

# 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.

## RECONSIDERATION

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

**HRA Analysis:** This bill deals with the situation where a police officer has a history of lying, falsifying evidence or for some other reason there is exculpatory evidence in his personnel file. The US and NH Supreme Courts have ruled that police departments and prosecutors have a duty to disclose this evidence to defendants, but the law and current practice says otherwise. The Giuda floor amendment adds the exact Supreme Court language to statute. The bill as amended brings the law into compliance with the US and NH constitutions by codifying the duty to disclose evidence.

**HRA Recommendation: Support reconsideration, Support the floor amendment and Support OTPA**

## OFF THE TABLE

**HB 591**, relative to the determination of parental rights based on the best interest of the child; relative to grounds for modification of an order regarding parental rights and responsibilities, and relative to grandparent and stepparent visitation rights. **ITL 11-5**

**HRA Analysis:** The platform states that in an effort to protect marriage and family the party must “advocate a presumption in favor of joint custody and favor equitable treatment of both parents in child custody and child support determinations.” This bill does advocate for equitable treatment of parents, specifically divorcing/divorced parents, as it requires that the court shall issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status, unless the court makes an explicit finding that such contact is not in the best interest of the child. There shall be a rebuttable presumption that joint parental rights and responsibilities, as close to 50 percent parenting time for each parent as is possible given the parties availability and logistics, is in the best interest of the child or children. The bill also requires that an objection by one parent to a proposed parenting arrangement shall not be the sole basis for refusing the entry of an order that the court determines is in the best interest of the minor child. The court shall place in the record the specific factors and findings which justify any parenting arrangement not agreed to by both parents, unless otherwise requested by one of the parties.

**HRA Recommendation: Oppose ITL, Support OTPA**

## EDUCATION SPECIAL ORDER

**CACR 8**, relating to education. Providing that the legislature shall have the power to authorize schools. **MAJ: OTP MIN: ITL Vote 12-5**

**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**

## WEDNESDAY, MARCH 28 REGULAR CALENDAR

### COMMERCE AND CONSUMER AFFAIRS

**HB 1560**, relative to the interstate Health Care Compact. **MAJ: OTPA MIN: OTP Vote 11-2**

**HRA Analysis:** This bill sets forth a pro forma Health Care Compact and asks Congress to approve it. Should it receive congressional approval, it would allow the states in the compact to customize federally inspired and partially funded healthcare

programs. Our strong stand against Obamacare shows we do not want federal control of healthcare. The committee's amendment eviscerates the bill by turning it into a study committee. All that committee can do is recommend that we adopt or reject the compact since all states must adopt the same thing to be valid. Why not just do that now?

**HRA Recommendation: Oppose the committee amendment and Support OTP**

## **CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION**

**HB 1227**, relative to disqualification of certain members of the general court. **INTERIM STUDY Vote 11-5**

**HRA Analysis:** This bill is a good vehicle for the discussion of the issues raised regarding advocacy, lobbying, compensation, conflicts of interest, ethical guidelines, qualifications for office which the house might judge (Part 2, Article 7), and all of the related constitutional issues, and what solution, if any, is needed. This is a big enough area that more thought is also needed as to the form of a solution, whether via house rules, constitutional amendment, ethical guidelines, statute, etc.

**HRA Recommendation: Support Interim Study**

**HB 1350**, relative to the style and form of new articles and amendments to articles proposed by constitutional amendment concurrent resolutions. **OTPA Vote 11-5**

**HRA Analysis:** This bill is concerned with matching the style and format of the New Hampshire constitution as it was originally. By ensuring that capitalization remains intact on certain key words and that the titles which may limit interpretation are not part of the constitution, we can help preserve the integrity of the legacy of our founders, and the foundation of laws by which we, the people, have formed this government. The secretary of state is in agreement with this intent.

