

HOUSE REPUBLICAN ALLIANCE RECOMMENDATION SHEET

The purpose of the House Republican Alliance is to preserve and strengthen the traditional principles and values of the Republican Party through the NH House of Representatives and throughout the state of NH, including fiscal restraint, personal freedom and responsibility, small government, free enterprise and strong families. We offer the following recommendations based on those principles, the Republican Party Platform, and the NH and Federal Constitutions.



**WEDNESDAY, FEBRUARY 15
REGULAR CALENDAR**

CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION

HB 1361, prohibiting generic fiscal notes on bills. **OTPA Vote 8-2.**

HRA Analysis: This bill will thwart the departments from avoiding making factual fiscal notes by amending the law on how the LBO writes fiscal notes. The amendment shifts it to the bill from being a restriction on the Legislature to what qualifies as a valid fiscal note by LBO.

HRA Recommendation: Support OTPA

HB 1444, prohibiting certain state employees from wearing fragrances. **ITL Vote 8-3.**

HRA Analysis: This bill would require the State to control the health and beauty products that employees use. While private employers have this power, we as the State are under a unique burden of not infringing on expression. The Committee did not feel that amending the bill to pertain only to colognes and perfumes would avoid this inherent conflict.

HRA Recommendation: Support ITL

HB 1560, relative to the interstate Health Care Compact. **MAJ: OTP MIN: ITL Vote 7-4.**

HRA Analysis: This bill sets forth a pro forma Health Care Compact and asks Congress to approve it. Should it receive Congressional approval, it would become part of the supreme law of the land and allow the States in the compact customize federally inspired and partially funded healthcare programs to be customized to each State's unique needs and circumstances. Since the Healthcare Compact would eventually become part of the supreme law of the land, it can not be unconstitutional.

HRA Recommendation: Support OTP

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1128, relative to reports of failed breath tests when using an ignition interlock device. **MAJ: OTPA MIN: ITL Vote 8-4.**

HRA Analysis: This bill requires that ignition interlock device rules require interlock service providers to report failures to pass the breath test to the prosecutor or prosecuting agency, treatment provider, probation officer and defense attorney by means of authorizing the interlock provider to provide these entities with secure electronic access to the data via the interlock provider's web-based portal. This amended bill is flawed on two fronts. One, it appears to grant more leeway to the department in instituting rules for data reporting. Secondly, there are serious concerns over privacy, as information on failed interlock tests would be distributed to people outside the justice system, possibly before the alleged violation has been proved. The Republican platform states that we are for "protecting the fundamental rights of the people and enhancing their freedom."

HRA Recommendation: Overturn OTPA then support ITL

HB 1179, imposing an extended term of imprisonment for assault against a health care worker. **ITL Vote 8-4.**

HRA Analysis: The committee heard testimony from nurses and other emergency medical providers who have been assaulted by patients. It appears there is a problem, but the committee majority feels this legislation is not the solution. There are already penalties for the crime of assault and there is flexibility in sentencing for the worst offenders. The Republican platform states "that we will offer steadfast support for our law enforcement and emergency response personnel."

HRA Recommendation: No recommendation

HB 1352, relative to citizen complaints against a police officer. **ITL Vote 8-4**

HRA Analysis: This bill specifies a procedure for reporting complaints against a police officer. Certainly police officers should be held to the highest standards of behavior. However, our reading of existing law, RSA 105:2-a, is that selectmen can already require this procedure or another one if they wish. Unfortunately, we have heard anecdotally that the courts are not correctly enforcing this law. Please listen closely to the debate.

HRA Recommendation: No recommendation

HB 1511-FN, relative to felons possessing firearms. **OTP Vote 11-5.**

HRA Analysis: This bill is the least we can do to rectify a situation that exists for rehabilitated felons. Even holding a steak knife is a felony under current statute. Federal statutes more than cover any situation. The Republican Party Platform states that we believe in "Protecting the fundamental rights of the people and enhancing their freedom."

