



GOLD STANDARD



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HOUSE SESSION - WEDNESDAY, JANUARY 5, 2022

HB 65 YEA IS	HB 166 YEA ITL	HB 255 NAY OTP/A	HB 517 YEA ITL	HB 607 YEA OTP/A
HB 92 YEA ITL	HB 167 YEA ITL	HB 275 YEA OTP/A	HB 579 YEA OTP/A	HB 629 NAY IS
HB 103 NAY OTP/A	HB 172 YEA ITL	HB 355 YEA OTP/A	HB 592 YEA IS	SB 44 YEA ITL
HB 147 NAY OTP/A	HB 237 NAY IS	HB 414 NAY ITL	HB 597 YEA OTP/A	SB 92 NAY OTP/A

HB 65, requiring food service establishments to establish food allergy awareness procedures.

HB 65

Commerce and Consumer Affairs: IS 10-8

ANTI-LIBERTY: This bill requires that all food service establishments must have a certified food protection manager available at all hours.

- Many restaurants are already choosing to cater to the needs of customers with food allergies and sensitivities, both to improve business, and to protect against liability. General mandates, like this one, have unintended consequences and are often poorly suited to situations in which they are applied.
- The position of food production manager was added by HHS to regulations in 2019, and is not codified into current law.
- Current New Hampshire law exempts locally-licensed food service establishments and food retail stores from state licensure. This bill overrides that longstanding policy, and local control, by directly imposing HHS regulations on locally-licensed establishments.
- If a person is allergic, informing the restaurant before ordering is common sense. To mandate that private parties place signs explaining common sense is an unlimited and unending task, and not an appropriate role of the state.
- While the ideal motion for this bill is ITL, IS is acceptable.

YEA IS

HB 92, establishing a committee to study best practices for companion animal groomers.

HB 92

Commerce and Consumer Affairs: ITL 10-8

ANTI-LIBERTY: This study committee has a stated purpose of studying licensure of companion animal groomers.

- Barriers like these make it harder for people to find jobs and build new businesses that create jobs, particularly those of lesser means.
- The only certainty about licensure is that it manufactures political patronage jobs in the regulatory bureaucracy and reduces competition by restricting free entry into an occupation — thereby bestowing unearned profits upon those who are already licensed.

YEA ITL

HB 166, relative to safety requirements for pools on foreclosed residential property.

HB 166

Commerce and Consumer Affairs: ITL 10-9

ANTI-LIBERTY: This bill requires that any pool, spa, or other water feature structure (excluding surface waters like ponds, lakes, etc.) on the premises of a foreclosed residential property have an approved cover or net.

- This bill would require a potentially expensive cover on foreclosed property pools without consideration of other safety features that may be present (e.g. tall fences, locked gates, etc.).
- The state could reduce the risk of foreclosed property hazards by cutting spending, allowing property taxes to be reduced and thus reducing the risk of foreclosure.

YEA ITL

HB 592, requiring bond from pharmaceutical companies providing vaccines.

Commerce and Consumer Affairs: IS 10-9

HB 592

ANTI-LIBERTY: This bill would deprive New Hampshire residents of the choice to receive vaccinations for COVID-19.

- This bill uses a poorly-thought-out approach to assign responsibility to a vaccine manufacturer for injury to a party. As written, an individual who falls ill due to food poisoning 5 days after receipt of a vaccine and has a single doctor that asserts it was due to the vaccine would likely be due monetary compensation.
- Requiring compensation for lost work time from modest and known side effects would be an unprecedented level of interference in health care. Nearly all medications and treatments have risks of side effects.
- The burden of proof and level of inconvenience mandated by this bill is so low that it would likely have the effect of forcing NH residents to travel out of state in order to choose treatment.
- While the appropriate motion for this bill is ITL, IS is acceptable.

YEA IS

HB 147, relative to assault against an elderly person.

Criminal Justice and Public Safety: OTP/A 12-8

HB 147

ANTI-LIBERTY: This bill, with the proposed committee amendment, continues a dangerous trend of seeking to elevate punishment for all crimes to higher levels of punishment.

- Assault is a serious crime and already treated that way under currently law. Adding a special status for certain categories of victims is a never-ending spiral of enhanced victimhood that allows for prosecutorial 'charge stacking' that increases the risk of an innocent party accepting a plea deal in order to avoid significant punishment for a crime they did not commit.

NAY OTP/A

HB 237, relative to the legalization and regulation of cannabis and making appropriations therefor.

Criminal Justice and Public Safety: IS 12-8

HB 237

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.
- Further, the bill would enable the establishment of retail cannabis stores.
- 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.

NAY IS

HB 579, requiring notice to the public before immigration checkpoints are conducted.

