



GOLD STANDARD



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HOUSE SESSION - WEDNESDAY, FEBRUARY 27, 2019

HB 101 YEA ITL	HB 254 YEA ITL	HB 511 NAY OTP/A	HB 634 NAY OTP	HB 689 NAY OTP/A
HB 153 YEA OTP/A	HB 290 YEA ITL	HB 545 NAY ITL	HB 641 NAY OTP/A	HB 696 NAY OTP/A
HB 177 NAY OTP/A	HB 438 YEA ITL	HB 547 YEA ITL	HB 680 NAY OTP/A	HB 706 NAY OTP/A
HB 184 NAY OTP	HB 481 YEA OTP	HB 551 NAY OTP/A	HB 682 NAY OTP	HB 712 NAY OTP/A
HB 218 NAY ITL	HB 491 YEA OTP/A	HB 564 NAY OTP/A	HB 686 NAY OTP/A	HB 719 NAY OTP/A
HB 232 YEA ITL	HB 505 NAY ITL	HB 623 NAY OTP/A	HB 688 NAY OTP	HB 732 NAY OTP

Special Order

HB 438, removing the exemption for premium cigars from the tobacco tax.

Ways and Means: ITL 16-3

HB 438

ANTI-LIBERTY: This bill removes the exemption from the tobacco tax on premium cigars.

- This bill would directly erode the New Hampshire advantage. NH presently has no tax on cigars. That fact has specifically drawn multiple cigar companies to NH; several moved here when MA imposed its cigar tax in 1996.
- Per the fiscal note, this would likely raise taxes by about \$500,000. HB 438 seeks to raise revenue for the state, but will ultimately fail in doing so as the business taxes paid by cigar sellers and other businesses that benefit from the out-of-state traffic the sales generate would be lost due to decreased premium cigar sales.

YEA ITL

Regular Calendar Part One

HB 680, relative to the definition of tobacco product for purposes of the tobacco tax and retail tobacco licensing.

Commerce and Consumer Affairs: OTP/A 12-8

HB 680

ANTI-LIBERTY: This bill defines what is a tobacco product for purposes of the tobacco tax and retail tobacco licensing, adding products that are capable of delivering nicotine regardless of whether the substance actually contains nicotine.

- This unnecessary tax would protect sales of traditional cigarettes and encourage people who smoke to continue smoking.
- The New England Journal of Medicine cited in a recent study that e-cigarettes are almost twice as effective at helping smokers quit as nicotine replacement therapies such as lozenges and patches.
- Subjecting smoke-free vapor products to a sin tax is punitive and grossly inappropriate.

NAY OTP/A

YEA OTP

NAY OTP

NAY OTP/A

HB 481, relative to the legalization and regulation of cannabis and making appropriations therefor.

Criminal Justice and Public Safety: OTP 10-9

PRO-LIBERTY: This bill eliminates penalties for limited personal possession and home cultivation of cannabis for adults 21 and older.

- This bill would increase personal freedom by allowing adults 21 and older to possess and give away (but not sell) up to one ounce of cannabis, five grams of concentrated cannabis, and infused products with 500 milligrams of THC outside of their homes; and securely cultivate up to six plants, three of which could be mature (with a household limit of 12 total, six mature), and possess the cannabis produced by their plants at home.
- Legalization would not only prevent innocent people from having their lives significantly impacted by minor possession arrests, but would also reduce the expense of the criminal justice system, allowing police and prosecutors to focus on serious crimes where innocent people have been victimized.
- Polls have shown 2/3 of Granite Staters and 2/3 of Americans support legalizing cannabis.
- While the bill creates new taxes and regulatory infrastructure, this compromise is a substantial improvement over current law, which subjects people to criminal penalty and potential destruction of their livelihood for victimless behavior.

HB 732, relative to over-sentencing and racial profiling.

Criminal Justice and Public Safety: Without Recommendation

ANTI-LIBERTY: This bill, which is designed to address potential inequities in the criminal justice system, is unconstitutional.