HRA Recommendation: Support OTP

EDUCATION

HB 1162, establishing a committee to study the effects of compulsory school attendance on children and families. **MAJ: ITL MIN: INTERIM STUDY Vote 14-2.**

HRA Analysis: The NH Republican Platform states: "Educating the citizens of New Hampshire is our hope for the future of this great state." We opposed the raising of the compulsory attendance age to 18 from 16 a couple of years ago, so clearly current law is not ideal. Whether such a committee would accomplish something useful given its vague direction is uncertain.

HRA Recommendation: No recommendation

ELECTION LAW

HB 1559, relative to political committees. **MAJ: ITL MIN: OTP**

HRA Analysis: Regulating and defining non-profit organizations that influence elections and campaigns through their contribution. It is unconstitutional to exempt non-profit organizations from being involved in elections.

HRA Recommendation: Support ITL

HB 1684-FN-A, relative to campaign contributions and expenditures. **MAJ: ITL MIN: OTP Vote 10-6.**

HRA Analysis: This House Bill will implement a massive government controlled campaign finance, which would require a surcharge or new tax. This bill does not address the influence of third party organizations.

HRA Recommendation: Support ITL

ENVIRONMENT AND AGRICULTURE

HR 20, urging the federal government to allow the cultivation of hemp for industrial purposes. **OTP Vote 13-1.**

HRA Analysis: For many years, this House has been considering the growing of hemp as a niche farm crop in the state. Hemp is a multi-purpose crop which can be made into balms, oils, fiber (the strongest natural fiber known to man), foods and plastics. Currently the United States Drug Enforcement Administration does not permit industrial hemp farming. This resolution will urge the Congress of the United States to remove the existing barriers imposed by the federal government, enabling our farmers to grow hemp. The NH State Government currently has no restrictions on the growing of hemp.

HRA Recommendation: Support OTP

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1154, establishing a committee to study the management structure of state government. **INTERIM STUDY Vote 13-1.**

HRA Analysis: The bill would create a committee to examine the management structure of the state, prepare an organization chart, and possibly recommend changes to reduce overhead. The committee decided that these functions fell entirely within the scope of the ED&A committee. Rather than asking the House, Senate, and Governor to create a committee, it is far simpler for ED&A to assign an existing subcommittee to do the work as an interim study project. The Republican Platform espouses government efficiency.

HRA Recommendation: Support Interim Study

HB 1281, establishing a committee to study alternative medical insurance coverage for elected state officials. **OTP Vote 10-3.**

HRA Analysis: This bill establishes a committee to study alternative medical insurance coverage for elected state officials, with the intent to offer a less expensive and more beneficial health care option for active and former elected officials. The Republican Platform states that the state government needs to be effective and efficient.

HRA Recommendation: Support OTP

HB 1686-FN, relative to state contracts. **OTPA Vote 11-3.**

HRA Analysis: This bill requires that all state contracts awarded by RFP's to be posted on the state website after the bid is awarded. Currently a person can request the information under 91-A, but it becomes a lengthy project. This way the unsuccessful bidder(s) can look and see the difference between their bid and the winning bid. The amendment adds \$4,000 to the bill to buy laptops for the Executive Councilors so that they can receive information needed for their meeting electronically, thus starting to eliminate over one million pieces of paper that are used today. The Republican Platform espouses government transparency.

HRA Recommendation: Support OTPA

FINANCE

HB 1534-FN, repealing the self-funding of the department of labor. **OTPA Vote 19-5.**

HRA Analysis: There was a typo in the blurb that referred to the wrong RSA (just a fat finger mistake that was caught in

committee) so support the amendment. This bill will put the budget of the Labor Department back into the general fund. When the budget came to Finance, the governor had moved that into a “restricted” fund, which after deliberations on this bill was determined to be the same as a “dedicated fund”. The department testified that they had no preference and would be happy with either situation. Given that testimony, it was odd that this turned into a partisan vote ... but perhaps that is because the governor made the original suggestion and his party was supporting him. There was also concern that this might be “anti-business” because the department, in an attempt to raise additional revenue for their dedicated fund, would do that by finding more businesses.

