. A motion to pass it as written also failed, 9-10. In all votes the Democrats were united in favor of the basic bill, while the Republicans had differing ideas. At this point we considered retaining the bill; in fact I made such a motion but it was pointed out that we could send HB 274 to the House with no recommendation. Since nobody seemed willing to change any of their positions, this was adopted by acclamation. Whether there is a committee position or not, this bill will be debated on the House floor and the vote will be close. I wouldn't want to bet on which way it will go!

HB 85, using Atlantic time, drew a lot more interest than expected, as it has been before this



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committee before. There are two issues compounded with this: first, the semi-annual change to and from daylight saving time is annoying and actually dangerous. And eliminating daylight saving time requires an act of Congress. Secondly, the eastern time zone is extremely broad, covering about an hour and a half of sun time. Since we are on the eastern side of this zone, our sun time is closer to Atlantic; we are so far north that in the winter there isn't enough daylight to have sunlight for both the morning and evening commutes. Also, we want to be on the same time as Maine and Massachusetts, and both are considering this time change. Rhode Island, Connecticut, New York, etc, are also considering changes, but they do not affect New Hampshire as much. There was so much testimony – and questions from the committee - that the hearing was recessed for a week.

I presented my HB 499, prohibiting the state from using face recognition, which has two parts. I spoke about prohibiting the state from creating or using databases (specifically the driver's license data) for face recognition, and that there are currently none (so no opposition to banning it.) All the other testimony concentrated on the first part, which specified when facial recognition data could be used in court. One representative presented an amendment that simply banned the technology unless a search warrant was issued, and others spoke in favor. This hearing, too, ran over and was recessed to next week.

HB 544, banning the propagation of divisive concepts by state agencies, was apparently an attack on “critical race theory” and the hearing became intense. We only heard from the prime sponsor, with questions, before we recessed the hearing for a week.

My HB 606, exempting barbering or cosmetology

services provided without pay from criminal charges, was, as expected, opposed by the barbers and cosmetologists. They talked about the dangers of using chemicals and sharp objects on people's heads, ignoring the aisles of hair dyes, home permanents, and other products freely available for sale. Right now it is a Class A misdemeanor to cut your husband's hair, trim your baby's fingernails, or for tweens to experiment with makeup! The cosmetologists tried to reassure us that these cases would never be prosecuted, but I'm not in favor of selective enforcement of our laws.

HB 575, about apprenticeships for barbers, cosmetologists or manicurists, had no presentation by the sponsor to indicate the intent of the bill, which reduced the minimum hours required for an apprenticeship to those applicable to a school. A beauty school owner testified that apprenticeships were with individual professionals, who may not have any teaching qualifications and need to work while supervising the apprentice, so apprentices need about twice as many hours as school attendees.

HB 444, on the board of pharmacy, deals with some of the same issues as a bill we retained last year. We discussed the problem with federal standards on compounding: the pharmacy board is required by statute to apply the USP standards, which are different from the standards of the FDA – which doctors and other medical professionals apply! After that, the boards of medicine, dentistry, and nurse practitioners all testified that they believed they should be exempt from inspections by the pharmacy board's inspectors, since their controlling statutes and boards don't mention it. This is a bit of a turf war, exacerbated by recent overreaches by pharmacy inspectors.

HB 405, about out-of-state applicants for licenses, is a re-submission of a bill we retained last year,



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with the recommendation it be focused on specific professions rather than broad directives which would likely confuse applicants. The sponsor didn't show up, and the OPLC testified on significant problems with the bill: for example, we have high requirements for naturopaths, but we then allow them to prescribe various drugs. Other states with lesser entry requirements don't allow this. Other issues were conflicting deadlines and the difficulty of verifying the required 3 years of experience – and how much work constitutes a year. A few years back we passed a requirement that boards identify which states have “equivalent” requirements, but as far as I can tell none have – that would simply the issue of reciprocity.



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Resuming our discussion of HB 591, we realized that nobody objected to fixing the duplicate fees, and we had three competing amendments with that part the same and only differences in the new positions: none, examiners, and investigators! So we first discussed those issues, and polled on that three way choice. It turned out that nobody wanted examiners as their first choice; we wanted investigators (9) or nothing (10.) So we unanimously reconsidered our adoption of the amendment including examiners, and failed to pass it. The amendment with no positions passed, 10-9, and the bill as amended was recommended, 11-8.

The House will be meeting February 24 and 25, in the NH Sportsplex in Bedford, which has enough space for us to spread out *indoors*.