- The New Hampshire constitution states in *Part 1, [Art.] 2. [Natural Rights.] All men have certain natural, essential, and inherent rights among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness. Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin.* This bill proposes RSA 651:71 I and II(h), each containing provisions that mandate non-equal protection under the law based on race.
- The state should seek to reduce the number of victimless crime statutes to reduce the risk of over-sentencing and potential sentencing inequity.

HB 177, relative to the calculation of stabilization grants.

Education: OTP/A 17-3

ANTI-LIBERTY: This bill freezes the common sense slow reduction in education stabilization grants, which is part of current law, intended to allow communities time to adapt to changes in the education funding formulas.

- According to a study by the Josiah Bartlett Center for Public Policy, between the 1992 and 2014 fiscal years, real spending per student in New Hampshire public schools increased by 56 percent, with student enrollment growing by only 4 percent.
- During that same interval the number of teachers increased by 29 percent, while the number of non-teaching staff positions increased by 89 percent — 22 times the rate needed to accommodate student growth.

HB 184, relative to the calculation of kindergarten students in the average daily membership and repealing prorated kindergarten funding based on Keno revenues.

HB 184

Education: OTP 12-6

ANTI-LIBERTY: This bill spends more than \$9 million of additional taxpayer money on an unproven mandate that may harm as many children as it helps.

**NAY
OTP**

- Research indicates that half-day kindergarten is beneficial, but concludes all-day kindergarten is too long, robs children of valuable free play, and is counterproductive (www.washingtonpost.com/news/answer-sheet/wp/2015/08/17/why-pushing-kids-to-learn-too-much-too-soon-is-counterproductive/?noredirect=on&utm_term=.01b75ee7836d).
- Full-day kindergarten will compete with hundreds of small private businesses that are already providing these services without cost to the taxpayer.
- Studies have shown that accelerating education in young boys has potential long-term disadvantages, especially in the ability to focus at later ages. Delaying kindergarten for one year reduced inattention and hyperactivity by 73% for an average child at age 11, and it virtually eliminated the probability that an average child at that age would have an abnormal or higher-than-normal rating for the inattentive-hyperactive behavioral measure (ed.stanford.edu/news/stanford-gse-research-finds-strong-evidence-mental-health-benefits-delaying-kindergarten).

HB 551, establishing a school funding commission and making an appropriation therefor.

HB 551

Education: OTP/A 12-7

ANTI-LIBERTY: This bill allocates \$500,000 of taxpayer funds to study methods of extracting funds from taxpayers for the purposes of public education.

**NAY
OTP/A**

- While a traditional legislative committee may be an appropriate path forward to examine the correlation between school funding and student performance, providing half a million dollars to an outside group is not a prudent use of limited taxpayer funding.

HB 564, relative to possession of firearms in safe school zones.

HB 564

Education: OTP/A 11-8

ANTI-LIBERTY: This bill creates unarmed victim zones in and around schools.

**NAY
OTP/A**

- This bill would ban law-abiding adults from carrying a firearm into an area designated as a so-called "safe school zone" and would deny a mother who walks to pick up her child at school a tool to protect herself and her children.
- The definition of "safe school zone" in 193-D:1, V. is exceedingly broad as it covers not only real property but also "equipment used for school purposes" resulting in a ban that may cover numerous locations throughout the state that are not located in or near a school building.
- Studies have shown no correlation between the enactment of gun-free zones and improved safety (www.rand.org/research/gun-policy/analysis/gun-free-zones.html).

HB 689, establishing a student career and college investment program and making an appropriation therefor.

HB 689

Education: OTP/A 14-4

ANTI-LIBERTY: This bill expands taxpayer subsidy of college education and discriminates against children who are home schooled or who attend private and/or religious schools.

