

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

HB 137, relative to the rulemaking authority of the department of information technology.

Hearing Date: March 31, 2021

Time Opened: 9:06 a.m. **Time Closed:** 9:13 a.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent : None

Bill Analysis: This bill exempts certain statewide standards and protocols relative to information technology, networks, telephony, and cyber security developed by the department of information technology from rulemaking under RSA 541-A.

Sponsors:

Rep. L. Ober

Rep. McGuire

Rep. Weyler

Rep. Emerick

Sen. Carson

Who supports the bill: Representative Carol McGuire (Merrimack – District 29), Kathryn Smith, Senator Sharon Carson (Senate District 14), Lucinda Hope, Representative Deb Stevens (Hillsborough – District 34), and Elaine Thomas.

Who opposes the bill: Ronald Garnett and Robin Vogt.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Carol McGuire

Merrimack – District 29

- Representative McGuire introduced HB 137 on behalf of Representative Lynne Ober, who was not present.
- Rep. McGuire said that HB 137 passed House Executive Departments and Administration unanimously without amendment.
- Senator Reagan said he was struggling to see the reasoning behind HB 137.
 - Rep. McGuire said that there were two needs for HB 137. She said that the first was so that technical documents about the State telephone system and cybersecurity protocols are exempted from rulemaking, and being put into rulemaking language, so that the engineers and technicians who use the protocols can understand them. She said that the

second need was that, in many cases, it is not desirable for cybersecurity documents to be public.

- Senator Reagan asked what rulemaking the Department of Information Technology (DOIT) had to comply with.
 - Rep. McGuire said that the regular rulemaking is minimal. She said she is not as familiar with DOIT as Rep. L. Ober is.

Denis Goulet

Commissioner, DOIT

- Commissioner Goulet said that the language of HB 137 was introduced in the 2020 session and likely would have passed if it was not for the COVID-19 pandemic. He said it was written to address an audit finding in the most recent Legislative Budget Assistant (LBA) audit. The audit found that DOIT has never done rulemaking and has no rulemaking authority. He said that RSA 21-R established the Information Technology Council (IT Council) as the governing body over DOIT.
- Commissioner Goulet said that language was found, during the LBA audit, in RSA 541-A that referred to DOIT rulemaking when DOIT does not have rulemaking authority. He said it is a technical correction to accomplish another audit finding.
- Commissioner Goulet said that there is little controversy in HB 137 and asked the Committee to move the bill forward.
- Senator Reagan said he was struggling with the idea that DOIT was exempt from rulemaking.
 - Commissioner Goulet said that DOIT has never done any rulemaking and does not have rulemaking authority. He said that the LBA audit found the discrepancy and, to address it, there were two options: either establish rulemaking authority for DOIT or clarify that the publicly transparent body for DOIT is the IT Council. Commissioner Goulet said that DOIT has never been authorized to do rulemaking and its policies and procedures are governed by the IT Council.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

cml

Date Hearing Report completed: April 5, 2021