

**Special Edition Legislative Alert March 6-8, 2018 re EDUCATION and ELECTION LAW.**

**UPDATE: The House votes March 6 & 7 on the bills below are shown in *ITALICS ALL CAPS*. No surprises.**

Among the long list of bills on the **House Consent Calendar** (meaning there will probably be no floor debate because the committee's recommendation was unanimous or nearly so) are the following that League had alerted you to earlier. They deal with EDUCATION and ELECTION LAW ISSUES. It is unlikely they will be brought up for further discussion; House members will likely vote according to the committee's recommendation. Thus we can consider these bills dead for this year if they indicate an INEXPEDIENT TO LEGISLATE recommendation, and if they are recommended as OUGHT TO PASS they will likely pass and move on to the Senate.

**EDUCATION BILLS OF NOTE ON THE CONSENT CALENDAR:**

**HB 1263, educational evaluation of home schooled children.** *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE* Rep. Joseph Pitre for Education. This bill amends the educational evaluation procedures for home educated children and adds notice, hearing, and appeals procedures relative to the termination of a home education program. Testimony regarding this bill was offered in Representatives Hall and was overwhelmingly in opposition to the bill. One parent stated, "In the 1990's, I can understand your skepticism regarding oversight as homeschooling was believed to be a new concept, but now, in 2018, the unfounded concerns pertaining to an age-old method of education have undeniably, successful results across the board." Parents choose to home school their children as one educational option to find the best fit. Further, under existing NH statute, if a school official has a reason to believe that the law is not being followed, that official has the authority to investigate. There are other layers of protection in our society. Educators, family members, neighbors, law enforcement officers, and medical professionals may file neglect reports to the Department of Health and Human Services. With this, there is no need to further change homeschooling statutes. *[League is not opposed to home schooling, but believes that parents and school districts must work together to ensure students are making progress. We are disappointed that home schooling families [since 2012] are not required to make annual reports to either their school districts or the state board of education.]*

**HB 1492-LOCAL**, relative to a course of action when a child's attendance at a school has resulted in a **manifest educational hardship**. *REFER FOR INTERIM STUDY ON A VOICE VOTE*. The committee says it did not have enough time or information to fully consider this bill. *[League note: we have attended some hearings on this bill, will follow if it goes to a study committee. It could have sweeping consequences for parents' role in school choice and for school districts finances.]*

**HB 1493**, relative to the **statewide assessment system of performance in schools**. *OUGHT TO PASS WITH AMENDMENT PASSED ON A VOICE VOTE*. Rep. Terry Wolf for Education. This bill, as amended, is one of several bills that revise education statutes **to align with the state's Every Student Succeeds Act plan**. The changes include measuring academic achievement and growth of knowledge and skills as part of the statewide assessment. *[The ESSA NH plan has been accepted by the federal government, so state regulations need to come in line with the plan.]*

**HB 1495**, relative to **standards for determining an adequate education**. *OUGHT TO PASS WITH AMENDMENT PASSED ON A VOICE VOTE*. Rep. Rick Ladd for Education. This bill, as amended, adds to the indicators that school districts are required to report annually to the Department of Education regarding delivery of an adequate education. The bill also establishes **a rating scale for school districts regarding performance standards**. Rating scale scores range from "1," school does not meet grade level performance standards to "4," school exceeds the standards. This bill also requires

data gathered from public schools to be included in the annual report NH School District Profiles, which shall be made available to the public on the department website and online at every school administrative unit for public review.

