

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, JUNE 3, 2009

(NOTE: RECOMMENDATION ON MOTION TO RECONSIDER VOTE ON SB 33 IS AT THE END OF THIS RECOMMENDATION SHEET)

COMMITTEE OF CONFERENCE – HB 73

Early on in their efforts, legislative proponents of same gender marriage abandoned fair and open deliberations in favor of strong-arm tactics, surprise amendments passed without public hearings, suppressed minority reports, and one-side relevancy rulings by the Speaker during debates. Since our last session day, Senate and House leadership have taken these tactics to their ultimate conclusion, with the Senate President ignoring a Senate requirement of both majority and minority party representation on the HB 73 committee of conference and the Speaker ensuring a favorable report by ignoring the requirement in Mason’s section 769(5) that the prevailing side on a controversy have a majority of the committee and the minority be represented. She was notified of this obligation last week in the following open letter:

May 29, 2009

The Honorable Terie Norelli
Speaker of the New Hampshire
House of Representatives
107 North Main Street
Concord, New Hampshire 03301

Re: Open Letter on the Appointment of the House Representation to the Committee of Conference for House Bill 73

Dear Madame Speaker,

This letter is in reference to your appointment of Reps. Gary Richardson, Robert Thompson, Lucy Weber, and Anthony DiFruscia as House conferees on HB 73. At least two of the first three of these appointees are ineligible to serve on this committee of conference.

While House Rule 49, which pertains to committees of conference, does not specify who may be appointed to a committee of conference, section 769(5) of Mason’s Manual of Legislative Procedure clearly states that where a house is divided as to an issue for which such a committee is appointed, *“it is the established practice to appoint a majority of the committee from prevailing side in the controversy, but to also appoint a representative from the minority.”* HB 73 has been transformed by the Senate of course into a bill that divided the House between those for and against same gender marriage. That is the underlying controversy between the majority and minority on HB 73.

The May 20 roll call vote rejecting the motion to concur with the Senate amendment to HB 73 clearly showed that division and who prevailed in the House on the controversy. Reps. Gary Richardson, Thompson and Weber voted for concurrence, therefore, they were not on the prevailing side of the controversy. Consequently, only one of them is

eligible to serve on the committee and that service may be only as a representative of the minority. We therefore call upon you to act in accordance with section 769(5) and appoint a majority of the House's representation on the HB 73 committee of conference from the prevailing side on the same gender marriage controversy, as represented by the May 20th 188 to 186 vote against concurrence. This requires that a majority of the committee of conference be drawn from the 188 members who voted against concurrence.

Should you take, as was indicated by your response to a parliamentary inquiry on May 20, 2009, the incorrect and limited view that the controversy is whether to adopt HB 73, as passed by the House and amended by the Senate, then the prevailing side under Mason's section 769(5) would be those who voted in favor of the original HB 73 on March 25, 2009 and against concurrence on the Senate amendment on May 20, 2009. Once again, the facts are that a majority of the House adopted HB 73 and a majority rejected the Senate's amendment. Reps. Gary Richardson, Thompson and Weber were not in each of those majorities, so they do not satisfy the requirement that they be from the prevailing side of the controversy. Each voted to concur with the Senate on HB 73 and therefore to accept the Senate's amendment. They were among the 186 members who did not prevail as to that controversy and should not have been appointed as representatives of the prevailing side.*

The appointment of Reps. Gary Richardson, Thompson and Weber will result in a majority of the House representation on the committee of conference arguing against the House position on HB 73, a circumstance that section 769(5) obviously seeks to prevent. However, and again, at least one House member must be appointed from the side that did not prevail on that controversy. That member could be one of them, but the remaining two of them are ineligible to serve.

We would like to think that these appointments were made without due consideration of Mason's, in which case a correction would be in order. If however, the appointments were a willful violation, it appears they were made for purely partisan purposes. As such, those appointments would violate the trust you accepted as Speaker to represent the entire House of Representatives and to follow its rules faithfully. If the legislative integrity of this House is to be respected, you need to remedy this violation by appointing House representation to the committee of conference on HB 73 in accordance with the rules and not in furtherance of a desired outcome.

Respectfully,	
<u>/s/ Rep. Nancy Elliot</u>	<u>/s/ Rep. William O'Brien</u>
Rep. Nancy Elliott	Rep. William O'Brien
Co-chair	Co-chair
<u>/s/ Rep. Robert Mead</u>	
Rep. Robert Mead	
Co-chair	

* Indeed, even if one to yet more obviously misconstrue the controversy referenced in section 769(5) as being limited to the original March 25th vote on HB 73, your appointments still violate this rule by not including "a representative from the minority." All four of the appointed House conferees voted in favor of OTP on HB 73. The minority position of ITL is not represented.

Despite this notice, the illicit committee of conference on HB 73 will be bringing its report to the House this session day. It should be rejected as procedurally dishonest and substantively wrong.