Criminal Justice and Public Safety: OTP/A 11-9

HB 579

PRO-LIBERTY: This bill requires local law enforcement give public notice when a federal agency intends to conduct an immigration checkpoint.

- Part 1, Article 19 of the New Hampshire Constitution notes the "...right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions." In *STATE v. KOPPEL* (1985), the NH Supreme Court noted that "*Stopping and detaining an automobile and its occupants, whether by roving patrol or roving roadblock, constitutes a seizure within the meaning of article 19 of our State Constitution.*"
- In *STATE v. HUNT* (2007), the Supreme Court found "*To justify the search or seizure of a motor vehicle, absent probable cause or even a reasonable suspicion that a criminal offense is being committed, the State must prove that its conduct significantly advances the public interest in a manner that outweighs the accompanying intrusion on individual rights. It must further prove that no less intrusive means are available to accomplish the State's goal.*". Checkpoints at the border are clearly less intrusive than random stops of people traveling within the state. While the federal government may not be bound by the NH Constitution, our state law enforcement officers are and should take every effort to minimize undesired infringement and seizure.
- Notification is consistent with the approach New Hampshire uses for sobriety checkpoints.

YEA OTP/A

HB 629, relative to the home cultivation of cannabis plants and the possession of certain cannabis-infused products.

Criminal Justice and Public Safety: IS 11-9

HB 629

PRO-LIBERTY: This bill legalizes adult possession of small amounts of cannabis.

- This bill would make it legal for adults 21 and older to possess up to 3/4 ounce of cannabis, five grams of hashish, and up to 300 mg of cannabis-infused products, and to cultivate up to six plants (including up to 3 mature plants) in a secure location.
- The bill does not impose any taxes or create any new bureaucracy.
- All neighboring jurisdictions have legalized possession and cultivation of cannabis for adults; Granite Staters should not have less freedom with regard to cannabis than adults in Massachusetts, Vermont, Maine, and Canada.

NAY IS

SB 92, relative to increasing the penalty for criminal mischief, the release of a defendant pending trial, and requiring law enforcement candidate background checks.

Criminal Justice and Public Safety: OTP/A 11-10

SB 92

ANTI-LIBERTY: This bill, even with the proposed committee amendment, rolls back critical protections to due process rights in New Hampshire.

- This bill further encroaches on the fundamental principle that all defendants are innocent until *proven* guilty. This means the judicial behavior must be heavily biased in favor of freedom of the defendant to defend themselves, not in the convenience of the state.
- Under this bill (proposed 572:2 (1)), an individual who is accused of a felony while in possession of a firearm, even if that possession was incidental and unrelated to the crime, would be denied access to the speedy bail commissioner process and would instead be held for up to 36 hours waiting for a formal arraignment.
- This legislation puts the burden of proof on the defendant and not the state in proving why the accused should be held pre-trial. The state should have to prove why a defendant should be held, not the other way around.
- Presumption of innocence is violated throughout this bill. Broadly declaring that a defendant "shall" be held takes away judicial discretion in assessing the individual case. This treats all accused as equal threats to communities and takes a top-down approach when a more targeted response may be appropriate.

NAY OTP/A

ANTI-LIBERTY: This bill, with the proposed committee amendment, effectively bans private entities from requiring COVID-19 vaccines as a condition of employment.

- This well-intentioned bill attempts to respond to federal overreach of COVID mandates by requiring that businesses, clubs, and religious organizations unconditionally accept employees' objections on the basis of personal conscience, a religious belief, or medical reasons. Underlying this bill is an assumption that individuals have a right to be employed by a specific organization and therefore that inclusion of a vaccine requirement is compelling the individual in a manner similar to the power of the state. New Hampshire generally remains an at-will employment state and this bill would erode that.
- The bill infringes on freedom of association by requiring employers to remain associated with employees who exercise their right not to receive vaccination.
- While it's tempting to view all employers as large multinational crony actors, this bill does not limit state response only to large employers. It would apply even to a two-employee home healthcare agency that would like to offer services of vaccinated employees based on a belief that there is a market demand for this service as part of pursuing a strategy of 'focused protection', as suggested by the signers of the Great Barrington Declaration and others.
- This bill protects employers from the negative consequences of the market by prohibiting them from taking actions that may ultimately cost them employees and customers.
- The State of New Hampshire is exercising its proper role of protecting citizens from federal overreach by joining lawsuits that are in opposition to these federal mandates. The state should not pursue its own attempt at mandating behavior of private actors in the market.
- This bill may have unintended consequences. Under the OSHA rules employers must evaluate requests for accomodation, granting or denying. While this puts employers in a difficult position, and some employers may not seriously consider their responsibility, there is a significant risk that the outcome of this bill would be additional federal meddling that looks to supplant the judgment of all employers. According to OSHA (www.osha.gov/coronavirus/ets2/faqs), "*In particular, OSHA intends for the ETS to preempt and invalidate any State or local requirements that ban or limit an employer's authority to require vaccination, face covering, or testing. State and local requirements that prohibit employers from implementing employee vaccination mandates, or from requiring face coverings in workplaces, serve as a barrier to OSHA's implementation of this ETS, and to the protection of America's workforce from COVID-19.*" While we support state efforts to nullify federal laws that exceed federal authority, the existing employer exemption process coupled with the risk of even greater federal involvement provides substantial risk of an outcome that is worse than the current situation.

