

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.



WEDNESDAY, OCTOBER 13, 2010
“THE VETO SESSION”

Procedural explanation of voting on a vetoed bill:

The motion before the House as to each bill will be as follows:

“Notwithstanding the Governor’s veto, shall HB _____ become law?”

A “yes” vote is to override, a “no” vote sustains.

A two-thirds vote of the House is required to override a veto. There being 390 current members of the House, a vote of at least 260 is required to override a veto.

Voting on vetoes must be by roll call. (NH Constitution, Pt. II, Art. 44.)¹

VETO OF HB 53

Excerpt from Veto Message:

HB 53 amends the definition of “public body” in an effort to clarify that certain local officials are not public bodies. The bill provides that “an individual executive or administrative officer of a political subdivision shall not constitute a public body, and staff members of an agency or department of a political subdivision meeting as a group shall not constitute a public body.”

By explicitly stating that such local officials and employees are not a “public body”, the bill creates confusion about the continuing obligation for such local officials and staff to make available their records in accordance with RSA 91-A and would dilute the spirit of the law.

Adopted in Committee 19-0 on November 20, 2009; Adopted by the House on a Voice Vote on January 13, 2010.

Judiciary

(January 6, 2010 Consent Calendar)

HB 53, relative to the definition of “public body” under the right-to-know law. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy M Weber for Judiciary: The bill as originally filed would have removed the word “agency” from the list of public bodies subject to the open meeting provisions of the right-to-know law. The committee did not agree that agencies should be excluded. Instead, the committee amended the bill to make it explicit in this section that the open meeting provisions cover only bodies which act by vote or agreement of their members. Individual executive or administrative officers do not constitute a public body, nor do staff members of an agency or department of a political subdivision meeting as a group. This is not a change from the current interpretation of the law; the language was added solely to make the distinction clearer to a lay person consulting the statute. The change has no effect on the requirements that public records remain open to the public. **Vote 19-0.**

ORIGINAL HRA RECOMMENDATION FOR HB 53

None

HRA VETO DAY RECOMMENDATION FOR HB 53

HRA Analysis: Underlying our party platform is an approach to government that promotes openness and citizen participation. This platform language reflects the New Hampshire constitutional mandate that government should be open, accessible and responsive. NH Const. Part 1, Art. 8. Against that background we would be joining with the Governor in seeking that HB 53 be rejected if HB 53 would further restrict access to government records. It does not. HB 53 merely avoids any argument that the public may be present at non-decisional staff meetings. The obligation of public agencies to make records available to the public will continue, undiluted, with the implementation of HB 53.

¹It may be argued by some that the drafters of this constitutional provision in 1792 were insufficiently attentive to the costs of too many roll calls. Or perhaps they recognized that roll calls are a small price to pay for transparent legislative representation.

HRA Recommendation: Vote YES to override the Governor's Veto.

VETO OF HB 379

Excerpt from Veto Message:

HB 379 would allow the members of a legislative body that does not negotiate but which must approve a public employee contract – such as a board of alderman – to meet in a non-public session with the public body that negotiates the contract as long as the cost items have not been submitted for approval. As a result, potentially important discussions that are now subject to open meeting could be removed from the public arena.

The Right to Know Law's provisions governing open meetings safeguard transparency and accountability in the operation of government. The threshold for creating any new exception to the open meeting requirement must be very high, and I do not believe the types of meetings contemplated by this bill warrant the creation of another exception.

Adopted Committee Roll Call Vote (11-8) on November 20, 2009 [1 Republican for; 8 Republicans against]; Adopted House Roll Call Vote (199-141) on January 13, 2010 [18 Republicans for; 132 Republicans against].

Judiciary

(January 13, 2010 Regular Calendar)

HB 379, exempting certain meetings concerning collective bargaining from the right-to-know law. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Lucy M Weber for the **Majority** of Judiciary: This bill addresses a situation which occurred in Nashua, and which has the potential of occurring in other municipalities. The school board would negotiate a new contract with the teachers. The contract would then have to go to the board of alderman to approve the actual funding. The problem occurred when the board of aldermen refused to approve funding. After several failed attempts to achieve a contract, the mayor met with school board negotiators and members of the board of aldermen to request guidance as to what level of funding the board of aldermen would approve. This meeting was subsequently held to have violated the public meeting requirement of the right-to-know law. Strategy or negotiations with respect to collective bargaining have long been an exception to the definition of a meeting. These sessions may be held with no notice at all to the public. It was the combination of the employer board with the legislative body which [sic] was not directly engaged in collective bargaining which violated the current law. The current bill would allow non-public consultation with the officials of the legislative body at any time prior to the submission of the cost items. By designating this type of meeting as a non-public session, the bill would require that the public has notice that this meeting is occurring, but allows the two boards to meet together to discuss strategy without revealing their bargaining position. The majority of the committee was persuaded that this struck an appropriate balance between the public's right to know and the need for confidentiality during the conduct of negotiations. The amendment simply changes the effective date.