**NAY
OTP/A**

- While the bill as amended no longer explicitly allocates money from the general fund for this program and opts instead for an increased fee (annual surcharge on open-ended mutual funds), proposed RSA 195-J:6 I-VI ensure that future budgets will allocate funds to the program, forcing taxpayers, including those who choose non-college career paths, to subsidize the education costs of those who choose college.
- Subsidies, including both direct subsidy and subsidized student loans, ultimately increase costs for all students as colleges expand to adapt to the inflow of money (www.newyorkfed.org/medialibrary/media/research/staff_reports/sr733.pdf).

HB 719, establishing the position of school nurse coordinator in the department of education and making an appropriation therefor.

HB 719

Education: OTP/A 13-6

ANTI-LIBERTY: This bill establishes the position of School Nurse Coordinator in the Division of Learner Support, Department of Education, spending more than \$100,000 per year without any increase in direct services to students.

**NAY
OTP/A**

- While the dollar amount is small, this bill furthers the trend of increasing administrative overhead costs for state services without providing any direct benefit to the population that is intended to be served by the spending.

HB 688, relative to transfer and inspection of animals.

HB 688

Environment and Agriculture: Without Recommendation

ANTI-LIBERTY: This bill repeals the current "Sale of Pets" law (RSA 437:1-10) and replaces it with complex new regulations that will infringe upon the rights of law-abiding pet owners while having little impact on animal safety.

**NAY
OTP**

- The bill defines "hobby breeders" as anyone transferring ownership of even one animal per year and would result in a large number of unsuspecting animal lovers being caught up in complex state regulation, including allowing inspection (warrantless searches) of their premises by state and local officials, law enforcement, or health officials.
- According to the fiscal note, this bill would cost state taxpayers approximately \$1.5 million per year for personnel and equipment excluding likely additional costs for facilities. These costs would be incurred before the first animal is purported to be helped.

HB 696, establishing a protective order for vulnerable adults.

HB 696

Health, Human Services and Elderly Affairs: OTP/A 22-0

ANTI-LIBERTY: This bill enables vulnerable adults to seek protective orders for abuse, exploitation, and neglect.

**NAY
OTP/A**

- This bill allows a vulnerable adult or guardian of a vulnerable adult to seek a protective order for neglect, which is defined by new section 173-D:2 VIII as *"an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health and safety of a vulnerable adult"*.
- Other states with similar laws require that the person being accused of neglect have a caregiver role (e.g. Alabama Title 38-9-2, Montana 52-3-803, New Jersey 52:27D-407). The New Hampshire definition would allow a parent to seek a protective order for neglect against an estranged child who maintains no contact with the parent.
- A simple finding of neglect under this bill would allow the defendant's firearms to be seized and held by the police for the duration of the protective order (173-D:6 I).
- An amendment that adjusts the definition of "Neglect" to *"an act or omission by a caretaker which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health and safety of a vulnerable adult"* would improve the bill; however even with this change the bill would still enable the seizure of firearms for a finding of neglect. Further, the decision to seize firearms and prohibit future purchases is made in a proceeding where the normal rules of evidence need not apply as 173-D:4 V, as proposed, includes *"In any proceeding under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material."*

HB 712, relative to a family and medical leave insurance program.

Labor, Industrial and Rehabilitative Services: OTP/A 12-6

ANTI-LIBERTY: This bill creates a new tax on income from wages of at least 0.5% to implement a new family medical leave program.

- Employees and employers should be free to negotiate benefit programs such as paid family and medical leave insurance without the state forcing all to participate.
- The commissioner of the Department of Employment Security in conjunction with an advisory council will be empowered to raise the tax rate or lower the benefits without legislative approval (amendment caps this to 10%).
- There is a cap on benefits at 85% of the average salary, so workers who make over the average salary will be paying for benefits that they cannot collect and are disproportionately impacted by the legislation.
- The current short-term disability insurance market will be negatively impacted by government interference in the insurance marketplace.
- Long term, the fiscal note for the program estimates that the state of NH will need 43+ additional employees and \$6.6 million per year that would need to be subsidized by the participants.