**NAY
OTP/A****HB 607, establishing local education savings accounts for students.****HB 607****PRO-LIBERTY: This bill, with the proposed committee amendment, establishes an option for local school districts to adopt "local education freedom accounts" to establish locally funded accounts for students seeking other education options.**

- This is enabling legislation that allows a super majority (60%) of voters in a district to adopt an education funding option that will allow 80% of the local per-student costs (minus special education funding) to follow the student to an alternate education environment.
- The local education freedom account is a mutually-exclusive alternate program to the existing state-funded education freedom account that allows local districts the option to have local funds follow the student instead of state funds.
- This new option will further shift the locus of control from government bureaucrats to families — allowing parents additional options for their children based on their individual education needs. It uses funds that the school district has already dedicated for education on a per-pupil basis.
- The current education system has failed to keep pace with the evolving improvements that are happening around the world. Shifting power from a government monopoly to families choosing options in a market will spur innovation (e.g. online education, competency-based education, etc.). Having accountability rest directly on those who bear the consequences of a school's performance is superior to top-down regulatory accountability.

**YEA
OTP/A**

SB 44, (New Title) establishing the New Hampshire workforce pathway program.

SB 44

Education: ITL 17-3

ANTI-LIBERTY: This bill grows the scope of the existing government-sponsored job training program and will result in additional demand for taxpayer funds for centrally-planned job training.

YEA ITL

- While government-sponsored job training programs are effective at spending taxpayer money, there is little evidence that they have any lasting impacts. Taxpayers have been funding jobs programs since the 1960s, yet federal auditors can find little evidence that they are effective: Government Accountability Office, "Multiple Employment and Training Programs," GAO-11-92, January 2011, p. 11 (www.gao.gov/new.items/d1192.pdf).
- The state should not have a role in determining the training that businesses will require.
- While the bill does not appropriate any new funds, it grows the constituency and argument for additional spending on the fund.

HB 275, relative to the governor's power to initiate a state of emergency and various emergency powers.

HB 275

Executive Departments and Administration: OTP/A 10-8

PRO-LIBERTY: This bill, with the proposed committee amendment, makes modest revisions to state of emergency powers requiring that the legislature act if it is to be extended beyond 84 days.

YEA OTP/A

- Under current law, a state of emergency can be renewed indefinitely by the governor, with the legislature only given the option to cancel it. With the proposed committee amendment of this bill, the legislature is forced to go on record to extend the significant expansion of state power inherent in the state of emergency if it continues beyond 84 days.
- While this is only a modest change, the residents of the state deserve to have their elected officials on record, one way or another. Absent this, it is difficult for voters to hold the legislature accountable, as individual legislators can claim to have held nearly any position that voters would have liked to have seen.

HB 414, relative to evacuations under a state of emergency.

HB 414

Executive Departments and Administration: ITL 12-6

PRO-LIBERTY: This bill permits the governor to recommend but not compel an evacuation and stipulates that emergency services shall not be required for those who have chosen not to evacuate.

NAY ITL

- Even during an emergency or natural disaster, individuals must be free to decide how best to protect themselves and their families. An individual's right to their own life doesn't end during an emergency.
- People are primarily responsible for their own personal safety, and they should never give up that responsibility, especially to government officials.

HB 103, establishing a dental benefit under the state Medicaid program.

HB 103

Health, Human Services and Elderly Affairs: OTP/A 19-1

ANTI-LIBERTY: This bill, with the proposed committee amendment, will increase state spending by providing adults in the Medicaid program with dental coverage.

NAY OTP/A

- This program provides able-bodied adults in New Hampshire with taxpayer-funded dental coverage at taxpayer expense.
- This bill would cost state taxpayers initially \$2 million per year and more when state and federal spending are considered.
- Expanded state-controlled dental benefits will slowly crowd out private solutions and provide another government-controlled item that can be used as a carrot and stick to force the population to conform to state-dictated behaviors.

