

HOUSE REPUBLICAN ALLIANCE RECOMMENDATION SHEET



“TRUST BUT VERIFY”

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.

SENATE MESSAGES

CACR 12, (New Title) relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education.

HRA Analysis: This CACR requires consideration of competing principles of the NH constitution and the Republican platform. The platform states that, “Local control of education policy and education funding creates the best-managed school systems” and that “The NH Constitution should be amended to empower the people and their elected representatives to set educational funding and policy goals.” In the light of the Claremont decisions, in which the NH Supreme Court granted itself the authority to dictate education policy and required the state to define and fund said education, this CACR takes some authority away from the Supreme Court and grants it to voters and their elected representatives – one positive step forward from two negative steps back (Claremont I and II). Unfortunately, the Senate opened the door to further court meddling by adding the word “responsibility” to the amendment. That might be OK, but not when applied to mitigation of local disparities.

HRA Recommendation: Non-concur and ask for a Committee of Conference

CONTINUATION OF REGULAR CALENDAR FROM THURSDAY, MARCH 8

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 1617-FN, repealing the certificate of need law. **OTPA Vote 16-2**

HRA Analysis: This bill in its original form would repeal the Certificate Of Need law (a 1974 federal mandate that was repealed in 1987). The law is based on a flawed economic premise that hospitals are expensive, so if there are fewer of them, society will save money. In reality normal supply and demand principles work in the hospital industry as elsewhere. When demand increases, prices rise, attracting new suppliers. If there is excess supply, prices fall and marginal suppliers close. Studies done by the FTC and Dept of Justice concluded that, “The agencies believe that CON programs can pose serious competitive concerns that generally outweigh CON programs’ purported economic benefits. Where CON programs are intended to control health care costs, there is considerable evidence that they can actually drive up prices by fostering anticompetitive barriers to entry.” “Evidence does not support the view that CON regulation reduces the costs of providing healthcare services...consumers would most likely be better served if CON regulations were removed.” The platform states: “We support increased use of market forces to provide and improve health care and reduce costs.”

The committee amendment changes the composition of the CON board and instructs that the board not make decisions to protect the interest of NH hospitals, and it sunsets the CON law after 5 years. While this may be an improvement to the CON as it is now, it does not address the dubious legitimacy of the CONs existence. In his Nobel Laureate lecture on “The Pretense of Knowledge”, economist Friedrich Hayek argued that central planners can only pretend to make determinations of “need” because if they are completely impartial they are outside the market process that actually generates this information. Their decisions, unlike the decisions of a market participant, come at no personal cost to them. At worst, planners can become witting or unwitting tools of entrenched interests who wish to keep competition out of the marketplace.

HRA Recommendation: Oppose the committee amendment and Support OTP

JUDICIARY

CACR 22, relating to the chief justice of the supreme court. Providing that the chief justice shall adopt court rules with the concurrence of the general court. **MAJ: OTP MIN: ITL Vote 12-4**

HRA Analysis: Currently the justices of the state supreme court make the rules that govern the administration of all courts in the state. Court rules should have the force and effect of law. Therefore the legislature, the body charged with passing laws, should be involved in this process. This amendment helps strike a balance between the judicial and legislative branches. The platform says we will “restore the traditional role of our General Court as New Hampshire's supreme legislative authority.”

HRA Recommendation: Support OTP

CACR 26, Relating to administration of the supreme court. Providing that the article authorizing the chief justice to make rules governing the administration of all the courts of the state shall be repealed. **MAJ:OTP MIN:ITL Vote 11-5**

HRA Analysis: This CACR would repeal Article 73-a of Part II of the New Hampshire constitution. The authority given to the supreme court by Article 73-a in 1978 to make rules having “the force and effect of law” is by its terms limited to “rules governing the administration of all courts in the state and the practice and procedure to be followed in all such courts.” However, acting under color of Article 73-a, the court has repeatedly issued rules unrelated to and going well beyond court administration, practice and procedure, and this justifies withdrawal of its supposed basis by repeal of Article 73-a. The Republican platform states in X. “Adopting a constitutional amendment to Part II, Section 73-a to restore the traditional role of our General Court as NH’s supreme legal authority.”

HRA Recommendation: Support OTP

HB 1216, relative to the authority for withholding or withdrawal of life-sustaining treatment. **MAJ: OTPA MIN: ITL 11-3**

HRA Analysis: This bill restores constitutional protections for the most vulnerable members of our society at their most vulnerable time. Under current law, life-sustaining treatment can be withheld or withdrawn from a legally incapacitated person if: (1) that person has a validly executed advance directive, (2) such action is authorized by an existing guardian or other court order, or (3) such action is taken in accordance with a facility’s standard protocol as applicable to its general patient population. The third option was eliminated. The decision to end a life should not be dependent on what facility the patient is in, and felt that at a minimum, an objective court hearing should be required. According to the platform we “oppose euthanasia and physician assisted suicide, and support increased implementation of appropriate pain management.”