HB 712

**NAY
OTP/A**

HB 232, relative to enforcement of immigration laws and the prohibition of sanctuary policies.

Municipal and County Government: ITL 11-9

ANTI-LIBERTY: This bill requires cities and towns to comply with unconstitutional detainer requests.

- This bill would require police departments to enforce ICE detainers (proposed RSA 103-A:3), which have been declared in the First Circuit to be a violation of the Fourth Amendment. As a result, this bill violates Article 19 of the NH Constitution as well as the US Fourth Amendment. See the case *Morales v. Chadbourne* (www.aclu.org/cases/immigrants-rights/morales-v-chadbourne).
- Officers and towns would be subject to 18 USC 1983 civil rights claims, which would result in towns having to pay monetary settlements, and thus increase town budgets.

HB 232

YEA ITL

HB 641, allowing municipalities to collect an occupancy fee from operators of local room rentals.

Municipal and County Government: OTP/A 12-6

ANTI-LIBERTY: This bill creates a new local option rooms tax initially capped at \$2 per night.

- New sources of taxation rarely stay at their initial rate, whether set as a flat dollar amount or as a percentage. While the initial amount is small, the rate will certainly grow over time.
- Though the bill makes the claim that the money will be used "for the purpose of establishing a municipal capital improvement or tourism support fund, which is intended to increase or stabilize local hotel and other room rental occupancy.", the Majority Report has already dropped this pretext for the new tax, opting to discuss only a capital reserve fund — the definition of which is broad enough to allow for spending the funds on nearly any municipal project.

HB 641

**NAY
OTP/A**

HB 682, establishing a water resources fund in the department of environmental services and charging certain application and permit fees.

Resources, Recreation and Development: OTP 10-9

ANTI-LIBERTY: This bill nearly triples the revenue from certain fees and delegates the power for future increases to unelected bureaucrats.

- This bill increases fees for shoreline and wetland activities including establishing fees for activities that previously required no fee (proposed RSA 482-A:3 IV-a).
- This bill allows the commissioner of Department of Environmental Services to review the fees and increase them without the approval of the legislature. It is worth noting that no power is granted to allow reduction in fees, should the DES find more efficient ways of administering these programs.

HB 682

**NAY
OTP**

HB 290, relative to the removal of certain wood stoves upon the sale of a home and notification of such removal to the department of environmental services.

HB 290

Science, Technology and Energy: ITL 10-9

ANTI-LIBERTY: This bill requires the removal and destruction of certain older wood stoves upon the sale of a home.

- In *Horne v. Department of Agriculture*, the US Supreme Court found (www.scotusblog.com/case-files/cases/horne-v-department-of-agriculture-2/) that the US Constitution's Fifth Amendment's takings clause requires the government to pay compensation for takings of personal property. This bill would require homeowners to remove and destroy certain wood stoves upon the sale of a home if the home is in an area that has been designated as densely populated by the commissioner of the Department of Environmental Services.
- While there is still a buy-back program that may provide partial relief for some owners, the forced 'taking' of personal property without a guarantee of just compensation is unconstitutional.

YEA ITL

HB 254, relative to the provision allowing operators to retain a portion of meals and rooms taxes collected and the appropriation of meals and rooms tax revenues to school building aid.

HB 254

Ways and Means: ITL 19-0

ANTI-LIBERTY: This bill effectively increases taxes on businesses that collect the meals and rooms tax by capping the amount that they can withhold to administer the collection of these taxes.

- This bill increases taxes (estimated at \$6.6 million had this been in place in 2018) on business and will likely result in higher prices as these costs are passed on to consumers.

YEA ITL

HB 623, relative to the rates of the business profits tax and business enterprise tax.

HB 623

Ways and Means: OTP/A 12-7

ANTI-LIBERTY: This bill repeals scheduled reductions in the business profits tax and business enterprise tax.

