

Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 1665, relative to the issuance of subpoenas in administrative proceedings.

Hearing Date: April 28, 2026

Time Opened: 1:44 p.m.

Time Closed: 1:59 p.m.

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

Members of the Committee Absent: Senators Carson and Abbas

Bill Analysis: This bill allows for all parties to an administrative proceeding to subpoena witnesses and documents.

Sponsors:

Rep. Popovici-Muller

Rep. Lynn

Rep. Manohar

Rep. Hegner

Rep. Polozov

Sen. Murphy

Who supports the bill: Representative Daniel Popovici-Muller, Representative Bob Lynn, Representative Donald McFarlane, Aubrey Freedman, Curtis Howland, Timothy Finney and Pamela Harders.

Who opposes the bill: Tami Lanzillo Zeimetz.

Who is neutral on the bill: Sarah Burke Cohen.

Summary of the testimony presented:

Representative Daniel Popovici-Muller spoke in support of the bill, explaining that it would give all parties to an administrative hearing an equal opportunity to subpoena witnesses, documents, and authorities. He stated that the intent of the bill was to ensure that proceedings were fair for all parties.

Representative Bob Lynn spoke in support of the bill, explaining that it reflected a common sense understanding that parties in front of an administrative hearing process ought to have the same ability to secure evidence, documents, and witnesses from people who might not otherwise be willing to voluntarily provide that information.

- Senator Reardon stated she understood that the bill referenced RSA 516 and asked who decided in such cases to allow these subpoenas and who was responsible for controlling the process.
 - Representative Lynn explained that subpoenas were not a search warrant, and that the party who receives a subpoena always has an opportunity to object and to be heard.
 - He stated that it was the hearings officer that made the initial decisions on subpoenas. He also said that if an individual was ordered to comply with a subpoena and did not comply, they could be held in contempt by the initiating party. In this context, the superior court would have the power of discretion.
- Senator Reardon presented a hypothetical in which an individual involved with a motor vehicle violation might ask for all of the motor vehicle records of anyone that has lost their license over a 5-year period.
 - Representative Lynn stated that in that case the hearings officer would have discretion over that decision.
- Senator Reardon asked if it made sense for the bill to reference the court statute or if it was meant to be written within RSA 541-A.
 - Representative Lynn answered that the Senator may be right, and that it was possible that it might make more sense to simply say that in the administrative process it would be the hearings officer that makes the decision on the validity of a subpoena in the first instance. He stated that this could be a good idea if the statutory reference could lead to some confusion.
- Senator Altschiller asked what the inspiration was behind the bill and how many times there had been an issue of this kind that might demand this bill.
 - Representative Lynn stated that there had been legislation a few years prior that had attempted to give the Department of Education the subpoena authority, and that it had faced a great deal of opposition. This had eventually passed, but the testimony during the hearing revealed that various other agencies had different procedures and that some regulatory statutes did not say anything about parties to an administrative hearing having the ability to issue subpoenas. He stated that he had felt that the ability to issue subpoenas for both sides should not be limited to the Department of Education but should instead be applied across the board.

- o He stated that the alternative would be for that party to have to rely on individuals being cooperative, and that this was not guaranteed.

Aubrey Freedman, a resident of Bridgewater, spoke in support of the bill. He questioned why only administrative agencies should be able to issue a subpoena and not the other party. He stated that this seemed unfair to him, especially considering that government agencies already have a lot of resources in such proceedings. He argued that this would level the playing field.

- He stated that receiving a subpoena was intimidating but that a party had the right to file a motion to reject a subpoena, and that this bill would not alter that ability.
- Senator Reardon stated that bill would reside in the Administrative Procedures Act, but that the methodology in the bill sent the reader to a different statute under the court system. She asked if it would be more helpful to have that process built into the same section of the law as the Administrative Procedures Act in the circumstance that Mr. Freedman sought to engage with it.
 - o Mr. Freedman answered that this sounded reasonable, and that it seemed as though it should be in the same section as the rest of the bill.
 - Senator Reardon stated that it was likely that the individual who would be navigating this would not be a lawyer in such administrative hearings, and that they might not know to look in the section of the law that was about the court process.

Sarah Burke Cohen, a representative for the New Hampshire Municipal Association, expressed her hope that the committee might consider amending the bill. She explained that her organization was concerned that the language within the bill, “All parties to an administrative hearing held pursuant to law,” could assume any law and not relate to RSA 541.

- She explained that this could create confusion relative to whether this applies to other administrative hearings under other statutes, including administrative hearings held in municipalities that are not necessarily investigative in nature but are instead quasi-judicial, citing the example of local municipal boards.
- She stated that her organization was not taking a position on the placement of subpoena power but that they were asking that the language be tightened up so that this bill would apply to RSA 541-A, being the chapter that it is under.