HRA Recommendation: Support OTPA

HB 1217, relative to the form for executing advance directives for health care decisions. **MAJ: OTP MIN: ITL Vote 13-4**

HRA Analysis: This bill expands the rights of New Hampshire citizens to be treated in accordance with their wishes at the end of their life. Currently, New Hampshire has a very restrictive New Hampshire Advance Directive form that consists of a Living Will and a Durable Power of Attorney for Healthcare. All other forms are considered invalid, no matter how clear the form or its intentions. This bill allows any form to be used, so long as it still complies with other aspects of current law, such as the validation procedure of two disassociated witnesses and a notary public. A person’s right to have their wishes followed should not depend on what form they happened to use, as long as their intentions on the form of their choice were clear. The Republican platform states in II. “The Republican Party is for protecting the fundamental rights of the people and enhancing their freedom.”

HRA Recommendation: Support OTP

HB 1263, repealing the law requiring landlords of restricted residential property provide service of process information. **MAJ: OTPA MIN: ITL Vote 8-6**

HRA Analysis: The bill as submitted repeals the law enacted two years ago that instituted the burdensome requirement that all landlords provide service of process information to their municipalities. This requirement is unnecessary because municipalities can easily obtain service of process information by obtaining the information from the tax collector. The Republican platform states in VI. “The Republican Party remains committed to working to prevent over-regulation of business, particularly with respect to small business.”

HRA Recommendation: Support OTPA

HB 1264, establishing a religious exemption for individuals who do not wish to provide accommodations, goods, or services for marriages. **MAJ: ITL MIN: OTP Vote 9-5**

HRA Analysis: Fundamental to our constitutional rights is religious freedom (part 1 article 5). For many that worship is not confined to the Sabbath or a place of worship, but extends into their day-to-day life. Compelling people to violate their beliefs to conduct business is a violation of their right of conscience. Part 1 article 4: “Among the natural rights, some are, in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the Rights of Conscience.”

HRA Recommendation: Oppose ITL and Support OTP

HB 1300, relative to removing public officials for cause. **MAJ: OTP MIN: ITL Vote 13-4**

HRA Analysis: This bill adds “failure to perform assigned duties” as a reason for seeking removal of an appointed official, and allows any standing committee, by majority vote, to initiate this process. The Constitution, Article 8, states “Government, therefore, should be open, accessible, accountable and responsive”. Failure to perform duties of the office is a clearly reasonable case to start removal proceedings, and the legislative committees have the opportunity to see many of these officials in action, or lack thereof. It remains the prerogative of the governor and council to actually investigate the performance of the official and determine if removal is warranted.

HRA Recommendation: Support OTP

HB 1308, relative to the definition of "public body" under the right-to-know law. **MAJ: OTP MIN: ITL Vote 10-3**

HRA Analysis: This bill would make non-profit corporations created and primarily funded by any government unit subject to the Right to Know law. The Constitution, Article 8, states “Government, therefore, should be open, accessible, accountable and responsive”. Government agencies should not be able to evade this requirement by creating a non-profit organization to take on some of its duties and funds.

HRA Recommendation: Support OTP

HB 1463, relative to abandonment of the tenancy and relative to property abandoned by a tenant. **MAJ: ITL MIN: OTP 8-6**

HRA Analysis: This bill deals with technical issues of abandonment of property under landlord-tenant law. Although the bill is supportive of small business and will improve the business environment for landlords, it is not well written and will unintentionally harm and infringe upon citizens who were not meant to be included in the remedy. If the bill had been amended to address the obvious problems, we could recommend it, but the unintended consequences are too severe to ignore.

HRA Recommendation: No recommendation

HB 1659-FN, relative to the women's right to know act regarding abortion information. **MAJ: OTPA MIN: ITL Vote 13-4**

HRA Analysis: This bill requires abortion providers to provide females seeking an abortion with significant information to better inform them so they may make a better decision. Considering the importance of the decision and its long-lasting effects, females seeking an abortion should be provided with as much information as possible. The platform under "Family" states we believe the unborn child has a fundamental right to life which cannot be infringed upon, and supports taking steps to ensure females are well informed to hopefully avert a decision to have an abortion. This bill assists in that mission.

HRA Recommendation: Support OTPA

HB 1679-FN, relative to partial-birth abortions and third trimester abortions. **MAJ: OTPA MIN: ITL Vote 13-4**

HRA Analysis: This bill prohibits the revolting procedure of killing a baby as it is being born. The platform under "Family" states we support "banning the procedure of partial-birth abortion."

HRA Recommendation: Support OTPA

HB 1723, making technical corrections regarding parental notification prior to abortion. **MAJ: OTP MIN: ITL Vote 10-6**

HRA Analysis: This bill makes technical corrections to the parental notification bill by expanding a minor's access to courts and providing more judicial flexibility without reducing a minor's access to the process. The Platform under New Hampshire Advantage states that we are committed to preserving the strength of traditional family life. The Platform under Protecting Marriage and Family states we oppose actions that inhibit and/or supplant the role of parents in the care and upbringing of children, and also states we support requiring parental consent for minors seeking abortion. Because the original parental notification bill is strongly supported by the platform, we should strongly support this bill which makes the bill stronger and more workable. There will be a floor amendment brought that tied 8-8 in committee with the majority of Republicans voting for it. The amendment deletes one portion of the technical correction that adds circuit courts to the courts that can hear notification cases. Due to the problems with a portion of the circuit courts not requiring formal rules of evidence and also because circuit courts do not hear the weightier and more complex cases that superior courts hear, the amendment should be supported.