Wednesday, June 3

REGULAR CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 98, establishing a commission to study state regulations governing installation of boilers, pressure vessels, and related high performance HVAC equipment. **OUGHT TO PASS WITH AMENDMENT. Vote 17-0.**

HRA Analysis: This bill will create a study committee that will evaluate the desirability of a new regulatory regime that is being proposed by a state agency. This evaluation was shown to be necessary in testimony before the committee.

HRA RECOMMENDATION: Support OTP/A.

FINANCE

SB 67-FN-A, relative to funding certain AIDS services organizations and relative to certain operating budget reductions for fiscal year 2009. **OUGHT TO PASS WITH AMENDMENT. Vote 19-2.**

HRA Analysis: This bill reduces the budget for this program since it is now out of the Senate budget. It keeps the distribution formula “in case” money comes from somewhere for the program. Lower taxes are the result of lower spending.

HRA RECOMMENDATION: Support OTP/A.

SB 89-FN, relative to unemployment overpayments. **OUGHT TO PASS. Vote 21-2.**

HRA Analysis: Occasionally, and because of a delay in obtaining information from employers, unemployment compensation will be sent to discharged employees, but when all the information is received, the payments will be found to have been mistaken. Testimony before the committee was that this would usually happen without fault by the recipient. Underlying our party’s platform is an effort to be fair to citizens of our state; requiring reimbursement by faultless recipients when they are often financially stressed would not be fair.

HRA RECOMMENDATION. Support OTP.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations. **OUGHT TO PASS WITH AMENDMENT. Vote 13-9.**

HRA Analysis: The NH GOP Platform rightfully states we should work to keep “*state government lean to minimize its burden on taxpayers and businesses.*” This legislation is the antithesis of this goal. According to departmental testimony, the fiscal note underestimates expenditures by nearly \$300,000 in the first year. The department cannot or will not state what the on-going costs will be, but they will be high. This bill will, in essence, allow every mother to stop working when school is out, collect unemployment, until a job is found in the fall, it thus expands welfare and, in essence, offers welfare to many who are affluent. The department expects that the stimulus money available to cover this new entitlement will be expended within 3 weeks. Once expended, the expanded costs will be borne on the backs of businesses that pay for this benefit. As a result, this bill would impose an additional and extreme penalty on the backs of business.

HRA RECOMMENDATION. Oppose OTP.

SB180-FN, establishing an accountability system to ensure the opportunity for an adequate education and repealing the legislative committee on costing an adequate education. **OUGHT TO PASS. Vote 13-10.**

HRA Analysis: New Hampshire Republicans support local control, not assisting the judicial usurpers, ever-grasping state bureaucrats, and their legislator-enablers in taking over and destroying what had been one of the best education systems in the country.

HRA RECOMMENDATION. Oppose OTP.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

SB 40, relative to protecting workers and local governments with advance notice of impending plant closings and layoffs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE. Vote 13-2.**

HRA Analysis: This bill requires business with 80 employees or more to give a 60-day advance notice to employees of plant closings and lay offs. The federal regulation of this type pertains only to businesses with 100 or more employees. NH would be the only New England state more stringent than the federal requirements, putting NH at an economic disadvantage for attracting and retaining business. Our platform

states that we should be “*working to prevent over-regulation of business, particularly with respect to small businesses.*”

Recommendation: Oppose OTP/A, then Support ITL (but support any amendment raising the employee number).

SB 129, establishing a committee to study negative balance employers. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE. Vote 15-4.**

HRA Analysis: This bill contains multiple facets for keeping the unemployment compensation trust fund solvent. While the trust fund needs to be replenished and the department of employment security has worked hard to come up with a solution, the plan developed by the department replenishes the fund too rapidly given the current economic climate. This places an additional burden on businesses of having to pay greater taxes in a recessed economic market. Our platform calls for “*creating a supportive business climate*” and promoting jobs under section 6. It also calls for minimizing taxes under section 7. The mandates under both of these sections require that the compensation fund be replenished at a reasonable rate. The trust fund should be replenished, but at a more gradual rate that is sensitive to the economic climate and conducive to businesses being able to handle the additional tax burden.

Recommendation: Oppose OTP/A, but support floor amendment and support OTP/A with the floor amendment.

PUBLIC WORKS AND HIGHWAYS

SB 78, relative to contractor accountability and disclosure in the public works construction procurement process. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE. Vote 10-6.**

HRA Analysis: As the minority blurb states, this is unnecessary, business-unfriendly legislation. The state Republican Party platform counsels against over-regulating business and this bill would over-regulate business.

HRA RECOMMENDATION. Oppose OTP.

RESOURCES, RECREATION AND DEVELOPMENT

SB 203, relative to liability protection for railroad operators operating alongside recreational trails. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE. Vote 12-3.**

HRA Analysis: This poorly-crafted bill would allow construction of recreational trails within active railroad rights-of-way by limiting the liability of the railroads unless there is gross negligence or willful misconduct. The reason is to allow lower insurance premiums. A basic tenant of constitutional law is equal protection. To artificially provide one entity immunity from liability transfers that liability to another. This should be done with the greatest care and only after informed deliberation. In this case, the issue was rushed through a committee that did not have the background for the task. The ancient oath "First Do No Harm" is particularly apt here.

