



### CONSENT CALENDAR

#### HB 1170 – Relative to licensure of home health care providers.

Committee report: Executive Departments & Administration: OTP (17-0)      Our recommendation: **YEA on OTP**

This bill, which reduces the frequency of on-site home health care agency inspections to biennially, is **pro-liberty**:

- By relaxing annual inspections of agencies with a history of satisfactory performance, inspectors are freed to spend more time working with those in need of improvement.
- With today's dire economic situation, all departments must limit overhead and personnel costs.

### REGULAR CALENDAR – starting at Municipal & County Government

#### HB 1239 – Relative to processing certain environmental permits and administrative fines for violations of dredge and fill requirements.

Committee report: Ways & Means: OTP/A (17-3)      Our recommendation: **NAY on OTP/A**

This bill, which increases fines certain violations and undermines one's right to a speedy application process, is **anti-liberty**:

- The incredibly high increase of 250% on fines is particularly punitive and will negatively affect investment in property and infrastructure projects, leading to further delays in economic recovery.
- This bill expands the punitive power of the department while reducing its accountability to citizens of the state.
- It further subjugates private property rights to state bureaucracies.
- Unintended consequences will include construction delays, increased costs of doing business, arbitrary enforcement, and greater disrespect for the Department of Environmental Services.
- The changes assume that the DES is always right, and the applicant bears burden of proof in cases of disagreement.

#### HB 1286 – Requiring nonpublic schools and public academies to obtain a criminal history records check on employees and volunteers.

Committee report: Ways & Means: OTP/A (15-3)      Our recommendation: **NAY on OTP/A**

This bill, which requires nonpublic schools to perform criminal background checks on job applicants, is **anti-liberty**:

- Private schools should be free to screen job applicants as they and their customers deem best, not be required to implement what a top-down, one-size-fits-all mandate tells them is appropriate.
- Many people convicted of victimless crimes get caught up in the unforgiving web of government police records; peaceful people who are no danger to students may be denied employment opportunities unjustly.
- This is an invasion of privacy for little gain: Many other businesses that deal primarily with children are not being similarly regulated.
- The amendment puts an additional burden on the state police, requiring additional resources and costing taxpayers more money.

#### HB 1520 – Relative to the rulemaking authority of and administrative fine authority for the dept. of resources & economic development.

Committee report: Ways & Means: OTP/A (12-8)      Our recommendation: **NAY on OTP/A**

This bill, which expands the authority to the Department of Resources & Economic Development, is **anti-liberty**:

- This bill creates new violation-level offenses, trials for which offer the least amount of due process and constitutional protections.
- It also creates fines for these violations that are twice that of the default maximum for a violation-level offense (\$1,000).
- It grants expanded police power to municipalities to issue court summonses and enforce these administrative fines.
- Municipalities are allowed to keep half of the fine revenue generated by such summonses, which will only encourage abuse.

#### HB 431 – Requiring certain engine coolants and antifreeze to include an aversive agent so that they are rendered unpalatable.

Committee report: Criminal Justice & Public Safety: OTP (15-2)      Our recommendation: **NAY on OTP**

This bill, which requires that chemicals be added to antifreeze to make it unpalatable, is **anti-liberty**:

- This bill is unnecessary because these companies are changing their formulation anyway.
- The additional costs of such regulation—including the cost of promulgating and enforcing the laws, inspection for compliance, and additional bookkeeping to ensure compliance—will be a drag on our economic engines.
- The free market has clearly demonstrated that consumers will pay extra for products they deem to be safe or eco-friendly, demonstrating that this level of micromanagement is unnecessary.
- Government should be protecting people's rights, not restricting their freedoms or compelling money from one very large group, car owners, to assuage another group, a few people who are concerned about a small number of random coolant spills.

#### HB 1544 – Relative to penalties for forestry violations.

Committee report: Criminal Justice & Public Safety: OTP (17-0)      Our recommendation: **NAY on OTP**

This bill, which increases fines and expands the rulemaking authority of the department, is **anti-liberty**:

- Giving wide powers to a department commissioner and excessive leeway to the attorney general, both of which are political positions, invites abuse and misappropriation of power.
- Fines of \$10,000 for such minor offenses violate **Part I, Art. 18** of the N.H. Constitution: "All penalties ought to be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. 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."
- This bill seems to imply that trees have greater rights than the citizens of New Hampshire.