HB 597, relative to the expectation of privacy.

Judiciary: OTP/A 18-3

PRO-LIBERTY: This bill, with the proposed committee amendment, provides for accountability for some instances of government intrusion of privacy.

- In 2019, over 80% of New Hampshire voters overwhelmingly approved an amendment to the State Constitution enshrining an explicit "right to privacy", adding Part 1, Article 2-b "An individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent.". This bill is a small first step at providing for accountability for invasion of privacy.
- This bill, with the proposed committee amendment, would prohibit the government or government contractor from acquiring, collecting, retaining, or using personal information with broad exclusions for emergencies, warrants signed by a judge, and activities explicitly called for by law. This prohibition is backed by the hazard of misdemeanor charges for corporations/non-natural persons and a violation for natural persons. In addition, a person who suffers injury as a result of invasions of privacy is entitled to a civil remedy under this bill.

HB 597

YEA OTP/A

HB 517, relative to the state minimum hourly rate.

Labor, Industrial and Rehabilitative Services: ITL 11-9

ANTI-LIBERTY: This bill establishes a state-dictated minimum wage that automatically elevates each year.

- Minimum wage laws decrease the number of entry-level jobs and make it harder for people of low skill to get their start in the workforce.
- Higher wages for everyone are better accomplished through job creation — more jobs mean more competition to hire all workers.
- Employers and employees should be free to negotiate the terms of employment without interference.
- Economic conditions and cost of living vary dramatically across the state. A "one-size-fits-all" approach to a minimum wage will put unreasonable pressure on areas of the state with limited employment opportunities and lower costs of living.
- The very idea of a minimum wage is patronizing and demeaning as it implies that individuals don't know how much they're worth and are incapable of negotiating with an employer.

HB 517

YEA ITL

HB 167, relative to net energy metering limits for customer generators and the purchase of output of limited electrical energy producers.

Science, Technology and Energy: ITL 11-10

ANTI-LIBERTY: This bill would increase costs for New Hampshire ratepayers.

- This bill subsidizes businesses and municipalities that choose to operate large-scale energy generation facilities by increasing the subsidized net metering cap from the current 1 megawatt limit up to 5 megawatts.
- The recipients of these subsidies will get millions more at the expense of others without providing any substantial benefits to the grid, as the energy from these systems is often intermittent.
- Net metering subsidies for renewables may no longer make sense as studies claim that solar energy is cheaper than fossil fuels. If this is true, then operators of these facilities already have a significant competitive advantage and would not require subsidy to be profitable.
- This bill has essentially no impact on individual homeowner use of net metering as the existing threshold of 1 megawatt is already approximately 100 times larger (as compared to a 10 kilowatt system) than what a typical homeowner is capable of generating via rooftop solar (www.solarreviews.com/blog/10kw-solar-systems-are-becoming-very-popular-here-is-why).

HB 167

YEA ITL

HB 172, establishing greenhouse gas emission reduction goals for the state and establishing a climate action plan.

HB 172

Science, Technology and Energy: ITL 11-10

ANTI-LIBERTY: This bill sets onerous emissions goals on New Hampshire businesses, residents, and government.

YEA ITL

- This bill would increase the already-high energy costs for individuals and businesses in the State of New Hampshire.
- It would require the state to adopt policies to reduce statewide greenhouse gas emissions to at least 20 percent below 1990 levels by 2025, at least 50 percent below 1990 levels by 2035, and net zero by 2050. Further, it would discourage adoption of carbon sequestration technology that would allow net negative carbon emissions by capping emissions to be no greater than a level that is 85 percent below the 1990 level.
- By setting goals irrespective of population, this bill would encourage future anti-immigration policies — potentially resulting in individuals being discouraged from moving to NH and therefore at a planetary level may result in increased emissions in other geographic regions that have less efficient energy production than New Hampshire.

HB 355, relative to Keno.

HB 355

Ways and Means: OTP/A 19-5

PRO-LIBERTY: This bill, with the proposed committee amendment, allows retail locations that are allowed to sell lottery tickets to sell Keno tickets in jurisdictions that have voted to allow Keno.

YEA OTP/A

- This bill, with the proposed committee amendment, opens up new revenue streams for struggling small businesses in NH.
- Keno is an extension of the NH Lotto and should not be restricted to a select few business types. Any business competent to sell NH Lotto tickets can also operate a Keno game with very little instructions and training. This bill is a natural extension to the already abundant NH Lottery system.
- NH residents often cross the border to play Keno in MA. This bill will help keep that money within the state.
- While a less restrictive approach than the current government monopoly would be preferable, this bill offers a modest improvement by reducing a state restriction and allowing a wider range of actors to operate in the market.