HRA Recommendation: Support floor amendment, then support OTPA. If floor amendment fails, support OTP

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1206, prohibiting the state from withholding union dues from the wages of state employees. **MAJ: OTPA MIN: ITL Vote 12-5**

HRA Analysis: The amendment replaces the entire bill and addresses only the issue of how health insurance increases should be paid for when a public contract is expired. Currently they are borne by the employer. This bill splits them evenly between employer and employee. The platform doesn't address this detail.

HRA Recommendation: No recommendation

HB 1574, relative to an employee's lunch or eating period. **MAJ: OTPA MIN: ITL Vote 11-4**

HRA Analysis: The bill, as amended, changes number of hours before an employer is required to offer lunch from 5 to 6 hours. 31 states do not have laws on the books mandating lunch hour. New Hampshire's current law is more restrictive than all of the surrounding states and arguably within the top five most restrictive in the nation. This minor change would make NH's law consistent with the surrounding states. The GOP platform requires that we work "to prevent over-regulation of business, particularly with respect to small businesses." This change would help reduce one disadvantage in New Hampshire's business climate relative to our New England neighbors.

HRA Recommendation: Support OTPA

HB 1645-FN, prohibiting all public employees from participating in collective bargaining. **MAJ: OTPA MIN: ITL 12-5**

HRA Analysis: The amendment replaces the entire bill and defines a process whereby an employer can initiate a decertification vote. Current law allows for decertification of an existing union organized by the employees. Similarly to organizing a union, an election is held if "cards" are collected from 30% of the employees whose positions are represented by that union. This provides an additional mechanism, initiated by the employer, if it is known that participation in the union is low. It could only be triggered if total participation in the union is both less than the number required to form a union (currently 10) and less than 50% of the number of positions in the bargaining unit. At first glance, the processes for certifying and decertifying a union are balanced. However, while the prospective union will help to organize a workplace and push to get both the required number of signatures as well as the necessary votes to win an election, an employer would be forbidden to try to organize a decertification election. The GOP Platform affirms "the right of all citizens to join labor organizations freely, whether they choose to bargain collectively or individually, without coercion or intimidation." We should also protect the right to leave a union without coercion or intimidation.

HRA Recommendation: Support OTPA

HB 1663-FN-L, relative to payment of union fees by non-members. **INTERIM STUDY Vote 12-5**

HRA Analysis: This is the first of three bills on today's calendar dealing with the "Right to Work" issue. The committee did not recommend passage of this bill because both the intent and language are part of the other two, similar bills (HB 1677 and HB 1685) being considered today. The committee will hold this bill in committee for possible future action on this topic. The NHGOP platform supports Right To Work.

HRA Recommendation: Support interim study

HB 1677-FN, relative to choice as to whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization. **MAJ: OTP MIN: ITL Vote 11-6**

HRA Analysis: This bill is very similar to the "Right to Work" bill (HB 474) of last session, as amended by the House. It includes the language proposed in HB 474, the amendment passed by the House on the floor, and additional language changing "exclusive" representation to "majority" representation. This bill would prevent a worker from being forced to join or to pay fees to a union as a condition of employment (exercising an allowable option under federal labor law), thus making New Hampshire a "Right to Work" state. The additional language removes, for public unions, the duty of unions to represent non-members as well as the guarantee of exclusivity that a particular union has when a bargaining unit is formed. This is a fundamental issue of freedom of association, a right guaranteed by the first amendment. Right to work is also explicitly endorsed by the New Hampshire GOP platform.

HRA Recommendation: Support OTP

HB 1685-FN-L, relative to collective bargaining under the public employee labor relations statutes. **MAJ: OTPA MIN: ITL Vote 12-5**

HRA Analysis: The third Right to Work Right bill replaces the original bill with an amendment. This bill attempts to mitigate concerns that are caused by unions being forced to represent non-members. Because private sector unions are covered by Federal law, this bill only addresses public sector unions. It recognizes that an individual who does not wish to join the union may nevertheless benefit from contract negotiations. Therefore a union may choose not to represent non-payers for things such as grievance resolution, but would be able to charge a fee that represents only the direct cost of contract negotiations. Furthermore, if all of the employees within a classification elect to opt-out of union representation then that job classification will fall under the employer personnel policy, rather than the negotiated contract. The result would be similar to the previous Right to Work bill, but would allow for some options for how to deal with those who would opt out. This bill would not take effect if the previous Right to Work bill, 1677, becomes law. Again, Right To Work is endorsed by the platform.

HRA Recommendation: Support OTPA

MUNICIPAL AND COUNTY GOVERNMENT

HB 1282-FN-L, relative to workforce housing and the definition of community. **MAJ: ITL MIN: OTPA Vote 15-2**

HRA Analysis: This bill permits municipalities to decide whether to approve workforce housing. It is very similar to HB 368 which passed the House last year, but not the Senate. It is an improvement over the current mandate on towns, and would allow for more local control. The right thing to do is open up the free market in housing and repeal the workforce housing statute altogether. The Party platform states, "The preservation of the rights of our people should always constrain the actions of government..." Of course, planning itself is a restriction on free markets in real estate. The minority's amendment is a kind of poison pill. It makes workforce housing more restrictive, to the point where developers would not want to implement it.