**HRA Recommendation: Support OTP**

**HB 1395**, revoking amendments to supreme court rules 50 and 50-A. **MAJ: OTP MIN: ITL Vote 10-5**

**HRA Analysis:** This bill repeals an unconstitutional mandate by the Supreme Court taxing clients of attorneys for the interest earned on escrow accounts held by those attorneys. This is a violation of Part 1, Articles 4 and 28 as the courts do not have the power to tax. It is taxation without representation.

**HRA Recommendation: Support OTP**

**HB 1475**, relative to enforcement of interstate compacts. **INTERIM STUDY Vote 11-2**

**HRA Analysis:** This bill would enforce the Constitution, Part 1, Article 28: "No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body." However, we have specifically authorized agencies (Transportation for the most part) to enter into interstate compacts that require enforcement of out-of-state charges. For example, the EZ Pass agreement requires us to enforce MA toll charges and fees on NH residents, as they enforce NH fees on their residents. Interim study is one way out of this quandary.

**HRA Recommendation: No recommendation**

## **CRIMINAL JUSTICE AND PUBLIC SAFETY**

**HB 1659-FN**, relative to the women's right to know act regarding abortion information. **MAJ: OTPA MIN: ITL Vote 8-7**

**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 states we believe the unborn child has a fundamental right to life which cannot be infringed upon, and supports taking steps to ensure women are well informed to hopefully avert a decision to have an abortion. The committee's amendment removes criminal penalties.

**HRA Recommendation: Support OTPA**

## **EDUCATION**

**HB 1403**, allowing a parent or guardian to withdraw a child from a school district which adopts the international baccalaureate program. **MAJ: OTPA MIN: ITL Vote 9-4**

**HRA Analysis:** The original bill allows parents to opt out of a school that uses the International Baccalaureate program, and move their child to another school. This is impractical since another nearby school may not exist or may not be willing to take the student. The amendment adds law which states that schools may not use curriculum that is subject to foreign governance, and it establishes a committee to study the IB program in particular. Part 1, article 12 of the constitution may touch on this issue when it says "nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent", but the connection is tenuous.

**HRA Recommendation: No recommendation**

## **ENVIRONMENT AND AGRICULTURE**

**HB 1726**, exempting the transport of certain electronic waste and universal waste from the hazardous waste transporter registration program. **MAJ: ITL MIN: OTP Vote 8-5**

**HRA Analysis:** This bill resulted from a miscommunication between the department of environmental services and one municipal agent and would have inserted wording exempting e-waste and universal waste from municipal transporting permit

requirements into statute. The exemption already exists in DES rules and adding this proposed statute would result in inconsistencies and unnecessary confusion.

**HRA Recommendation: Support ITL**

## **FINANCE**

**HB 533-FN-L**, establishing a cap on the amount of school building aid grants distributed in each fiscal year. **MAJ: OTPA MIN: ITL Vote 22-2**

**HRA Analysis:** This bill changes the structure of the school building aid program. It puts a cap of \$50M on the amount spent each year. It spends first on projects that have already been partially funded. It prioritizes new applications and spends remaining funds on the top projects on the list, until the funds run out. The platform doesn't address this level of detail.

**HRA Recommendation: No recommendation**

**HB 1274-FN**, transferring the McAuliffe-Shepard discovery center to a private operator and making a supplemental appropriation therefor. **OTPA Vote 21-3**

**HRA Analysis:** This bill finalizes the plan to privatize the McAuliffe-Shepard Discovery Center. It allocates \$385K for a transition period, and has the state assume the center's debt and rent. The platform says that "Programs and functions should be reviewed to identify those that can be implemented more effectively in the private sector." This is such a program.