- NH's ability to attract new businesses and retain existing businesses is vital to the health of our economy. High business tax rates impede NH's ability to attract and retain businesses. Low unemployment benefits everyone.
- When profits are not heavily taxed they can be re-invested to hire more staff, create more robust research and development, or invested in capital equipment.
- Enterprise taxes are a tax on compensation. Lowering these taxes directly enables businesses to increase compensation to employees.

**NAY
OTP/A**

HB 686, relative to calculating and funding the interim cost of an opportunity for an adequate education and extending the interest and dividends tax to capital gains.

HB 686

Ways and Means: OTP/A 12-7

ANTI-LIBERTY: This bill extends the interest and dividends tax to capital gains and increases exemptions for the tax. The bill also revises the per-pupil rates for the formula for determining adequate education grants to school districts.

- A capital gains tax has a negative impact on savings. Savings creates higher levels of investment, increased worker productivity and wages, and faster economic growth.
- A capital gains tax will discourage people to invest and live in NH.

**NAY
OTP/A**

End Part One

HB 218, relative to the use of deadly force by a law enforcement officer.**Criminal Justice and Public Safety: ITL 18-1****HB 218****PRO-LIBERTY: This bill seeks to prevent a law enforcement officer from using deadly force to effect an arrest when there is no risk to human life nor risk of serious injury.****NAY ITL**

- Under current law, deadly force is deemed reasonably necessary for any case where an officer believes an arrest is lawful and the officer believes there is apparently no other possible means of effecting the arrest (RSA 627:5 VIII). This bill would retain a law enforcement officer's ability to utilize deadly force in self-defense or defense of another as well as in cases where the officer believes a suspect is likely to seriously endanger human life or inflict serious bodily injury unless apprehended without delay. However, this bill would remove the authority to utilize deadly force for arrests of simple non-violent crimes in order to effect an arrest.

HB 491, relative to questioning and detaining suspects.**Criminal Justice and Public Safety: OTP/A 19-1****HB 491****PRO-LIBERTY: This bill clarifies that failure to answer a request of a peace officer to identify oneself is not grounds for arrest.****YEA
OTP/A**

- Part 1 Art. 15. of the New Hampshire Constitution states "*[Right of Accused.] No subject shall be held to answer for any crime, or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself.*" Remaining silent is constitutionally protected and is not grounds for arrest.

HB 101, relative to regulating possession of firearms in a school district.**Education: ITL 14-5****HB 101****ANTI-LIBERTY: This bill allows school districts or chartered public schools to adopt a policy infringing upon the right of self-defense for adults.****YEA ITL**

- This bill would grant broad powers to school boards by removing all restrictions on their ability to adopt policies related to use, possession, or transportation of firearms and knives. The grant of authority does not restrict these policies to only activities taking place on school property.
- Studies have shown no correlation between the enactment of gun free zones and improved safety. (www.rand.org/research/gun-policy/analysis/gun-free-zones.html)

HB 505, allowing voters to vote for multiple candidates for an office.**Election Law: ITL 19-0****HB 505****PRO-LIBERTY: This bill would allow voters to show support for multiple candidates in a given race.****NAY ITL**

- With this simple ballot change voters will be able to easily express their opinion on every candidate.
- This eliminates the "wasted vote" problem in which voters believe that votes for a less popular candidate will be wasted because the candidate has little chance of winning.
- Approval voting enabled by this bill requires no complex method for tallying votes to determine the winner(s) of a race, as votes tallying works the same as with the current system — that is to say, vote totals for a candidate is the sum of all votes cast for the candidate.

HB 547, relative to licensure of polysomnographers.**Executive Departments and Administration: ITL 11-9****HB 547****ANTI-LIBERTY: This bill expands occupational licensing in the state.****YEA ITL**

- All NH residents deserve the opportunity to earn an honest living. Occupational licenses are permission slips from the government and routinely stand in the way of honest employment, and are designed to exclude entry into the marketplace.
- Consumers and employers, not the state, should decide who is qualified for which jobs.
- Polysomnographers work in hospitals and sleep clinics and perform work under physicians' orders, providing data that is evaluated by other professionals. Additional licensing is not warranted.