**HB 1471 – Requiring the governor’s office of energy and planning and the board of home inspectors to develop a document relative to home energy efficiency for home buyers.**

Committee report: Executive Departments & Administration: OTP (9–8) Our recommendation: **NAY on OTP**

This bill, which requires home inspectors to distribute a document on energy efficiency prepared by the state, is **anti-liberty**:

- This bill’s language and goals are vague, potentially leading to a wide range of interpretation and misapplication.
- Many public utilities and private contractors already advertise and promote energy efficiency programs; this bill would be redundant and a waste of state resources.
- The additional compliance and regulation placed upon home inspectors will increase the cost of their service, thus adding a further burden on the cost of real estate transactions, with its inherent chilling effect on the marketplace.
- Consumers already know that increasing energy efficiency in their homes will save them money.
- The funding source for this bill, the systems benefit fund, comes from a tax on everyone’s utility bill and is used for both home heating subsidies and energy efficiency initiatives. Diverting this money for a new program is wasteful, and will put pressure on the state to raise that tax so it can continue to pay for its original purpose.

**HB 1428 – Relative to death benefits for surviving spouses of a New Hampshire retirement system member.**

Committee report: Finance: OTP (14–11) Our recommendation: **NAY on OTP**

This bill, which expands the state pension program to spouses even if they remarry, is **anti-liberty**:

- The pension fund is currently underfunded. Any expansion of benefits will only make this deficit worse.

**HB 1226 – Relative to caregiver support services for the elderly.**

Committee report: Finance: OTP/A (13–9) Our recommendation: **NAY on OTP/A**

This bill, which establishes the caregiver support services program under the Department of Health & Human Services, is **anti-liberty**:

- It codifies into New Hampshire’s statutes a service that is currently being provided by the Department of Health & Human Services with federal funding under Title III of the Older Americans Act, Pub.L. 89-73, 79 Stat. 218 (1965), as amended. Writing this service into our statutes will create a legal obligation for the state to continue to provide for it, and may result in a class-action lawsuit when it is unable to do so, despite the provision in the bill stating that any state obligation is subject to funding.
- Continued federal funding for caregiver support is uncertain, and the state’s ability to fund such services when facing an enormous and growing budget deficit is even more uncertain.

**HB 1664 – Making appropriations reductions in the operating budget for FY 2011 and relative to state revenues and expenditures.**

Committee report: Finance: OTP/A (24–0) Our recommendation: **YEA on OTP/A**

This bill, which amends the state budget to eliminate non-essential and wasteful spending, and is expected to save the state over **\$47 million** dollars in FY 2011, is **pro-liberty**:

- Reductions in government spending are absolutely necessary to ensure a strong New Hampshire economy going forward.
- To minimize impact on any one department, spending reductions have been distributed throughout many different agencies.
- These cost-saving measures have been thoroughly discussed by the committee, which *unanimously* recommended their passage.

A brief overview of the changes:

- Certain executive branch departments and the judicial branch must reduce general fund appropriations for FY 2011.
- Some redundant and non-essential government offices will be closed. Hundreds of thousands of dollars will be saved by eliminating other non-governmental offices, *e.g.*, the N.H. Film Commission, and non-governmental recreational projects.
- Some transfer payment programs have their funding reduced.
- Member contributions to the New Hampshire Retirement Systems are also modified slightly.

**HB 1693 – Relative to the powers of the joint committee on legislative facilities.**

Committee report: Legislative Administration: ITL (10–7) Our recommendation: **NAY on ITL**  
**YEA on 2010-0984h**

This bill, which restricts the powers of the Joint Committee on Legislative Facilities, is **pro-liberty**:

- **Part I, Art. 12** of the N.H. Constitution states that “[n]or are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent.” A single committee of the Legislature has no authority to unilaterally pass a rule banning firearms in the State House.
- This committee has not only acted unilaterally but also in direct opposition to the obvious will of the Legislature, which has repeatedly *killed* bills attempting to regulate or ban firearms in the State House and other public buildings. This year alone, the Legislature killed a bill banning the carrying of weapons in the State House, HB 1654, 300–35, and another bill banning carry in all public buildings, HB 1635, 256–33.
- By attempting to ban weapons in the State House, the committee has acted outside of its implied powers: This bill explicitly specifies a limit on their power in order to correct this.
- The NHLA supports the bill in its original form, but also supports floor amendment **2010-0984h**, which strengthens the bill.

**LAID ON TABLE**

**HB 1188 – Relative to nominating a political organization by nomination papers.**

Committee report: Election Law: OTP/A (8–6) Our recommendation: **YEA on OTP/A**

This bill, which reduces the number of signatures required to nominate a candidate or party by nomination papers, is **pro-liberty**:

- Candidates for office should be treated equally under the law no matter their political affiliation. Current law sets a lower petitioning threshold for major parties than for independent or third party candidates. For example, an independent needs 150 certified signatures to run for state representative, while a major party member needs only five.
- New Hampshire’s ballot access laws are currently more restrictive than the national average. This bill is a step in the right direction.