**HB 1496**, relative to requirements for **performance based accountability** for an adequate education. *OUGHT TO PASS WITH AMENDMENT PASSED ON A VOICE VOTE*. Rep. Rick Ladd for Education. This bill, as amended, modifies requirements for public school performance-based accountability for an adequate education. Current statute requires schools to demonstrate opportunity for an adequate education by meeting one requirement; either through the narrative report or by the performance system which identifies academic achievement. This bill, as amended, requires every public school to demonstrate satisfactory accountability, not only by one system measure, but by both systems. This change will strengthen the accountability process and better identify schools requiring corrective and technical improvement. An additional change requires the department to conduct on-site school inspection visits at least every five years whereas current statute requires on-site visitation every ten years, or 10% of schools per year. Lastly, this bill is one of the three bills, HB 1495, 1496, and 1497, that **better align New Hampshire education statutes with the elementary and secondary education act as amended by the Every Student Succeeds Act** passed by the US Congress and signed into law this past year.

**HB 1497**, relative to **accountability for school performance**. *OUGHT TO PASS WITH AMENDMENT PASSED ON A VOICE VOTE*. Rep. Rick Ladd for Education. This bill, as amended, better **aligns NH statutes with the Every Student Succeeds Act**. The bill better defines key educational terms such as “competencies” by emphasizing “level of mastery of key concepts, skills, and knowledge.” The bill identifies all schools, not just Title I schools, that fall in the bottom 5% in terms of achievement and growth performance. Lastly, the bill further defines work-study skills by inserting terms recommended and supported by NH business: communication, creativity, collaboration and self-direction.

*MOVED TO 3/15/18* **HB 1499**, relative to the **focus and components of New Hampshire kindergartens**. *OUGHT TO PASS WITH AMENDMENT* Vote 19-0. Rep. Victoria Sullivan for Education. This bill will bring **play based education to our kindergartens**. Kindergarten was intended by its founder, Fredrich Froebel, to be a means of socializing children and preparing them for formal education through exploration, movement, expression and play. This bill returns those concepts to the kindergarten classroom and will help teachers nurture the talents and abilities of our youngest learners. [*League of Women Voters Kearsarge/Sunapee education study committee has researched this to some extent, agrees with OTP.*]

**HB 1636**, establishing a **committee to study teacher preparation and education programs**. *OUGHT TO PASS PASSED ON A VOICE VOTE*. Rep. Dan Wolf for Education. This bill will provide an in-depth study of the current status of New Hampshire teacher recruitment procedures, preparation programs, professional development opportunities, and retention rates as they compare with other states and countries whose students perform at the highest levels in the world, as measured by the Programme for International Student Assessment (PISA).

**HB 1761**, relative to the **math learning communities program in secondary schools**. *OUGHT TO PASS ON A VOICE VOTE*. Rep. Rick Ladd for Education. This bill establishes and encourages NH high schools to participate in an alternative high school math program called math learning communities designed to support and engage those 11th and 12th grade students who require requisite knowledge and skills necessary to adequately prepare them for career and post secondary success. The

program will further assist students in avoiding time and financial costs, discouragement, and reduced post-secondary degree completion due to required math remediation when making the transition from high school to college and career. **Approximately half of high school students entering the community college system require [math] remediation.** In an effort to address this serious workforce issue, the **Community College System of NH has trained high school math teachers and implemented the program in 38 high schools throughout the state.** This bill provides a process for continuing the program throughout NH.

**HB 525-FN**, relative to **stabilization grants for education.** *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.* Rep. Kenneth Weyler for Finance. The sponsor was eloquent in his discussion of the problems his districts as well as many others were facing due to declining enrollment. The intent of the bill is to stop the plan of reducing the stabilization grants by 4% each fiscal year. Stabilization grants were introduced in 2011 by the legislature. In 2011 the formula for computing adequate education money was changed and in recognition of the effect this change would have on numerous districts the legislature passed the stabilization grant to take effect in 2012 at \$158 million, to keep municipalities at the 2011 funding level. In addition to the formula change there was declining enrollment in many school districts. The legislation passed in 2011 also capped the amount of adequate education dollars municipalities that had growth in enrollment, but the cap limited the increased distribution, resulting in the state not paying for some students in one municipality while paying another district for students that did not exist. The Finance Committee in the FY16 budget realized that the municipalities had had about five years to adjust to their declining enrollment and a reduction in stabilization was called for. Thus the process was set in motion, following the passage of HB1 and HB2 in 2016, to reduce the stabilization grant by 4% each fiscal year for 25 years. This results in a statewide reduction of approximately \$7 million per year. The stabilization grants also result in significant disparities in the dollars allocated to municipalities for education. [The legislature] also has a study committee looking at adjustments to the adequacy formula for future years. Given all of the above, the committee believed that this short-term proposal did not fit with longer term plans. This bill also would call for spending money that was not in the 2018/19 budget.