HB 634

**NAY
OTP**

HB 153

**YEA
OTP/A**

HB 545

NAY ITL

HB 706

**NAY
OTP/A**

HB 634, establishing a commission to study the licensure of individuals who forage for wild mushrooms for sale to others.

Executive Departments and Administration: OTP 12-7

ANTI-LIBERTY: This bill establishes a study commission that will seek to expand occupational licensing in the state.

- All NH residents deserve the opportunity to earn an honest living. Occupational licenses are permission slips from the government and routinely stand in the way of honest employment, and are designed to exclude entry into the marketplace.
- Consumers and employers, not the state, should decide who is qualified for which jobs.

HB 153, relative to circumstances under which police officer disciplinary records shall be public documents.

Judiciary: OTP/A 16-3

PRO-LIBERTY: This bill makes certain disciplinary records concerning law enforcement officers which have been finally adjudicated subject to the Right-to-Know Law.

- This bill affirms the right of inhabitants to obtain adjudicated disciplinary records for law enforcement officers. Disclosure would be allowed for records relating to police discharge of a firearm that led to serious injury or death.
- It would also permit disclosure of disciplinary records, after final adjudication, if a law enforcement officer has been found guilty of sexual assault or a sustained finding of dishonesty including perjury, false statements, filing false reports, destruction, or falsifying or concealing evidence.
- Public employees who hold extraordinary powers combined with immunities must be held to high standards.

Pulled from Consent Calendar

HB 545, prohibiting law enforcement officers from questioning a minor at school without a parent or guardian present.

Education: ITL 17-2

PRO-LIBERTY: This bill prohibits law enforcement officers from questioning a minor on school property without a parent or guardian present.

- Children may be more prone to false confessions and not understanding their rights. This is particularly a risk when the child is in a school setting where they might normally have an expectation that the adults in the school have their best interests at heart. Children and teens are more prone to giving false confessions than adults, falling prey to the legal high-pressure, manipulative, and deceptive interrogation techniques that may be employed in an attempt to identify a guilty party.
- According to the National Registry of Exonerations, in the last 25 years, 38% of exonerations for crimes allegedly committed by youth under 18 years of age involved false confessions, compared with 11% for adults (www.innocenceproject.org/false-confessions-more-prevalent-among-teens/).

HB 706, establishing an independent redistricting commission.

Election Law: OTP/A 20-0

ANTI-LIBERTY: This bill creates an unaccountable redistricting commission.

- The approach for creating this 'independent' commission is unlikely to result in significant independence. Appointees would be selected from politically-connected citizens by the Secretary of State.
- The purportedly independent commission would allow the legislature to claim plausible deniability in cases of gerrymandering, preventing voters from being able to properly influence the process or hold the officials involved accountable.
- This bill would add a new and potentially unconstitutional and unenforceable requirement for candidates seeking future office, mandating that commission members waive their right to hold any federal, state, or local elective public office (662-B:2 V.(a)). States can't add qualifications for candidates to federal office: U.S. Term Limits v. Thornton, 514 U.S. 779 (1995) (supreme.justia.com/cases/federal/us/514/779/).

ANTI-LIBERTY: This bill adds vaping to the law prohibiting youth access to and use of tobacco products and adds vaping to the indoor smoking ban.

- Private property owners should be able to decide if they will allow or prohibit vaping inside their establishments.
- Studies show that e-cigarettes are a safer alternative to traditional tobacco cigarettes and have a very low risk factor to public health and safety. A 2014 study found "Even when compared to workplace standards for involuntary exposures, and using several conservative (erring on the side of caution) assumptions, the exposures from using e-cigarettes fall well below the threshold for concern for compounds with known toxicity."
(bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-18#Sec17).
- There are approximately 50 vaping stores in New Hampshire currently. Adding vaping to the indoor smoking ban will have a negative impact on small business in New Hampshire.

**NAY
OTP/A**