Rep. William L O'Brien for the **Minority** of Judiciary: Within the first several passages of the New Hampshire Constitution and prominently placed in its Bill of Rights is the fundamental right of New Hampshire citizens to have a "[g]overnment ... [that] should be open, accessible, accountable and responsive." NH CONST. Part 1, Art. 8. "To that end," this Constitutional passage continues, "the public's right of access to governmental proceedings and records shall not be unreasonably restricted." By responding to an episode unique to a single municipality, extending the confidentiality of collective bargaining negotiations beyond the negotiating public body, and allowing, without a compelling record, for additional government operations to be made secret and government records to become classified documents, HB 379 unreasonably restricts this essential right. Representative government withers when conducted behind closed doors, outside of public scrutiny, and insulated from community comment. It no longer is a government of the people, by the people, for the people; instead it is a government by the select few over their subjects. HB 379 unnecessarily moves us in that direction and should be rejected.

ORIGINAL HRA RECOMMENDATION FOR HB 379

HRA Analysis: This bill was sponsored by one community, Nashua. Nashua requested that strategy meetings relating to collective bargaining be exempt from the Right to Know Law. While secret strategy meeting will make the process easier, it is contrary to NH Const. Part 1, Art. 8, that government should be open, accessible and responsive. The minority feels that Nashua has not shown that the current process is sufficiently restrictive to allow for government behind closed doors.

HRA Recommendation: Oppose OTP/A, vote ITL.

HRA VETO DAY RECOMMENDATION FOR HB 379

HRA Analysis: This bill is contrary to the constitutional requirement of an open government, NH Const. Part 1, Art. 8, as well as our party platform's goals of governmental openness and citizen participation. As is stated in our party platform that was reenacted just this past month, "[t]he Republican Party is, and historically has been, the Party of ideas and bold leadership in New Hampshire [and] [p]romotes a limited government that is open, responsive and fully accountable to its citizens." Platform, Art. II. HB 379 should not become law.

HRA Recommendation: Vote NO in order to sustain the Governor's Veto.

VETO OF HB 1161

Excerpt from Veto Message:

Since 1991, under RSA 159:8, cities and towns have had the authority to decide whether or not to require individuals who sell pistols, revolvers and firearms at retail to obtain a local license. This license serves several purposes, including identification of retail gun sellers who might not be subject to federal firearms licensing requirements.

While other state and federal laws prevent any person in New Hampshire from selling a firearm to a convicted felon, it does not seem necessary to take away the authority of municipalities – authority the state has granted for nearly twenty years – to license local retail sellers of firearms.

Adopted Voice Vote in Committee on February 2, 2010. Adopted by Voice Vote in House on February 17, 2010

Criminal Justice and Public Safety Committee

(February 17, 2010 Consent Calendar)

HB 1161, repealing the requirement to obtain a license to sell in order to sell pistols or revolvers at retail. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David A Welch for Criminal Justice and Public Safety: This bill repeals RSA’s 159:8, 159:8a, 159:8b relative to the requirement of obtaining a local license to sell firearms at retail from the chief of police. During testimony, it appeared that many chiefs of police were not aware of the statute. Also, during the testimony it appeared that RSA 159:10 relative to sales without a license ought to be repealed as well. The amendment repeals RSA 159:10 as well.

ORIGINAL HRA RECOMMENDATION FOR HB 1161

None

HRA VETO DAY RECOMMENDATION FOR HB 1161

HRA Analysis: The New Hampshire Constitution-Article 2-a [The Bearing of Arms] enshrines our fundamental right of freedom to bear arms. Our Party platform recognizes that we as legislators need to protect this right to bear arms by “*oppos[ing] passage of local, state or federal laws and/or regulations that violate this fundamental right.*” Given his statist perception of the world, the governor of course thinks that legislation removing impediments to the exercise of this right should be shown to be necessary. To the contrary, restrictions on this right must be shown absolutely and without any qualification to be necessary. The Governor could not be more wrong in vetoing HB 1161.

HRA Recommendation: Vote YES to override the Governor’s Veto.