HRA Recommendation: Oppose ITL, No recommendation on the minority amendment, Support OTP or OTPA

HB 1303, amending certain requirements to obtain a local vendor license. **MAJ:ITL MIN: OTP Vote 16-1**

HRA Analysis: This bill removes federal criminal records checks and fingerprinting from the requirements to obtain a local vendor license to be a door to door salesperson. There would still be a state criminal records check requirement. One of the most effective ways to support jobs and the economy is to reduce regulations and barriers to entry for businesses. The platform says we are "Working to prevent over-regulation of business, particularly with respect to small businesses."

HRA Recommendation: Oppose ITL and Support OTP

HB 1329, relative to the default budget in certain towns. **MAJ: ITL MIN: OTP Vote 12-4**

HRA Analysis: This bill changes the way an SB2 town's default budget is calculated. If the proposed operating budget has a decrease in some area, then that decrease is also applied to the default budget. This makes the reasonable assumption that if the selectmen or school board want to spend less in an area, that the town would certainly agree. As the platform says "We believe that controlling spending and minimizing taxes are the best ways to protect the economic and civic well being of New Hampshire residents" and that we support "local control of spending and taxes designed to support local services."

HRA Recommendation: Oppose ITL and Support OTP

HB 1405, relative to refugee resettlement. **MAJ: ITL MIN: OTP Vote 15-1**

HRA Analysis: This bill allows a municipality some say in how they participate in the refugee resettlement program run by the state with federal funds. While we are neutral on legal immigration, this program, if it directs extra burdens on the welfare, school and other departments of particular municipalities, would violate part 1 article 28-a of the constitution: "The state shall not ... necessitate additional local expenditures by the political subdivision unless ... fully funded ... or ... approved ... by ... the

local legislative body...” If the bulk of the over 500 refugees who come to New Hampshire every year are relocated to Manchester, which has less than 10% of the state's population, then this is an unfair and unconstitutional situation.

HRA Recommendation: No recommendation, we lack enough facts to determine the proper response

HB 1453, relative to requiring planning boards to require a deeded right-of-way to a public road as a condition for approval of plans for certain developments. **MAJ: OTP MIN: ITL Vote 9-8**

HRA Analysis: “The Republican Party recognizes that private ownership of property is fundamental to a free and well ordered society.” Therefore, any restriction on real property is a reduction of an inherent right. Mandating planning boards to implement encumbrances on private property not only violates the concept of local control, but also of voluntary contracts and property rights. This bill would direct towns to micro-manage how to deal with zoning and planning issues where parcels become landlocked. While such a result from subdivision has always been a potentiality, this is not the answer to an infrequent situation among property owners.

HRA Recommendation: Oppose OTP and Support ITL

HB 1482, relative to the exemption from property taxation for hospitals. **MAJ: ITL MIN: OTPA Vote 16-1**

HRA Analysis: Currently all property owned by charitable hospitals that is used for a charitable purpose is tax exempt. This bill would limit that tax exemption to only the hospital's main campus. It is illogical to treat different locations of a hospital differently, as long as they both are charitable. The hospital could always split itself into separate entities and get around this law, since each entity would have a different main campus.

HRA Recommendation: Support ITL

HB 1522-FN, reducing the penalty for violating a local vendor ordinance. **MAJ: ITL MIN: OTP Vote 14-3**

HRA Analysis: This bill changes the penalty for violating a local ordinance licensing door-to-door sales from a class B misdemeanor (a crime) to a violation (subject to a fine, but not a crime, such as a speeding ticket). Is the failure to fill out paperwork in order to work a crime, or most likely just an oversight? Note that each day is a separate violation, so the fines could pile up. The constitution clearly states that the punishment should fit the crime. Do we criminalize other cases of faulty paperwork such as failing to renew a motor vehicle registration? If the salesperson is committing fraud or selling faulty merchandise that is a different matter.

HRA Recommendation: Oppose ITL and Support OTP

HB 1588, recodifying the laws relative to sheriffs, constables, and police officers. **MAJ: ITL MIN: OTP Vote 15-1**

HRA Analysis: A technical bill which was the work of the Constitutional Review and Statutory Recodification Committee, to update obsolete laws to reflect modern usage. This is one of the functions of that committee. Obsolete law should be removed and updated whenever possible. Part 2 article 5 of the constitution tells the legislature to make “all manner of wholesome and reasonable” laws. Obsolete statutes are no longer wholesome.

HRA Recommendation: Oppose ITL and Support OTP

HB 1674-FN, reducing the interest rate on late and delinquent property tax payments, subsequent payments, and other unpaid taxes. **MAJ: ITL MIN: OTPA Vote 14-3**

HRA Analysis: This bill would change the penalization of late tax bill payments from an interest rate of 12% to an interest rate of 6%. Then, within 90 days of the due date and 30 days prior to a lien being placed upon the property, the resultant penalty interest rate of 18% would become 9% under this new bill. The platform, part VII Taxes and Spending, states that we, "Support initiatives that lower property taxes for those in need," and "Support local control of spending and taxes designed to support local services," and "Believe in promoting lower taxes to attract business development and expand economic opportunities." While this bill would lower the interest rate penalty on property taxes, it is not clear that this bill would effectively lower taxes for those in need and it could possibly shift a greater tax burden to those who have not incurred a penalty for late property tax payments. The bill is identical to last year's HB 457 which passed the House but not the Senate.

