



March 10, 2023

Your State House

Concord, New Hampshire



To my constituents in Allenstown, Dunbarton, Epsom, & Hooksett,

This was a very busy week for me. My committee met Wednesday, for a combination of subcommittee work sessions, public hearings on three bills, and an exec session on all the bills we'd sent to subcommittee. HB 84, adding to the emergency management duties of the department of transportation, was in response to what was seen as a delayed and unsatisfactory response to flooding in Acworth last year. The department testified that yes, it's difficult to get sandbags and signage in an emergency – especially one that affected most of the state. They concentrate on the state roads that are *their* responsibility, but try to help towns with local roads; a public works mutual aid agreement between towns to share equipment and personnel (similar to fire mutual aid) exists but seems to need some reinforcement. In a flood-type emergency the problem is that nearby towns are affected as well, and all their people and equipment are in use!

HB 127, changing the legislative approval of emergency declarations from must meet within 90 days, both chambers may vote to end the emergency, to may meet after 84 days to continue the state of emergency, is a repeat of previous legislation on the topic. Since the current emergency powers statute was put in after 9/11, many of us have been concerned that it doesn't have enough safeguards. After some discussion, we recommended it to pass, 11-7.

HB 339, forbidding the state, and the pension system, from investing in companies that boycott Israel, brought a much bigger crowd than we're used to seeing. With some effort, I managed to limit the love/hate Israel speeches to a minimum –

everyone has a position on this and is not likely to change. (for the record, I'm in the love Israel camp, Dan has relatives there, and we've invested in a number of high tech Israeli startups.)

We voted unanimously to recommend killing HB 84, since we were not convinced that the legislation would solve the problem. HB 258, on animal chiropractors, had a subcommittee amendment to have the OPLC list the acceptable certificates for animal chiropractors, and explicitly exempting them from needing a referral from a veterinarian. This also passed unanimously. We voted to retain HB 274, a revision of the rulemaking process with some good ideas but an unconstitutional process...

HB 359, making the *primary* election day a legal holiday (the general election day already is) was unanimously recommended to be killed as unnecessary. HB 461, on municipalities eliminating a full time position and replacing it with a part time position, was seeking to close a loophole where someone could retire and come back to work "part time," collecting his pension *and* a salary for the job, while the town didn't have to make pension contributions. We approved an amendment to limit this to top-level positions, of all sorts, and modified the penalty to end after 15 years. It passed unanimously, but was put on the regular calendar because of the cost.

HB 507, making all professional licenses optional and decriminalizing practicing without a license as long as full disclosure is made, was discussed, then voted on a partisan basis: Republicans to pass, Democrats to kill. It'll be debated on the House floor. I voted for it in committee (since the sponsor was right there!) but am not sure I'll support it on the floor. It's a nice idea, but rather too complicated to implement: a tremendous number of federal,



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state, and even local laws and rules require a license for all sorts of things, from wiring someone else's house to writing a prescription, and proper decriminalization requires resolving those issues.

HB 339, forbidding the state, and the pension system, from investing in companies that boycott Israel, was recommended to be killed after some discussion. The vote was 15-5, so it will be debated on the floor. We voted to retain HB 518, a study commission on pharmacy regulation, so that we could use it to contain the regulatory sections we pulled out of HB 655. My HB 358, on the rulemaking process, was amended to add some of the easy to implement ideas from HB 274, then unanimously recommended to pass. HB 532, licensing music therapists, was amended to include the new language on the interaction with speech-language pathologists, which had derailed previous bills on the topic. We were unanimous on the amendment, but tied on recommending it to pass (or not.)

HB 617, prohibiting state agencies from using proprietary software interfaces, was unanimously agreed to kill. It also seemed to apply to local governments, which would expand the already enormous expected price. HB 644, exempting some beauty practices from licensure, was discussed at some length. The most serious issue, for most, seemed to be that of completely unlicensed (and un-inspected!) facilities, and how the shop owner could control what unlicensed individuals might be doing. After a motion to pass ended up in a tie, we voted 19-1 to retain it for more work.