HRA Recommendation: Support OTPA

HB 1666-FN, relative to state employee benefits. **MAJ: OTPA MIN: ITL Vote:18-6**

HRA Analysis: The amendment provided by Rep. Kurk would re-establish legislative oversight of labor contracts. Prior to the democrats taking the majority, there was a committee that did this work. Under the democratic majority that committee was repealed. This was a partisan vote with Republicans believing that oversight of labor contracts would bring more transparency. Testimony said that towns and school districts do this now with voters have the right to vote up or down a contract. The minority does not want the legislature to have any oversight and, yet, we must deal with budgets that have items created by labor contracts. The committee’s amendment would restore transparency and the system of checks and balances that our government uses. The committee believed that we should have the checks and balances restored.

HRA Recommendation: Support OTPA

JUDICIARY

CACR 28, relating to the allocation of authority between the legislative and judicial branches. Providing that the supreme court shall determine the constitutionality of judicial acts and the legislature shall determine the constitutionality of legislative acts.

MAJ: ITL MIN: OTP Vote 10-6.

HRA Analysis: Since ratification of Article 72-a of Part 2 in 1966, the New Hampshire Supreme Court has claimed final, unreviewable authority, binding on the legislative and executive branches, to interpret the Constitution. CACR 28 would reaffirm the original understanding, based on historic English practice and espoused by Madison, Jefferson, Jackson and Lincoln, among many others, that the legislative branch is the final authority of the constitutionality of its own acts. Incorporating this position into the Constitution would end the stalemate resulting from the Claremont school funding decisions, and arrest the drift to oligarchy inherent in slavish obedience to plainly policy-driven adjudications.

HRA Recommendation: Oppose ITL and support OTP or Recommit.

HB 1135, establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

MAJ: ITL MIN: OTP Vote 10-7.

HRA Analysis: This bill would specify restrictions on a person disrupting the funeral of a member of the armed forces. RSA 644:2-b already covers this situation for all funerals, not just for members of the military. Therefore, HB 1135 is unnecessary.

HRA Recommendation: Support ITL

HB 1298, relative to the definition of "public use" under the eminent domain procedure act. **OTPA Vote 15-2.**

HRA Analysis: This adds a restriction so that eminent domain cannot be used for private transmission lines. The same phrase was in the original HB 648 last year, but that modified a different part of law. According to the platform we “support prohibiting public eminent domain taking of individual property to be used for private development.”

HRA Recommendation: Support OTPA

HB 1395, revoking amendments to supreme court rules 50 and 50-A. **MAJ: OTP MIN: ITL Vote 13-4.**

HRA Analysis: The supreme court, with good intentions, exceeded its authority in creating a charitable program and requiring attorneys to participate. The platform states that the general court is the supreme legislative authority, not the supreme court, and removes the requirement that attorneys put their clients' funds into that program.

HRA Recommendation: Support OTP

HB 1396, restoring and reinforcing the exemptions from levy, sale on execution, and liability to be encumbered or taken for the payment of debts of the homestead right. **MAJ: ITL MIN: OTP Vote 9-6.**

HRA Analysis: Article X of the Republican Platform supports the appointment of judges who recognize their proper and limited interpretive role. Certainly this encompasses obeying the law the Legislature has enacted, except on legitimate constitutional grounds. New Hampshire’s homestead law expressly states that “[n]o deed shall convey or encumber the homestead right, except a mortgage made at the time of purchase to secure payment of the purchase money, unless it is executed by the owner and wife or husband, if any, with the formalities required for the conveyance of land.” In *Chase v. Ameriquest Mortgage Co.*, even though the plaintiff wife’s signature on the defendant’s mortgage had been forged, the Supreme Court ignored that law because it did not like the result that would have followed from obeying it, that the defendant would have been an unsecured creditor. This bill reaffirms the purpose of the homestead law to limit creditors’ access to the homestead right to strictly defined circumstances strictly complied with.

HRA Recommendation: Oppose ITL and support OTP

LEGISLATIVE ADMINISTRATION

HB 1183, relative to access to the galleries in the general court. **MAJ: ITL MIN: OTP Vote 10-4**

HRA Analysis: This bill seeks to clarify the fact that streaming video, audio, or other electronic means are not substitutes for having the house gallery open. The New Hampshire Constitution in Part 2, Article 8 is already clear on the issue of keeping the gallery open, however, the doors of the gallery are to be kept open while the house is in session to those that behave decently. The bill is unnecessary as the constitution is the authority in this matter.