HRA Recommendation: No recommendation

RESOURCES, RECREATION AND DEVELOPMENT

HB 1416-L, relative to the introduction of substances into the New Hampshire public water supply. **OTPA Vote 13-2**

HRA Analysis: The original bill would have banned fluoridated water. With the committee's amendment it requires those communities that fluoridate their public water supply to post a notice on their residential water system billing statements. The notice is a quote from the Centers for Disease Control and Prevention and warns parents of the danger of giving infants, six months or younger, formula mixed solely with fluoridated water. The NHGOP Platform states, in part, “We will work to provide citizen access to the information necessary to make informed health care decisions...”

HRA Recommendation: Support OPTA

HB 1636, relative to the extension of fill and dredge in wetlands permits. **MAJ: OTP MIN: ITL Vote 10-6**

HRA Analysis: This bill eliminates bureaucratic red tape individuals have to go through to get a permit to repair or shore up property that is regularly affected by storms and ice. This bill provides that certain permits for repair would no longer expire and require renewal after five years. The bill applies to state and not federal permitting. The platform calls for state government that is effective and efficient.

HRA Recommendation: Support OTP

SCIENCE, TECHNOLOGY AND ENERGY

HB 1239, requiring the site evaluation committee to consider economic impact prior to issuing a certificate for an energy facility. **ITL Vote 12-1**

HRA Analysis: The bill would add one more item to the many that the Site Evaluation Committee considers before approving a new energy facility. The platform states that we will work to prevent over-regulation of business.

HRA Recommendation: Support ITL

HB 1346, relative to the construction of power line extensions. **OTP Vote 11-2**

HRA Analysis: The bill gives utility customers the ability to eliminate the middle-man when extending a power line. The work and materials would be held to the standards required by the utility. The bill is consistent with the platform's approach to economic development.

HRA Recommendation: Support OTP

HB 1391, relative to transmission and distribution utility line extension construction and relative to pole attachments.

INTERIM STUDY Vote 10-3

HRA Analysis: The bill would establish standards regarding attachments to utility poles, with the apparent goal of facilitating the expansion of high-speed broadband. The committee agrees with that goal but concluded that the issue is complex and warrants more study.

HRA Recommendation: Support Interim Study

HB 1401, relative to site evaluations and certificates for energy facilities. **ITL Vote 9-4**

HRA Analysis: The bill would make much more burdensome the process to gain approval to construct a new energy facility. NH energy costs are already too high. We should be facilitating, not hindering, the production of more energy. The platform says that we will "work to reduce New Hampshire's energy costs" and that we will work to prevent over-regulation of business.

HRA Recommendation: Support ITL

SPECIAL COMMITTEE ON EDUCATION FUNDING REFORM

HB 1649-FN-A-L, relative to collection of the education property tax and establishing a program to rebate certain excessive property tax payments of eligible taxpayers. **MAJ: ITL MIN: OTP Vote 10-1**

HRA Analysis: This legislation would cause dual property tax payment, in many towns twice annually, requiring payment to your municipality and to the state. Delinquent taxpayers and tax bills paid by escrow could generate excessive delays and collection problems with added bureaucracy. The Republican Platform states "We believe in maintaining a locally controlled tax system"

HRA Recommendation: Support ITL

SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

HB 1483-FN, repealing the retirement system special account. **MAJ: OTPA MIN: ITL Vote 11-3**

HRA Analysis: Last year, the pension reform in HB2 took any remaining money left in the Special Account, which was previously used to divert assets out of the main corpus of the retirement system when investment returns were higher than average, and put those gains into direct special payments to retirees. This caused the overall average (due to lower years, when the market was down) to drop way too low and put the massive fiscal burdens of the system onto the taxpayers. We will not and should not be putting any money back into this account, thus closing the Special Account will avoid repeating the mistakes of the past. The platform says that among the "structural reforms needed to refocus the state's activities on core functions, efficiently implemented" are that "Public employee benefits should be similar to those of the private sector."

HRA Recommendation: Support OTPA

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HB 1629-FN, relative to state photographic identification indicating veteran's status. **OTP Vote 13-1**

HRA Analysis: This bill gives veteran's a state ID verifying their veteran's status. Our platform states that the GOP: "Respects New Hampshire's honored veterans by ensuring that they receive the benefits that they have rightfully earned and deserve." This bill supports that goal.

HRA Recommendation: Support OTP

HCR 40, for the purpose of petitioning the Congress of the United States to adopt an amendment to the Constitution of the United States, for submission to the states, to require, with certain exceptions, that the federal budget be balanced; or, in the alternative, to call a convention for the sole and exclusive purpose of proposing a federal balanced budget amendment for submission to the states for ratification. **OTP Vote 11-3**

HRA Analysis: This bill supports the platform stand of a fiscally responsible government.