**HRA Recommendation: Support OTPA**

**HB 1285-FN**, repealing the state art fund. **MAJ: INTERIM STUDY MIN: OTPA Vote 15-9**

**HRA Analysis:** The Constitution, Part 2, Art 83 "it shall be the duty of the legislators ... to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts ..." Right now we automatically spend a half-percent of the construction cost of certain projects on art (up to \$75,000 each). The bill eliminates that formula, and allows art to be purchased on a case-by-case basis, just like other things the state buys. While the majority seem to think that the current system is a cap, in reality it is a floor on spending. With this bill the legislature, forced to consider and fund art as a specific item, will encourage and cherish it appropriately. The amendment takes care of seeing that ongoing projects can continue and that future art purchases will use the same selection system as they do today.

**HRA Recommendation: Oppose Interim Study and Support OTPA**

**HB 1552-FN**, relative to the reporting of funds. **OTPA Vote 23-0**

**HRA Analysis:** This bill ensures better online reporting of dedicated funds. Both the constitution and the platform support open, accountable government.

**HRA Recommendation: Support OTPA**

**HB 1652-FN-A**, requiring the transfer of insurance premium tax revenue to the revenue stabilization reserve account. **MAJ: OTP MIN: ITL Vote 20-6**

**HRA Analysis:** This puts the \$17.7M budget surplus from FY11 into the rainy day fund. That fund has been depleted to less than \$10M. If we can build the fund back to the \$100M range we will improve our credit rating, and be prepared for emergencies. As President Washington said, "As a very important source of strength and security, cherish public credit." For fiscal conservatives, this bill is better than spending the surplus, but tax cuts would be better yet. Maybe next year...?

**HRA Recommendation: Support OTP**

**HB 1658-FN**, limiting financial assistance for mothers who have additional children while receiving Temporary Assistance to Needy Families (TANF). **MAJ: OTPA MIN: ITL Vote 20-6**

**HRA Analysis:** This bill as amended adds a fraud detection system to the process of granting welfare. The system has had great success in other states. Monies saved by eliminating fraud are used to pay the state's liabilities in a lost court case (Chase Homes). The platform calls for government that is effective and efficient. Stopping welfare fraud will improve effectiveness.

**HRA Recommendation: Support OTPA**

**HB 1692-FN**, making changes to the administration of the university system of New Hampshire **MAJ:OTPA MIN:ITL 14-10**

**HRA Analysis:** The university system has very high central office overhead. The bill without the committee amendment drastically cuts those central positions to at most twelve and eliminates the chancellor. The amendment takes a different approach. It requires the system as a whole to cut administration by \$2.4M (about 5%) and to apply that savings to lowering in-state tuition. While the original bill is a more drastic restructuring, it is unclear whether the central employees will simply be moved to the individual universities, negating much of the savings. The platform promotes limited, efficient government. In this case we prefer the cleaver to the pen knife.

**HRA Recommendation: Oppose the committee amendment, Support OTP**

## **HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**HB 1680-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics. **OTPA Vote 14-3**

**HRA Analysis:** This bill requires that abortion be kept and reported to us and the federal government. 47 other states manage to do this just fine, but the HHS committee raised a number of questions and concerns. There are three legitimate problems in

the original bill (an unnecessary involvement with the CDC, an incorrect definition of "licensure", and a requirement that the statistics be reported directly to the legislature instead of requested through HHS) and the oversight committee has already begun work on resolving the remaining issues. The oversight committee intends to have a completed and correct amendment to present to the Senate. For these reasons, and because the bill's ultimate intent is consistent with the platform support of transparency and opposition to abortion, support passage as amended.

**HRA Recommendation: Support OTPA**

## **JUDICIARY**

**HB 1653-FN**, relative to the rights of conscience for medical professionals. **MAJ: OTP MIN: ITL Vote 12-5**

**HRA Analysis:** Although this bill has strong constitutional underpinnings, including the natural right to abide by one's conscience, information brought forth by the sponsor and others after the public hearing have created significant concerns. This information includes, among other things, the bill's listing euthanasia as a medical practice when in fact it is illegal, and also includes the failure of the bill to provide for an emergency exception. Due to the confusion and seriousness of the issues, the committee consensus is to table the bill.