HRA Recommendation: Support ITL

HB 1227, relative to disqualification of certain members of the general court. **MAJ: OPA MIN: ITL Vote 10-2.**

HRA Analysis: This bill clarifies that no member of the general court can hold their seat while simultaneously in the employment of a political party, a committee of a political party or a lobbyist. This bill will enable our citizens to be secure in the knowledge that their representatives have a primary allegiance to the public and are not beholden to the directives of a particular party or special interest by virtue of their employment. The bill implements part 2, article 7 of the constitution: "No member of the general court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the legislature; and upon due proof thereof, such member shall forfeit his seat in the legislature."

HRA Recommendation: Support OPA

MUNICIPAL AND COUNTY GOVERNMENT

HB 1271-L, relative to the penalty for violating ordinances governing hawkers and peddlers. **MAJ: ITL MIN: OTP Vote 9-4.**

HRA Analysis: This bill changes the penalty for violating town regulations on transient merchants from a misdemeanor to a violation. Each day would remain a separate offense. As the constitution says in part 1, article 18, "All penalties ought to be proportioned to the nature of the offense." Misdemeanors are serious crimes, such as thefts of up to \$1,000 or simple assault. Not following a mercantile regulation, especially when they vary from town-to-town, does not rise to that level.

HRA Recommendation: Oppose ITL and support OTP

HB 1294, relative to applications for abatement of property taxes. **OPA Vote 15-2.**

HRA Analysis: Allows a person's representative, heir or guardian to apply for property tax abatements in their place. A minor easing of the bureaucracy.

HRA Recommendation: Support OPA

HB 1689-FN, relative to taxation of Pease development authority property. **MAJ: ITL MIN: OTP Vote 7-6.**

HRA Analysis: This bill removes the property tax exemption on leased hangars at Skyhaven Airport in Rochester. This type of property is taxed at (some?) other small airports. The constitution tells us that taxes must be "proportional and reasonable." Having one tax policy at one airport and another at a different airport seems unreasonable to us, but perhaps the devil is in the details.

HRA Recommendation: No recommendation

PUBLIC WORKS AND HIGHWAYS

HB 1257-FN, eliminating the tolls on the Everett turnpike in the town of Merrimack. **ITL Vote 14-0.**

HRA Analysis: No platform issue identified.

HRA Recommendation: No recommendation

HB 1412, requiring the department of transportation to post signs on roads that cross the border into Massachusetts. **ITL 15-0**

HRA Analysis: This bill would amend RSA 230:84 requiring all roads that cross the New Hampshire/Massachusetts state line to bear signs that say "Warning Massachusetts Border 500 feet." As the platform wisely notes, "Republicans realize that low taxes are the result of low spending." This spending appears to have little purpose.

HRA Recommendation: Support ITL

RESOURCES, RECREATION AND DEVELOPMENT

HB 1140, relative to the care of war memorials in Franconia Notch state park. **MAJ: OPA MIN: INTERIM STUDY 12-3**

HRA Analysis: This bill will affirm the special memorial status of Franconia State Park dedicated to War Time Veterans in the 1920's. This bill establishes the standards of care for war memorials in the park. The NHGOP Platform "Respects New Hampshire's honored veterans by ensuring that they receive the benefits that they have rightfully earned and deserve." The care of the war memorial is a fundamental duty owed to those to whom the park is dedicated.

HRA Recommendation: Support OPA

HB 1436, establishing a committee to oversee the management of natural resources by the department of resources and economic development. **MAJ: OPA MIN: ITL**

HRA Analysis: This bill looks to establish an oversight committee relative to the management of natural resources by the department of resources and economic development. This would include the park system and forest and lands. The NHGOP Platform states that "State government needs to be effective and efficient." This would be the underlying mandate of this committee.