HRA Recommendation: Support OTP

HCR 42, supporting the preservation of the electoral college. **OTP Vote 9-3**

HRA Analysis: If the electoral college were to be abolished, small states like New Hampshire would be effectively neutered in

presidential elections as our vote count would be negligible compared to states like California. Although logical, this bill does not address a platform issue.

HRA Recommendation: No recommendation

HJR 20, urging Congress to propose an amendment to the United States Constitution to abolish the electoral college. **MAJ: ITL MIN: OTP Vote 10-3**

HRA Analysis: See HCR 42 above. This bill is the opposite.

HRA Recommendation: No recommendation

HR 21, requiring the Congress of the United States of America to reaffirm its adherence to the Constitution of the United States regarding international agreements and treaties. **MAJ: OTP MIN: ITL Vote 10-4**

HRA Analysis: This resolution asserts that Presidents have unconstitutionally concluded agreements with foreign governments without Senate approval. The task of verifying all the assertions in the resolution is beyond our expertise.

HRA Recommendation: No recommendation

HR 22, urging recognition of the facts regarding the USS Liberty. **MAJ: ITL MIN: OTPA Vote 9-4**

HRA Analysis: Not a platform issue.

HRA Recommendation: No recommendation

TRANSPORTATION

HB 1440, relative to driver education. **MAJ: OTPA MIN: OTPA Vote 14-2**

HRA Analysis: HB1440 allows an affordable option for driver education by combining an approved online driver education course with parent-provided behind-the-wheel training. The platform emphasizes personal responsibility, the use of market forces to provide and improve education, and parental choice in education. In addition, the platform states: "Will work to reduce drunken driving and substance abuse through a comprehensive program of education..." By allowing this affordable option we would accomplish those goals in this area. There are four amendments in the calendar. The two majority amendments, 0968h and 1021h poison the bill by requiring 10 hours of professional instruction in addition to the online class. The preferred amendment is from the minority (the bill's prime sponsor), 0645h. This allows parents to give 20 hours of behind-the-wheel training. A similar, but less effective amendment is 1041h, which makes the program only apply to home schooled students, but does allow for parental behind-the-wheel instruction.

HRA Recommendation: Support minority amendment 0645h; if 0645h fails, support amendment 1044h; support OTPA

HB 1478, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements. **MAJ: OTP MIN: ITL Vote 10-5**

HRA Analysis: HB 1478 clarifies the meaning of resident for both voting and motor vehicle law purposes. The platform states that the Republican Party believes voting in NH must be done by NH resident citizens only. By standardizing the meaning of the word "resident" this bill moves NH closer to ensuring that only NH residents vote here.

HRA Recommendation: Support OTP

HB 1635, relative to motor vehicle inspections. **MAJ: OTPA MIN: ITL Vote 13-2**

HRA Analysis: HB 1635 adds language to RSA 266:5 to make clear that inspected vehicles must display a valid inspection sticker if they are to be driven. Not a platform issue.

HRA Recommendation: No recommendation

HB 1695-FN, increasing certain speed limits. **MAJ: ITL MIN: OTP Vote 15-1**

HRA Analysis: HB 1695-FN would raise speed limits on the interstate highways in New Hampshire. Limits would be changed from 65 mph to 70 mph, 55 mph to 60 mph, and the minimum speed would go from 45 mph to 50 mph. The platform states that the NH Constitution affirms that our government is founded upon the people's consent and is instituted for the general good. The current law does not reflect the consent of New Hampshire's citizens as the vast majority of them break the speed limit every day. On the other hand, enforcement of speed limits is not particularly picky, so perhaps everything evens out. The increase in speed is slight but may not be appropriate given specific highway conditions. We would have preferred it if there had been a provision in the bill to allow the appropriate agency to exercise judgment in individual cases.

HRA Recommendation: No recommendation

WAYS AND MEANS

HB 1418-FN-A, increasing the threshold amounts for taxation under the business enterprise tax. **MAJ: OTPA MIN: INTERIM STUDY Vote 17-3**

HRA Analysis: HB 1418 exempts businesses with gross revenues under \$200,000 or BET base value of under \$100,000 from filing BET returns, up from \$150,000 and \$75,000, respectively. The limits had not been increased in decades, and thus have gradually been applied to smaller and smaller businesses. The amendment ties annual increases in those numbers to the rate of inflation. Our platform states, "Our approach to economic development is founded upon... creating a supportive business climate and... working to prevent over-regulation of business, particularly with respect to small businesses."

HRA Recommendation: Support OTP

BILLS REMOVED FROM CONSENT CALENDAR MARCH 7

CHILDREN AND FAMILY LAW

HB 1267, relative to adjustments to the child support guidelines based on child support expenses documented by the parties.

ITL Vote 14-0

HRA Analysis: This bill asks the court to consider changing child support amounts if, after six months or more of actual expenses, the actual amount varies from the calculated guideline amount by 10% or more. According to the platform, we “favor equitable treatment of both parents in child custody and child support determinations.” While that supports the purpose of the bill, we doubt that it would have much effect, as it and all law in this area merely provide suggestions to the courts without specific requirements. If the court wishes, it could implement this already, and if it doesn't wish to implement it, it wouldn't have to even if the bill passed.