**ELECTION LAW BILLS OF NOTE ON THE CONSENT CALENDAR:** reminder that a CACR is a constitutional amendment bill.

**CACR 17**, relating to initiative and referendum powers. **Providing that initiative and referendum powers shall be reserved to the people of the state.** *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.* Rep. Andrew White for Election Law. This proposed constitutional amendment would permit residents to enact laws and constitutional amendments independent of the General Court. New Hampshire's legislature is one of the most representative in the country; each citizen has direct access to their elected officials and can weigh in on any and all issues of interest to them. Further, in states that allow this type of initiative, passage of citizen generated ballot measures have, in some cases, created significant unintended consequences. The committee noted a general lack of support during the public hearing. [Note: some states have ballots with pages of citizen referendum questions each year, notably CA and FL]

**CACR 18**, Providing that **the general court may authorize recall elections.** *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.* Rep. Andrew White for Election Law. This proposed constitutional amendment would provide the General Court the power to authorize recall elections of "state officers." All state legislative officers are elected for two-year terms. These short terms of office provide voters a frequent opportunity to vote for candidates whose values most closely align with their own. There are

other persons that qualify as “state officers” who the committee did not believe were intended to be impacted by this bill, but would be. The committee unanimously believes the current system provides voters ample opportunity to determine those who represent them in state offices.

**HB 1220**, relative to **valid identification to obtain a ballot**. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Steve Negron for Election Law. This bill requires that a driver’s license used by a person under 70 years of age to obtain a ballot be current or expired less than 5 years. [*current election law sets 65 as the age when an expired license is acceptable.*] This section of statute deals with photo identification for purposes of identification only. There are other forms of identification for which no date restriction was proposed. Due to concerns over conflict with other statutes and the limited purpose of this statute, the committee unanimously agreed the bill was inexpedient to legislate. [*League signed in opposed.*]

**HB 1224**, relative to **election dates**. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Steve Negron for Election Law. This bill **authorizes the moderator to postpone and reschedule a town election because of a weather emergency**. The committee found that there were a number of issues with the bill. As proposed this bill deals with only a singular event, weather. It does not account for other emergency circumstances... The process ... fails to account for multi jurisdictional races...does not address school district issues or what to do in multi town school districts. Even if one were to agree that moderators should be able to postpone elections, this bill fails to provide complete or consistent guidelines as to process. [*A related bill is SB 438, which will come up for a vote in Senate on March 8. League supports a proposed amendment to be offered by Sen. Fuller-Clark. If the amendment passes, League supports passage of SB438. If no amendment is made, we support ITL for SB438*]

**HB 1433**, requiring **disclosure of federal income tax returns by presidential and vice-presidential candidates**. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE* [*League note: numerous problems with the bill, even though voters might like this information to be made public.*]

**MOVED TO 3/15 HB 1479-LOCAL**, relative to the nomination of political candidates. *INEXPEDIENT TO LEGISLATE*. Vote 20-0 Rep. This legislation **would allow parties to nominate candidates through a different method, such as a caucus, instead of holding state primary elections**.