HRA Recommendation: Support OPA

SCIENCE, TECHNOLOGY AND ENERGY

HB 1305, reestablishing the exemption from property taxation for telecommunications poles and conduits and establishing a committee to study how utilities are taxed by the state and municipalities. **MAJ: OTP MIN: ITL Vote 13-1.**

HRA Analysis: [This is the recycled blurb from the similar SB133 last year.] Reinstates the property tax exemption on telephone poles owned by telecommunication companies. The committee believes that it is not in the best interest of businesses and consumers of New Hampshire to assess property taxes on communication poles and conduits. This would result in new costs to telephone companies that would undoubtedly be passed on to those who rely on land-line phones. However, net property taxes would not change (they are based on spending), so this bill just shifts costs from one group of property owners to another. Property tax exemptions for one group cause others to line up at the State House door for their own exception.

HRA Recommendation: No recommendation

SPECIAL COMMITTEE ON REDISTRICTING

HB 1670, apportioning executive council districts. **MAJ: OTPA MIN: ITL . Vote 11-4.**

HRA Analysis: No platform issues identified.

HRA Recommendation: No recommendation

HB 1718, relative to judicial review of electoral districts. **MAJ: OTPA MIN: ITL Vote 11-4.**

HRA Analysis: This bill does two things. First, it speeds up the processing of any redistricting lawsuit by directing the court to handle such suits before other business, and by limiting the period for filing appeals to five days. Second, it allows the Speaker and the Senate President to select attorneys to defend suits against their own redistricting plans. While some would argue that this violates the separation of powers (part 1, article 37), it is unclear that the courts should have any authority over redistricting since those are explicitly legislative powers (part 2, articles 9 and 26).

HRA Recommendation: No recommendation

TRANSPORTATION

HB 1693-FN, relative to motor vehicle inspections. **ITL Vote 12-1.**

HRA Analysis: HB 1693 would simply make car inspections every other year. It is identical to last year's HB 540 which passed the House 234-101. Thirty states do not require safety inspections at all, and most of the rest do it every other year or upon a triggering event, such as purchasing a used car or moving to the state. New Hampshire is one of only four states that tests statewide for safety and emissions annually. Three studies, most recently in 2008, have shown that states without safety inspections do not have more accidents or vehicle defects than states with inspections. DES is not opposed to the bill and the EPA allows states to test OBD biennially, as is the case in smog capitals CA and MA. There is no reason to cost our citizens time and money every year for inspections that have been proven ineffective. The Republican Party "promotes a limited government that is open, responsive and fully accountable to its citizens without interfering in their personal, daily lives."

HRA Recommendation: Oppose ITL, then support OTP

CONSENT CALENDAR

CONSTITUTIONAL REVIEW

HB 1343, prohibiting employees of parties and political committees from running for state office. **ITL Vote 12-0**

HRA Analysis: Part 1, article 11 of the New Hampshire Constitution states that "every inhabitant of the state having the proper qualifications, has an equal right to be elected to office." while part 2, article 7 says that "No member of the general court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the legislature; and upon due proof thereof, such member shall forfeit his seat in the legislature." There seems to be a conflict between these parts. See also HB 1227.

HRA Recommendation: No recommendation

HB 1344, prohibiting public employees from being candidates for certain offices. **ITL Vote 12-0**

HRA Analysis: The reasoning here is identical to the preceding bill.

HRA Recommendation: No recommendation

HB 1533, prohibiting bullying in the state house and legislative office building. **ITL Vote 13-2**

HRA Analysis: The NH Constitution Part 2, Article 22 says "The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house; and shall be judge of the returns, elections, and qualifications, of its members, as pointed out in this constitution. They shall have authority to punish, by imprisonment, every person who shall be guilty of disrespect to the house, in its presence, by any disorderly and contemptuous behavior, or by threatening, or ill treating, any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges, in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house; in assaulting any witness, or other person, ordered to attend, by and during his attendance of the house; or in rescuing any person arrested by order of the house, knowing them to be such." The House is clearly and explicitly in charge of policing itself and managing its' own affairs, not the attorney general. The GOP platform says we distinguish our Party by "Electing Republican candidates who uphold the highest standards of integrity, morality, ethics, responsibility and accountability in their personal lives, during campaigns and

while performing their official duties." We should all strive to uphold those ideals, and practice decorum at all times.