HRA Recommendation: No recommendation

COMMERCE AND CONSUMER AFFAIRS

HB 1262, prohibiting banks from requiring blood samples, fingerprints, and DNA samples in order to complete a banking transaction. **INTERIM STUDY Vote 16-0**

HRA Analysis: This is a similar bill to HB 244 regarding collection of biometric data, although targeting at a single industry, banking. We advocated HB 244, but only because it only applied to government, not the private sector, but the House sent it to interim study. There are conflicting concerns here of privacy and excess regulation.

HRA Recommendation: No recommendation

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1220, repealing the criminal history record and protective order check for the sale of firearms. **ITL Vote 15-2**

HRA Analysis: This bill, with the floor amendment, frees up three employees of the criminal records division who answer queries from gun dealers when selling handguns. Those calls would instead be answered by the federal government, as they are now for rifle and shotgun purchases, and the three employees would do more useful work for the department. The platform says “Staffing levels should be evaluated to ensure that all employees are fully utilized.”

HRA Recommendation: Oppose ITL, Support the floor amendment and Support OTPA

HB 1438, relative to confidentiality of police personnel files. **ITL Vote 16-0**

HRA Analysis: This bill addresses RSA 105:13-b regarding exculpatory evidence contained within police personnel files. The US and NH Supreme Courts have ruled that police departments and prosecutors have a duty to disclose all exculpatory evidence in police personnel files. The current law is unconstitutional because the police have no duty to disclose anything and it is virtually impossible for a criminal defendant to ever obtain exculpatory evidence. The Giuda floor amendment adds the exact Supreme Court language to the statute. The bill as amended brings the law into compliance with the U.S. Constitution and the N.H. Constitution by codifying the duty to disclose evidence.

HRA Recommendation: Oppose ITL, Support the floor amendment and Support OTPA

HB 1523-FN-L, relative to the return of personal property seized by law enforcement agencies from a person charged with a crime. **INTERIM STUDY Vote 13-3**

HRA Analysis: HB 1523 requires police departments to return personal property they have seized to citizens who have been found innocent. HB 1523 is a better version of HB 225, which passed the House last year, but was gutted by a Senate amendment. Currently, a law enforcement agency can put roadblocks in the way of an innocent person trying to get property returned. In most cases, even after a citizen is found innocent, prosecutors refuse to return property without a court hearing. This bill increases accountability in government by ensuring the prompt return of an innocent citizen's property, and reduces the insult innocent citizens feel when their property is unjustly seized. The platform says “We will work to maintain a legal system that provides every citizen prompt and impartial justice...”

HRA Recommendation: Oppose Interim Study and Support OTP

HB 1528-FN, requiring criminal penalties for attorneys in the attorney general's office and the county attorneys' office for failing to prosecute offenses related to falsification in official matters. **ITL Vote 16-0**

HRA Analysis: This bill deals with officials violating statutes dealing with official falsification, such as perjury, false reports, and evidence tampering. The title of the bill, "Abuse of Prosecutorial Discretion," is indeed attractive and fulfills the GOP platform's urging, to wit, "We propose that those who commit crimes be swiftly and surely punished consistent with due process of law. We support increased efforts to enforce penalties against those who commit crimes...." Many would argue that state officials should be held to a higher standard. This bill would impose a class B penalty on an attorney from the AG's or County Attorney's office who knowingly fails to prosecute a fellow attorney guilty of violating the statute above. While the intent of the bill is laudable, it would be difficult to enforce. Prosecutors' offices currently have leeway in choosing which cases to prosecute, and this would remove some of that discretion. A felony penalty can be seen as overly harsh for a non-action such as failing to prosecute an offender. The floor amendment (1153h) limits the offense to only in matters in the circuit court family division.

HRA Recommendation: No recommendation

HB 1531-FN, relative to prosecution for victimless crimes. **ITL Vote 14-2**

HRA Analysis: The text of this bill is: "It shall be an affirmative defense to prosecution for any felony or misdemeanor charged under the laws of this state that there was no victim of the crime. In this paragraph, 'victim' means any person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or the attempted commission of a crime." If passed, this bill has the potential to drastically reduce the number of court cases and law enforcements arrests for crimes such as marijuana possession, speeding, texting while driving, failing to file timely reports by regulated organizations and hundreds more rules-based violations. This bill would not positively prohibit prosecution for such offenses, but offers the defendant an additional defense if the case goes to court. This could save NH taxpayers hundreds of thousands of dollars and free up law enforcement and the judiciary to focus on prosecuting crimes where somebody has been harmed. Our state's constitution clearly states that "All penalties ought to be proportioned to the nature of the offense. [...] Where the same undistinguishing severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses." (Art. 18 Part I) Is it time to seriously consider comprehensive reform of our criminal justice system?

HRA Recommendation: No recommendation

HB 1562-FN, establishing a criminal penalty for sending or receiving sexually explicit text messages or images by using a cell phone or other mobile device. **ITL Vote 14-2**

HRA Analysis: The bill's title is, "This bill establishes a criminal penalty for sexting by using a cell phone to transmit or receive sexually explicit images or text messages." The term "sexting" is not defined, but is somewhat explained under the offenses as "Sexually explicit conduct" or "Indecent visual depiction." If passed, this legislation would be virtually impossible to enforce. There are already numerous state laws against child pornography, sexual predators and lewd conduct. Art. 18 Part I of the state constitution states that "All penalties ought to be proportioned to the nature of the offense." The floor amendment modifies the definition of juvenile delinquent by singling out the sexting offense, specifically mentioning this would-be new law in exclusion of all other crimes. This could lead to unintended consequences in enforcement of other juvenile offenses.