HRA RECOMMENDATION: Oppose OTP/A, then Support ITL.

SCIENCE, TECHNOLOGY AND ENERGY

SB 85, relative to the commission to develop a plan for the expansion of transmission capacity in the north country. **OUGHT TO PASS WITH AMENDMENT. Vote 12-2.**

HRA Analysis: The free market atrophies in direct proportion to the extent of government intervention. If the North Country requires transmission capacity, the free market will quickly find the least costly way to provide it. Or we can rely on government to do so, in which case we will learn the most inefficient way to meet any such need.

HRA RECOMMENDATION: Oppose OTP/A.

COMMERCE AND CONSUMER AFFAIRS

SB 55, establishing a commission to study the collision repair industry in New Hampshire. **OUGHT TO PASS WITH AMENDMENT. Vote 16-0.**

HRA Analysis: More government intervention to make sure yet another industry has good “*long term economic health*.” The collision repair industry will have good economic health if it provides services and products needed in the market, otherwise it will not. Indeed, we can predict that those businesses that provide quality collision repair services efficiently will have great economic health. It is clear that the current majority truly does not trust the market. Even a columnist for the old Soviet-era newspaper Pravda is concerned about the recent descent of the American economy into Marxism: See <http://english.pravda.ru/opinion/columnists/107459-0/>. Apparently, the Commerce Committee has no such concern.

HRA RECOMMENDATION: Oppose OTP/A.

SB 115, relative to eligibility for the healthy kids program. **OUGHT TO PASS WITH AMENDMENT. Vote 18-0.**

HRA Analysis: Health kids now should include those “children” in the 19 to 26 age group. But of course, to the majority we are all children in need of government services including nationalized health care. And once government completes the ongoing creep to universal, government-financed health insurance, it can make sure we adhere to a nanny definition of healthy lives by enacting laws that criminalize and tax unhealthy lives. Enough of these bills and freedom in the country will die in a whimper barely heard from under a smothering blanket of “good intentions” legislation.

HRA RECOMMENDATION: Oppose OTP/A.

SB 138-FN, relative to insurance coverage for telemedicine services. **OUGHT TO PASS WITH AMENDMENT. Vote 16-0.**

HRA Analysis: Another session day, another health care insurance mandate. What this bill does is to prohibit any “*health benefit policy ... requir[ing] face-to-face contact between a health care provider and a patient as a prerequisite for payment for services...*” Everybody it seems has their own special concerns about what health care insurance policies don’t cover and we all will pay to eliminate all those concerns, first with highly and unnecessarily inflated premiums and ultimately with government-financed health care. This is over-regulation of business at its worse and the inevitable result is that the health care marketplace is being destroyed.

HRA RECOMMENDATION: Oppose OTP/A.

SB 147-FN, relative to the data collection practices of health care providers and relative to the development of an uninsured health care database. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE. Vote 14-4**

HRA Analysis: The ranks of the medically uninsured can be divided into three parts: those affluent enough to cover their own health care costs and choosing not to be insured, those young enough or, in their own minds healthy enough, that insurance is felt by them to be unnecessarily expensive and, finally, those who cannot

afford health care insurance. Government, through its health care insurance policy mandates and over-regulation of health care insurance providers, having incentivized the first two groups out of the market and having made coverage too expensive for the remaining third, now wants to collect data so that it can move all of us to government medical coverage to “solve” the problem of the uninsured. It should first get rid of the mandates and see if there continues to be a problem.

HRA RECOMMENDATION: Oppose OTP/A; Support ITL

SB 190, relative to race track cocktail lounge licenses. **MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH AMENDMENT. Vote 17-1**

HRA Analysis: As described in the minority blub, this is special interest legislation. Government is at its worse and most corrupt when it is choosing winners and losers in the marketplace.

HRA RECOMMENDATION: Oppose OTP; Support OTP/A.

NOTICE OF RECONSIDERATION

Representative Margaret Crisler - *SB 33, allowing lobbyists and those connected with lobbyists to sit on committees established by the judicial branch*

HERE IS THE ORIGINAL HRA RECOMMENDATION:

HRA Analysis: Underlying our party platform is an approach to government that promotes openness and citizen participation. Our courts have traveled far from being open and responsive institutions, but that does not provide reason to allow them to go further along in that journey. Letting lobbyists join in the operation of our courts is antithetical to the concept of a “*government of the people, by the people, for the people.*” It should be clear to all of us that Abraham Lincoln would never have substituted the word “lobbyist” when he described that ideal government in the Gettysburg Address and neither should we.

HRA RECOMMENDATION: Oppose OTPA.

Your Handy Guide for Thinking out of the Box

"You have enemies? Good. That means you've stood up for something, sometime in your life."

Winston Churchill