**HRA Recommendation: Support tabling**

**HB 1660-FN**, relative to abortions after 20 weeks. **MAJ: OTP MIN: ITL Vote 12-4**

**HRA Analysis:** This bill prohibits abortions if the postfertilization age of the unborn child is 20 or more weeks, with certain exceptions. The age was decreased to 20 weeks because medical testimony showed that at 20 weeks the unborn child can feel pain. The bill also creates a reporting system to ensure statistics regarding abortions may finally be compiled. The platform supports the unborn child's fundamental right to life, and also supports endorsing legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. This bill directly addresses the need put forth in the platform.

**HRA Recommendation: Support OTP**

**HB 1725-FN**, prohibiting health care practitioner self-referrals for medical devices. **OTPA Vote 12-4**

**HRA Analysis:** This bill prohibits a physician or other healthcare practitioner from referring, ordering or arranging a medical device to patients if the device is supplied by an entity in which the physician or healthcare practitioner has a substantial financial interest, as defined in RSA 125:25-a. Although this bill addresses a large potential conflict of interest that could impact patients, it also exposes a tension because the regulation could have the unintended consequence of limiting competition and impeding innovation. There is no clear constitutional or platform issue.

**HRA Recommendation: No recommendation**

## **LEGISLATIVE ADMINISTRATION**

**HB 1623**, relative to records of the legislative ethics committee. **OTPA Vote 11-0**

**HRA Analysis:** This bill puts legislative ethics record online. This is in keeping with part 1, article 8 of the constitution: "Government, therefore, should be open, accessible, accountable and responsive."

**HRA Recommendation: Support OTPA**

## **MUNICIPAL AND COUNTY GOVERNMENT**

**HB 1634**, establishing a committee to study the implementation of United Nations Agenda 21 into the state, counties, regional commissions, towns, and cities. **ITL Vote 12-2**

**HRA Analysis:** This bill creates a committee to study Agenda 21, "a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations System, Governments, and Major Groups in every area in which human impacts on the environment." Our national party has come out against Agenda 21, so the argument against this bill is that no further study is needed. The Municipal and County committee promises to take action against Agenda 21 by amending a Senate bill. Agenda 21 is counter to our constitution, part 1 article 12: "Nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent."

**HRA Recommendation: No recommendation**

## **SCIENCE, TECHNOLOGY AND ENERGY**

**HB 1238**, relative to divestiture of Public Service of New Hampshire (PSNH) generation assets. **OTPA Vote 12-2**

**HRA Analysis:** HB 1238 is counter to the platform in that it does not support a favorable business environment for those NH companies that rely on choice in electric generation services (Section VI), and potentially creates security issues by initiating a policy that could result in the shutdown of vital electric power plants within the state's borders (Section IX). The bill may also create upwards pressure on local property taxes in many municipalities in NH by potentially shutting down or negatively impacting the value of key facilities in those towns. The amendment makes the bill more palatable because instead of just ordering divestiture it asks the PUC to study the ramifications and then decide.

**HRA Recommendation: Support the committee amendment, Oppose OTPA, Support ITL or tabling**

**HB 1490-FN**, repealing New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. **MAJ: OTP MIN: ITL Vote 8-6**

**HRA Analysis:** The platform says we are "Working to reduce New Hampshire's energy costs and remove New Hampshire

from the Regional Greenhouse Gas Initiative.” This bill reduces energy costs for the state, towns, and citizens who are customers of PSNH. In addition, it winds down the program of selling these allowances and granting the proceeds to well-connected people for energy efficiency projects, a method to transfer wealth from the people to the politically favored. Getting out of RGGI completely would be preferable, but if we can't, let's minimize the damages and the corruption.

**HRA Recommendation: Support OTP**

**HB 1724-FN**, requiring certain engine coolants and antifreeze to include an aversive agent so that they are rendered unpalatable. **ITL Vote 11-3**

**HRA Analysis:** The platform says we are “Working to prevent over-regulation of business.” Mandating a specific aversion agent, without evidence of its effectiveness, is over-regulation. Let the market decide.