VETO OF HB 1490

Excerpt from Veto Message:

HB 1490 would make changes to the Banking Department’s jurisdiction over consumer complaints against financial institutions that are inconsistent with the Attorney General’s Report concerning Financial Resources Mortgage, Inc. and recommendations for strengthening consumer protections and enforcement.

*The Attorney General has recommended that the Department of Justice’s authority to regulate unfair or deceptive practices in the banking industry that was removed in 2002 should be restored, and I support the restoration of that authority. This bill moves this responsibility in the opposite direction, by granting additional exclusive authority to the Banking Department to enjoin such unfair and deceptive trade practices by financial institutions. Moreover, the bill suggests that the Banking Commissioner will now have authority to appear in Superior Court to enjoin violations while, in fact, it is the responsibility of the Attorney General to enjoin unfair and deceptive trade practices in the courts. **Passed in Committee 17-2 and in the House by voice vote of February 17, 2010.***

Ways and Means
(February 17, 2010 Consent Calendar)

HB 1490, establishing a commission to analyze revenues and expenditures in the state budget. **OUGHT TO PASS WITH AMENDMENT.**²

Rep. Dennis P Vachon for Ways and Means: This bill as amended would establish a citizen task force to study state revenues and expenditures. The committee believes that an ongoing discussion between legislature and citizens with expertise in finance and state government and the general public would be a useful tool to provide state government with important and useful feedback in the form of annual reports and timely recommendations for future legislation. It is expected that this task force would produce options that would ease the last minute decision making that often had to occur as part of the biennial budget process. **Vote 17-2.**

ORIGINAL HRA RECOMMENDATION FOR HB 1490

[For original bill titled, “establishing a commission to analyze revenues and expenditures in the state budget.”]

HRA Analysis: We know where this majority party-appointed commission will go: how can NH be taxed in more and varied ways? The problem is not that we are taxed too little; rather it is the state government spends too much. Low taxes are the result of low spending.

HRA Recommendation: Oppose OTP/A.

HRA VETO DAY RECOMMENDATION FOR HB 1490

HRA Analysis: The process by which HB 1490 was enacted to include regulation of the banking industry was flawed resulting in a defective bill. The flaws are a result of a failure to follow the usual legislative deliberative process including public hearings. The process that was followed here of allowing a committee of conference to introduce enabling language for regulations assumes a handful of elites can figure out our state’s “big” problems, such as how to best regulate the investment industry, and that the remaining representatives and senators, all of whom were not part of a committee of conference, need not be participants in the process other than to “rubber stamp” the results. At the very least, the manner by which the final language of HB 1490 was adopted was so highly flawed that the Governor’s veto should be sustained. It also should be sustained for other reasons: (1) the proposed commission to discover new and varied ways of taxing NH citizens remains unnecessary, but was set up in HB 1 in any event, and (2) the bill increases a fee for registration of mortgage brokers from \$1500 to \$5000 without any legislative history showing that this 233% increase is necessary to cover increased costs of the registration, which is the only legitimate reason for the fee.

HRA Recommendation: Vote NO in order to sustain the Governor’s Veto.

² HB 1490 came into the House with one title and purpose. It was originally passed by the House under that title. It was given a new title (**establishing a citizens task force to study state revenues and expenditures**) when it passed the Senate on May 12, 2010. On a roll call vote of 199-147, the House non-concurred with the Senate amendment on May 19, 2010 and requested a committee of conference. Most Republicans voted against the motion, for the reason, it appears, because they sought to kill the bill to avoid it becoming a tax bill. The following parliamentary inquiry was recorded in the House Journal from this debate:

Speaker Norelli: *Representative Doug Scamman is recognized for a parliamentary inquiry.*

Rep. W. Douglas Scamman: *Madam Speaker, having been Speaker before and one who is dead against non-germane amendments, am I not correct that it would take a two-thirds vote of the House to consider any non-germane amendments that would come back on a Committee of Conference?*

Speaker Norelli: *That is a true statement. Non-germane amendments would require a two-thirds vote to suspend the rules in order to act on it.*

Rep. W. Douglas Scamman: *Further inquiry.*

Speaker Norelli: *You may inquire.*

Rep. W. Douglas Scamman: *Under the rules of the House, if a study bill comes back with taxes and expenditures on it, would that not be non-germane to the original bill?*

Speaker Norelli: *Rule 49 says a Committee of Conference may neither change the title of a bill submitted to it nor add amendments which [sic] are not germane to the subject matter of the bill as originally submitted to it. For the purpose of this rule, non-germane amendment is any subject matter not contained in either the House or the Senate version of the bill.*