HB 655, restructuring the Office of Professional Licensure and Certification, had a subcommittee amendment to clarify the requirements for investigations and disciplinary actions, and not

delete all the contradictory language for each board (by standard interpretation, if two statutes conflict, the most recent applies.) This amendment was adopted and the bill recommended unanimously.

Thursday we were in session. The first order of business was to adopt HR 17, revenue estimates for the next biennium. This is Ways & Means' major project, as they consider the economy and its effects on every revenue source, and estimate how much will be available to spend in the budget. After some explanations, the resolution was adopted on a voice vote and tabled, in case of future revisions. It's a bit less than the governor's estimate (as usual) so Finance has a some trimming to make the budget spending fit the funding.

HB 31, repealing the prohibition on selling or owning blackjacks, brass knuckles and slung shots, was debated on how dangerous these antique weapons are. Supporters pointed out that there is no prohibition on large wrenches, baseball bats, or golf clubs (among the legal items that have been used to assault others) and that guns are readily available for citizens. The bill passed, 196-176. HB 32, forbidding possession of a firearm in a safe school zone, was also briefly debated and killed, 199-174. HB 59, requiring a background check before a commercial gun sale, closed a "loophole" by redefining "commercial" to include gifts and exchanges. It, too, was debated and killed, 197-175. HB 78, repealing the law we passed last session prohibiting enforcing any federal regulation that restricts the right to bear arms, was again debated and killed, 200-173. Allan Turcotte and a few other Democrats joined nearly all Republicans in support of our right to bear arms.

HB 106, creating extreme risk protection orders, was debated rather more extensively than the previous bills, and killed, 198-172. This sort of



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pre-crime action has been found unconstitutional in New York, as it violates the rights of the accused without the protections of due process. (and 5 Republicans) voted against the bill; I and many others would prefer the higher limit, but we'll take what we can get.

At this point, Representative Clayton Wood from Pittsfield moved reconsideration of HB 498, requiring game wardens get a warrant before searching private property, which we had killed last time, 233-113. He spoke in favor, indicated that he and others had come to realize they voted incorrectly, and wanted to change their mind. The House voted 117-256 not to reconsider their action (implying either satisfaction with the results or no interest in re-debating it.)

HB 216, exempting dimethyltryptamine (DMT) from the controlled drug act, was debated at some length. DMT is a natural, short term hallucinogen that is used in some religious ceremonies, and is actually extremely safe to use. Concerns were raised about children's access to the drug and street sellers; the opponents seemed mostly concerned that some safeguards were needed. It was killed, 274-97; I voted in favor because I oppose prohibition.

HB 624, on immigration checkpoints, would require 24 hour notice, the same way DWI checkpoints are noticed. Since all of New Hampshire is within 100 miles of the border (the range for immigration checkpoints) border patrol can set these up anywhere in the state. The bill was amended, debated, and passed, 220-152. I voted for it.

HB 367, raising the income limit for the Education Freedom Account program to 500% of poverty, was amended on a voice vote to 350% - a very modest increase over the current 300%. After some debate, the bill as amended passed, 187-184; reconsideration failed, 182-190. All Democrats

HB 380, making non-academic surveys (the most famous is the CD's Youth Risk Behavior Survey) opt out instead of opt in, was debated over whether the increase in data was worth the invasion of privacy and bother and time to participate. It did not pass, 181-193, was not tabled, 181-195, then killed on a voice vote. Reconsideration failed, 179-197. (reconsideration can be done only once on a vote, and there's a time limit. Moving reconsideration immediate after the vote prevents it from happening later in the day, or on the next session day, when attendance may well have changed.)

HB 440, adding explicit inclusion of the EFA program in allowable uses of the Education Trust Fund, was debated and passed, 191-185; reconsideration failed, 181-195. HB 464, qualifying students in special situations for the EFA program, was debated by the usual suspects. Special situations include children in foster care, in failing schools, homeless or migratory households, and persistently bullied children - all people who are less likely than most to thrive in the local school. It passed, 192-184, and reconsideration failed, 181-196.