**HRA Recommendation: Support ITL**

## **SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM**

**HB 1460**, establishing a committee to study additional public employee pension reforms. **MAJ: OTPA MIN: ITL Vote 11-4**

**HRA Analysis:** This bill, as amended, sets up a mandatory defined contribution retirement system that is similar to those available in the private sector. The platform says “Public employee benefits should be similar to those of the private sector .” In addition, this type of retirement system meets the Constitutional requirement that “pensions ought to be granted with great caution, by the legislature, and never for more than one year at a time”. A defined contribution pension means that this year, the state puts aside money for the pension benefits earned this year – and that's it. The defined benefit plan currently in place requires, in addition to the annual contributions, that the state and municipalities be ready to pay more when the stock market tanks, or employees retire sooner, with fatter severance payments, than anticipated, or retirees live longer than expected. It is also easier to make promises now, since the payment is not due until later – a dangerous situation for a legislature subject to influence by employees and retirees.

**HRA Recommendation: Support OTPA**

## **WAYS AND MEANS**

**HB 593-FN-A-L**, relative to video lottery and table gaming. **MAJ: OTPA MIN: ITL Vote 14-7**

**HRA Analysis:** This bill brings casino gambling, primarily via video slot machines, to New Hampshire. The three versions of the bill are the original, the committee amendment and the Vaillancourt amendment. They allow 2, 4 or 6 casinos respectively. They also vary the sizes of the casinos, the payout of the machines, the licensing fees, the state's percentage, and other details. The platform opposes casino gambling in two parts. First, it says that “Republicans will first control spending before considering expanded gambling.” Second we flatly “Oppose casino and video-lottery gambling because of the negative social consequences.” We have presumably accomplished #1, but there is still #2. Even more seriously, these proposals are unconstitutional. Part 1 article 10 says government is “not for the private interest or emolument of any one man, family, or class of men” and part 2 article 83 says in part “Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it.” All of these proposals specifically set up a monopoly of 2, 4 or 6 casinos who would have exclusive right to these forms of gambling in the state. The monopoly is deliberate since it is the very basis of the high taxes placed on these enterprises. A competitive market in gambling would allow any number of enterprises to participate and not restrict their sizes such that only the favored few can afford a license. Proponents claim that previous court cases have ruled in favor of limited licensing, but they did not turn on absolute limitations on number, but rather geographic limitations and discretion given to a licensing board.

**HRA Recommendation: No recommendation on the amendments, Oppose OTP or OTPA, Support ITL**

**HB 1607-FN-L**, establishing an education credit against the business profits tax. **MAJ: OTPA MIN: ITL Vote 16-5**

**HRA Analysis:** The School Choice Scholarship Act passes the HRA's three-pronged test with flying colors: it's constitutional, it's a GOP platform issue, and it is good public policy. The platform clearly states: “Laws should be implemented to encourage school choice and competition and allow all parents to choose the best public, private, charter or home school program for their children;” and “School vouchers or tuition tax credits should be made available to assist in school choice.” A mountain of academic research from reputable institutions has demonstrated that scholarship recipients perform as well as or better than their public school peers, and that school choice programs even have a positive impact on public school performance as a result of increased choice and competition.

**HRA Recommendation: Support OTPA**

**HB 1701-FN**, prohibiting New Hampshire from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state. **MAJ: OTP MIN: INTERIM STUDY Vote 17-4**

**HRA Analysis:** The bill contains a prohibition against having a New Hampshire drivers license suspended, revoked or non-renewed for failure to pay taxes to a state other than New Hampshire. The situation triggering this amendment was a request from Massachusetts that suspended a NH driver's license for failure to pay Massachusetts income tax. Our platform indicates: “Strong opposition to any broad-based taxes, including an income, sales or capital gains tax.” Also, part 1 article 12 of the constitution states that “nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent.”

**HRA Recommendation: Support OTP**