On June 2, 2010 the bill was reported back to the House with a non-germane amendment and the rules were suspended to allow the non-germane amendment on a division vote of 277-40. The amendment again changed the title (new and third title: **establishing a citizens task force to study state revenues and expenditures and relative to the regulation of financial institutions.**)

VETO OF SB 440³

Excerpt from Veto Message:

SB 440 would allow members of the Executive Branch Ethics Committee during their term of service to participate actively in elections for federal offices – President and Vice President, U.S. Senator and U.S. Representative, including allowing their names to be used in support of or in opposition to a candidate for federal office, campaigning for candidates for federal office, and by contributing to a candidate for a federal office. . . . I believe that State government has a duty to ensure that even the appearance of politics is removed from the administration of executive branch ethics standards. [sic] I will not support any changes to our ethics laws that could jeopardize the public's trust in how these laws are implemented and applied, and that is why I have vetoed this bill.

Adopted 17-0 in Committee; Adopted Voice Vote in the House on April 21, 2010; Conference Report adopted by Voice Vote on June 2, 2010.

Executive Departments and Administration

SB 440, relative to executive branch ethics and establishing a committee to study the impact of implementing a 10-hour per day, 4-day week for state employees. OUGHT TO PASS WITH AMENDMENT.

Rep. Donald F. Ryder for Executive Departments and Administration: This bill addresses two subjects. The first is the removal of restrictions on members of the executive ethics committee from participation in national political activities. The bill retains the prohibition from local and state political activities. The bill requires unanimous vote of all members present to dismiss a complaint. It further requires a copy of the complaint with the identity of the complainant removed, to be sent to the individual under investigation. The bill increases the quorum requirement from four to five with alternates appointed if needed. Secondly it establishes a committee to study the impact of a 4-day work week for numerous departments within state government.

ORIGINAL HRA RECOMMENDATION FOR SB 440

None

HRA VETO DAY RECOMMENDATION FOR SB 440

HRA Analysis: The Governor cares only about perceptions of a conflict of interest when the time comes for electoral posturing. If, on the other hand, the perception is caused by his own campaign manager remaining on the state payroll while simultaneously drawing tens of thousands of dollars compensation from her bosses re-election campaign, no such sensitivity exists and we see the disingenuous, cynical, and not-so-nice John Lynch surface. Republicans of course demand of their candidates that they “uphold the highest standards of integrity, morality, ethics, responsibility and accountability in their personal lives, during campaigns and while performing their official duties.” Platform, Art. II. Our opposition requires only situational ethics: if the situation demands, then they have some ethics (or at least claim they do). That being said, the executive branch ethics law should not be weakened, especially as we now have a tired gubernatorial administration that is so willing to cut corners. The veto ought to be sustained.

HRA Recommendation: Vote NO in order to sustain the Governor's Veto.

SB 500 Alert

As most of us are now aware, when SB 500 was passed, it made a number of significant and, now we have discovered, harmful changes to the parole system. Unfortunately, the worst of these changes, such as the early release of violent criminals and the parole board losing discretion on the length of time the original sentence that a parole violator will serve, were not just omitted from the explanation of the SB 500 when it came before the House. In fact, there were affirmative misrepresentations, we assume unintentional, of these features of the bill.

The enactment of SB 500, we now know, means that violent criminals who violate their paroles will be sent through a revolving door of short incarcerations followed by their continued and harmful presence in society. Public reports indicate that violent criminals know that the parole system now presents a less serious obstacle

³ SB 440 will not come to the House, of course, unless the Governor's veto is overridden in the Senate. This analysis is presented in the event this Senate override occurs.

to their release due both to the mandated early release dates and the short period of incarceration for parole violations and they are acting accordingly. Moreover, given the maximum period of 90 days to deal with parole violations and the inability of the parole board to return a recidivist parolees to state prison, the new system has downshifted the cost of incarceration for parole violations to the counties from the state.

Please support a motion to suspend the rules to allow in legislation from House Republicans to protect New Hampshire citizens.

YET THE BASIC FACT REMAINS: EVERY REGULATION REPRESENTS A RESTRICTION OF LIBERTY, EVERY REGULATION HAS A COST. THAT IS WHY, LIKE MARRIAGE (IN THE PRAYER BOOK'S WORDS), REGULATION SHOULD NOT "BE ENTERPRISED, NOR TAKEN IN HAND, UNADVISEDLY, LIGHTLY, OR WANTONLY."

MARGARET THATCHER