Moving on to landlord-tenant law, HB 112 requires residents in a 4 unit or larger property to get a minimum of 60 days notice before the sale of the property. This is a major problem for the owner, because many sales are closed in less than 60 days. After a little talk, it was not amended, 179-194, not passed, 175-199, and killed on a voice vote. HB 117, allowing a tenant to be evicted at the end of a lease, was debated and passed, 211-157. Seems obvious that the end is the end! HB 401, putting



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restrictions on rental property that is being renovated, was not passed, 154-213, and killed on a voice vote, without debate.

HB 469, requiring landlords to accept Section 8 vouchers - **and** all the federal regulations that come with them – was debated on the burdens of accepting the vouchers and not passed, 165-206, then killed on a voice vote. HB 567, on extended notice for rent increases, had an amendment to change the 6 month notice, for rent increases exceeding 15%, to 60 days. This amendment failed on a voice vote, then the debate was very short. The bill failed to pass, 166-207, then was killed 208-168.

HB 647, repealing the “qualified immunity” doctrine in New Hampshire, was tabled, 333-37, before debate. The sponsors agreed to the tabling because they realized the bill needed to be rewritten; a vote to kill it (most likely action at this point) would prevent a modified bill from being introduced next year.

HB 51, requiring towns and school district approve any lobbying agents by a specific warrant article, is a perennial effort to limit the influence of organizations such as the school boards association and the municipal association on the legislature. These organizations assume that the opinions and preferences of the governing bodies are the same as the people's choices, which is not always the case. It was debated and killed, 224-148. I voted against killing it, since I object to having my tax dollars (and yours, too, of course!) pay to lobby the legislature on issues where I disagree with these organizations. Two Democrats joined all the best Republicans in this, including Representatives Aures, Wood, Hoell, Walsh, Polozov, and both McGuires.

HB 90, adding green energy initiatives and other factors to the guidelines for developing a town master plan, had a brief debate before not passing, 176-193, not being tabled, 179-192, then killed on a voice vote. HB 154, requiring new public health ordinances be approved by the town meeting rather than the selectboard, is a reaction to the overbearing “health” ordinances some towns enforced during Covid. It would not interfere with the normal duties of a health officer (such as restaurant inspections, unsafe housing, septic failures, pest infestations) just prevent new ordinances except as approved by the residents. This bill was debated at some length, not tabled, 180-191, then passed, 192-180. Reconsideration failed, 177-195.

HB 467, being more specific about how playgrounds should comply with the federal Americans with Disabilities Act (ADA), had a rather long, dull debate on technical standards and interpreting federal laws; the bill passed, 193-180 and was not reconsidered, 177-196. I opposed it because the standard has options other than those in the bill. HB 477, prohibiting routine municipal inspections of owner occupied units in multi-family housing, had a brief debate before not being killed, 179-191, then passing 194-179. The most influential speaker lives in a duplex, and had his half involuntarily inspected, over his objections. HB 485, establishing animal control officers in the county sheriff's office, was tabled, 293-73, before debate.

HB 92, adopting California emission standards for cars and trucks, had a floor amendment to make it a study commission on the issue. That failed, 171-194, a tabling motion failed, 175-195, then we enjoyed a short debate where **both** sides urged us to kill the bill! We did so on a voice vote after not passing it, 40-331. HB 161, allowing some energy



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generators who are in a net metering arrangement to also join a larger net metering group, was debated, not passed, 172-187, then killed on a voice vote. The most convincing argument to me was that the Public Utilities Commission is working on how to accurately bill net metering, and this bill would short circuit their analysis.

HB 251, requiring the utilities to report the cost of complying with the renewable energy mandates to customers as dollars/year for average customers in addition to cents/kilowatt, was debated, amended 182-166 for clarity, then passed, 186-169. HB 281, repealing the mandatory report on how utilities plan to meet their energy generation needs, was debated and passed, 184-168. I'm not sure why it was opposed – utilities do not generate electricity! They buy it and distribute it. HB 298, on placement of cell towers, was tabled, 309-41, before debate. HB 372, establishing a study commission on the state's response to a carbon tax, was debated before not passing, 163-188, and killed on a voice vote. The supporters spoke at length about the necessity of a carbon tax and therefore our preparation for it; opponents more briefly mentioned that 60% of the US population opposes a carbon tax, so it's not too likely in the near future.