HRA Recommendation: Oppose the floor amendment and Support ITL

EDUCATION

HB 1148, requiring the teaching of evolution as a theory in public schools. **ITL Vote 16-0**

HRA Analysis: This bill changes how evolution would be presented. No platform issues identified.

HRA Recommendation: No recommendation

HB 1712, relative to the teaching of the Bible in public schools. **ITL Vote 17-0**

HRA Analysis: This bill requires high schools to offer an elective bible literacy course. Schools may teach a course in comparative religion, but this seems to us to cross the line into a violation of the first amendment.

HRA Recommendation: Support ITL

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1265, relative to criteria for the government regulation of occupations and professions. **INTERIM STUDY Vote 9-3**

HRA Analysis: This bill would allow anyone to practice any profession unless the legislature establishes a compelling reason to regulate it. Title 30 of the RSAs is composed of regulations that previous legislatures have passed as a result of what they saw as compelling reasons. The Platform, Section VI, states we are "Working to prevent over-regulation of business", so an updated study of the licensing regulations is appropriate.

HRA Recommendation: No recommendation

HB 1631, allowing persons licensed to provide emergency medical services to work public gatherings and events. **ITL 12-0**

HRA Analysis: This bill would allow nationally registered EMTs to work for pay in New Hampshire without registering with the state and affiliating with a local organization (usually a fire department or ambulance company). The EMT oversight board told the committee that they are working on rules to allow this so a floor amendment will be presented to give them a deadline. The Platform, Section VI, states we are "Working to prevent over-regulation of business", and allowing the EMT community to resolve this issue is fair. A deadline is also appropriate.

HRA Recommendation: Oppose ITL, Support the floor amendment and Support OTPA

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1492-FN, requiring employers to verify an employee's eligibility to work in the United States. **ITL Vote 14-1**

HRA Analysis: This bill would require that the state and all subcontractors enroll in the Federal E-Verify program. The platform strongly supports immigration enforcement by "strengthening national border security, enforcing immigration laws, and opposing any form of amnesty for illegal aliens." The floor amendment lessens the bill's scope, to the state and its contractors, solving a potential 28A issue. While there is evidence that E-Verify can falsely strand a legitimate employee in bureaucratic limbo, over time these problems should be ironed out.

HRA Recommendation: Oppose ITL, Support the Duarte floor amendment and Support OTP

EXECUTIVE DEPARTMENTS AND ADMINISTRATION SPECIAL ORDER

HB 1549, prohibiting the adoption of a requirement that employers participate in the E-Verify system and the use of motor vehicle records for the E-Verify system. **OTP Vote 11-1**

HRA Analysis: The platform states “New Hampshire's government and its elected officials must, above all else, preserve and protect individual liberty”. This is the same issue decided in previous years against Real-ID and enhanced licenses. Sharing personal data from motor vehicle records with the federal government is no way to protect individual liberty. The floor amendment from the committee makes sure that the bill is compatible with the previous vote on HB 1492.

HRA Recommendation: Support the floor amendment and Support OTPA

PUBLIC WORKS AND HIGHWAYS

HB 1437, relative to display of certain historical items in the state house. **ITL Vote 15-0**

HRA Analysis: This bill concerns the display of original copies of the Declaration of Independence and Bill of Rights owned by the state. No platform issues identified.

HRA Recommendation: No recommendation

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HR 23, urging the federal government to reduce the federal deficit in proportion to federal aid. **OTP Vote 9-3**

HRA Analysis: This resolution asks our Congressmen to reduce the US debt to foreign countries (by repudiation?) by the amount of past foreign aid to those countries. It appears to contain a typo: “global environmental slowdown” should be “global economic slowdown.” No platform issues identified.

HRA Recommendation: No recommendation

WEDNESDAY, MARCH 14 REGULAR CALENDAR

PUBLIC WORKS AND HIGHWAYS

HB 1716, relative to the state 10-year transportation improvement program. **OTPA Vote 16-0**

HRA Analysis: The revised 10-year transportation plan. The platform says we will “Will work to improve our highways and reduce traffic congestion...”

HRA Recommendation: Support OTPA

THURSDAY, MARCH 15

EDUCATION SPECIAL ORDER

CACR 8, relating to education. Providing that the legislature shall have the power to authorize schools. **MAJ: OTP MIN: ITL**

HRA Analysis: CACR 8 modifies part 1, article 6 of the constitution to clarify that education is the responsibility of local, charter, private and religious schools, that they shall control their own curricula and funding, but that the legislature may supplement them. This is a different and reasonable approach than CACR 12 to restoring local control over schools from the regime set up by the Claremont rulings. It is consistent with several parts of the platform, including “The New Hampshire Constitution should be amended to empower the people and their elected representatives to set educational funding and policy goals” and “The so-called 'Blaine Amendment' should be repealed so as to end discrimination against religious schools.”

HRA Recommendation: Support OTP