HRA Recommendation: Support ITL

CRIMINAL JUSTICE

HB 1452, prohibiting the establishment of sobriety checkpoints. **ITL Vote 12-1**

HRA Analysis: HB 1452 prohibits the use of sobriety checkpoints. Checkpoints are a type of blanket search that detains and harasses many innocent people who are simply going about their business. Current law allows them only when sanctioned by the superior court for constitutionality. Rather than exercising oversight the courts have let the practice grow over the years into a federally funded nightmare. Citizens are treated as if they are guilty until proven innocent, which is a violation of the 4th amendment to the U.S. Constitution and Part I, Article 19 of the NH Constitution. It would be more effective and constitutional for New Hampshire to abandon sobriety checkpoints in favor of supporting good police officers who observe driver behavior and establish probable cause before pulling them over to check sobriety.

HRA Recommendation: Oppose ITL and Support OTP

HB 1667-FN, relative to the application of the juvenile laws to children up to the age of 18. **ITL Vote 12-2**

HRA Analysis: This is the perennial 17 vs. 18 bill. When should adult justice takes over from juvenile justice?

HRA Recommendation: No recommendation

ENVIRONMENT AND AGRICULTURE

HB 1650-FN, relative to commerce in food in New Hampshire. **ITL Vote 13-0**

HRA Analysis: This bill exempts foodstuffs grown or produced in and then sold in New Hampshire from federal regulation so long as it is labeled as "Made in New Hampshire" and provides penalties for agents attempting to enforce federal regulations. Our platform "opposes the enactment of federal programs that contradict the Tenth Amendment to the U.S. Constitution" which would include regulation of intrastate commerce. The committee claims that HB 1402 accomplishes the same purpose, but that is only concerned with state regulation of food, while HB 1650 is about federal regulation.

HRA Recommendation: Oppose ITL and support OTP

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1708-FN, relative to salaries of state employees. **IITL Vote 13-0**

HRA Analysis: This bill requires the fiscal committee to approve any state employee salary that exceeds that of the governor. More in keeping with the platform guidelines of lean and efficient government and the Constitutional requirement that all laws be approved by the people or their elected representatives, the General Court itself approved the salaries of many of these positions; most of the rest were approved by the joint legislative committee on employee classification. There's no need for fiscal to review the actions of this committee. The Governor's salary is not the right yardstick to evaluate the pay of these usually technical jobs; more appropriate is to compare to chief medical examiners, for example, in other jurisdictions.

HRA Recommendation: Support ITL

JUDICIARY

HB 1657-FN, relative to petitions for guardianship filed by parents of adult children with disabilities. **ITL Vote 15-2**

HRA Analysis: The bill would waive court fees for certain guardianship applications. No platform issue identified.

HRA Recommendation: No recommendation

LEGISLATIVE ADMINISTRATION

CACR 20, Relating to meetings of the general court. Providing that the general court shall meet biennially. **ITL Vote 12-0**

HRA Analysis: CACR 20 would restore legislative session from its current system to meeting only the year after an election. Prior to 1985 the N.H. legislature was elected in even numbered years--as it is now--but only convened for regular session during the odd numbered year. According to the platform we are the party of "limited government." Cutting the legislative session in half is certainly limiting. Plus, "no man's life, liberty or property is safe while the legislature is in session" (1866)!

HRA Recommendation: No recommendation

TRANSPORTATION

HB 1503-FN, relative to motorcycle rider education. **ITL Vote 14-0**

HRA Analysis: This bill would eliminate the state-run motorcycle training program and its related fees on motorcyclists, in favor of private instruction. The platform says we favor "keeping state government lean to minimize its burden on taxpayers and businesses", that we "support cutting or eliminating taxes which inhibit enterprise" and that we think "programs and functions should be reviewed to identify those that can be implemented more effectively in the private sector." Other states operate just fine with private motorcycle driving schools.

HRA Recommendation: Oppose ITL and Support OTP