HCR 5, urging the attorney general to join in lawsuits against fossil fuel companies for damages due to alleged misinformation campaigns, was debated at much more length than I thought appropriate for a *resolution* (which is merely a request for somebody to else to do something!) at the end of the day... It was killed, 189-158. HB 294, allowing municipalities to adopt a child tax credit, was tabled without comment. The sponsor (who sits next to me) told me he plans to resubmit a simpler bill next year, having learned from the committee work on this bill.

To finish, there was a memorial for former representative Paul Mirski, one of the founders of the House Republican Alliance. As a former chair of the HRA, I was about to join the presenters when the Speaker called out to limit the crowd. Nobody mentioned his famous line, "you can't threaten me with fishing," which explained why he didn't worry about being challenged in the next election!

Friday I went to the Merrimack County budget meeting. There was excellent attendance, 30 of the 45 representatives, even though Dan and at least one other had committees meeting at that time. We reviewed and approved the budget; the tax rate expected for the county will be \$1.36/thousand.

My committee met to vote out two bills. HB 457, requiring the state treasurer and the pension system to report on how they complied with their fiduciary duty to invest for the benefit of the state, had an amendment to put the treasurer's fiduciary duty into statute – it has been assumed all along, but never required by law! We adopted the amendment and unanimously recommended the bill to pass. HB 559, Dan's bill to put new state employees (not police or fire, and obviously not teachers since the state doesn't employ any) into a defined contribution plan, was not so agreeable. We discussed it at length, and all the Democrats were opposed to the idea. The most sensible objection was that the employer match was too small: it's only about 2.5% of salary while the employee contributes 7%. This amount was chosen because that's what the state currently contributes to the defined benefit plan (the actual number looks a lot bigger because the employer is also paying towards the unfunded liability created by delusional policies in the 1990s.) After some debate, the amendment failed on a partisan tie, and we voted to retain the bill.



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We held a work session on the licensing sections of HB 2, the governor's budget; actually HB 1 is the dollars, HB 2 is the words necessary for the numbers to work, and a few other things the governor wants. First I presented what I had found necessary to change: first, pull out the re-organization language that paralleled the language of HB 655. We have amended that part of HB 655, and don't want the chore of keeping the language of two bills synchronized! Then I deleted references to licensing "massage establishments" since the House position is that they are *not* licensed (HB 341, creating that license, was killed February 14.) Landscape architects, foresters, and natural scientists (soil and wetland) need to be licensed, since there are so many places we call for their stamp or license number – not just in our laws and rules, but also in municipal procedures and ordinances. So I'm working on adding the licenses back and creating a combined board. After a lot of editorial corrections, I finished my presentation by making the effective date September rather than July, and requiring the refund of license fees for all licenses that were abolished. The committee agreed that all of these were necessary.

We then talked to some of the people attending the meeting, and other members of the committee presented their issues. Two more sections were identified to be removed from HB 2 for our review: deletion of the LNA (licensed nursing assistant) license, and combination of the boards of mental health practice with the psychologists and the drug & alcohol counselors. The New Hampshire LNA license, as I learned a few years ago when I was on a study committee about it, has a much broader scope of practice than the federal registry HB 2 is attempting to use to replace licensure: that is limited to nursing home care, and in New Hampshire we use LNAs in hospitals and clinics, and for a great many tasks the federal

certification doesn't address. The combined mental health boards were vociferously opposed by a number of the professions involved, and the majority of the committee agreed that we should look into this further. Several other groups presented their issues with HB 2, but none convinced the majority of the committee that it was urgent. Individual members may well go to Finance with specific issues; I will present the committee consensus and have, in fact, drafted amendments for all except the combined board: I'm still working on that!



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