**HB 1486**, relative to **“over voted” ballots**. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Kathleen Souza for Election Law. This bill would require a ballot machine be programmed to return to the voter a completely blank ballot or a ballot with too many ovals filled in for any office. As proposed, this bill would require programming changes to voting machines. These changes would require the machine to reject the ballot and then an election official would hand the ballot back to the voter. This process would compromise the secrecy of the ballot. If an explanation were required, further compromise would occur. If a voter’s preference was a blank ballot, that would be apparent to the official and anyone else nearby. Currently, signs at the voting booths instruct voters on how to fill out a ballot and how to replace a spoiled ballot. [*Some League members personally worked in support of this bill, but the League did not take a position, seeing a number of difficulties with the plan.*]

**HB 1510-FN**, relative to voters using out-of-state drivers’ licenses as identification. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Yvonne Dean-Bailey for Election Law. This legislation provided for additional paperwork at the polling place when an out of state driver’s license is used for voter identification. The committee and the sponsor of the legislation recognize that photo identification is used solely for proving the identity of the registered voter. Testimony was provided

representing both favorable and unfavorable opinions on this proposal. Given the desire to ensure ballots are provided to registered voters in an efficient manner, and concerns over the impact of this additional paperwork both on the poll worker and the voter, the committee concluded that the bill was not necessary. *[League agrees this bill should be killed.]*

**HB 1520-FN**, relative to access to ballots and relative to verification counts of machine-counted ballots. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Betty Gay for Election Law. This bill is aimed at **granting permission to moderators to hand count one NH state-wide race in each election**. The committee agreed that the bill has several problems. As proposed, the bill allows 10 voters to petition, before the election, that the moderator perform a hand recount of a federal or statewide race or a constitutional question on the ballot on election night. The bill also **subjects ballots to right-to-know requests which would require production of the ballots after the recount period**. It also allows a moderator who suspects fraudulent voting to report the same for possible prosecution by placing a distinguishing mark on the ballot that would allow it to be traced to a voter. The marking of ballots is not allowed by current law. As to the recount request, checking only one race on one scanner is not statistically sound. Hand counts are not necessarily 100% accurate and one count would neither prove nor disprove scanner accuracy of all the races. If a discrepancy was found, the bill made no provision for what was to then occur. As to the process of the manual recounting, existing NH law specifically addresses the process; it requires a systematic method of counting simultaneously with representatives of each party, followed by another count using the same method. It is highly unlikely that such a detailed system would be available at the polls. Recounts with other methods and individuals present have been found to be problematic, and allowing ballot examination after results are finalized would create election races that never end. The provisions of this bill place additional burdens and costs on the clerks; the fiscal note indicated the increased expenditures were indeterminable. **The sponsor initially identified this bill as a method for correcting any machine tampering or malfunction. It was not clear to the committee that such a thing would occur as a result of this bill.** *[Some League members passionately supported this bill personally, but the League did not because of the problems listed above by the committee and for a lack of convincing evidence that our voting machines are not working well.]*

**HB 1540-FN**, relative to **ranked-choice voting**. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Steve Negrón for Election Law. This bill establishes procedures for ranked-choice voting for federal and state offices. The complexity of ranked-choice voting is obvious. Instead of simply voting for the candidate you prefer, each voter must have an election strategy to give the candidates their relative selection as all of their votes have some weight in the selection of the winner. As candidates are given a ranking there are multiple rounds to the counting that must occur to determine a winner. In races with multiple seats there is the potential for thousands of combinations to be counted. This applies to federal and state offices, and no local offices. Testimony indicated that it is uncertain whether the optical scan counting devices used in the majority of our communities can be programmed to process ballots in such a manner. It is certain that elections themselves will take longer causing additional expense to communities. Recounts would become more difficult and time consuming. The bipartisan majority of the committee agreed that the bill should be found Inexpedient to Legislate, after determining that ranked-choice voting is a costly shot in the dark. *[This dismissal of a procedure that is used in other places with voter satisfaction that their votes really mean something is disappointing. Just because it is complicated when first introduced shouldn't be reason to dismiss it out of hand as "a costly shot in the dark.]*

**MOVED TO 3/15/ HB 1543**, relative to **domicile of students for voting purposes**. *INEXPEDIENT TO LEGISLATE* Vote 20-0. Rep. Yvonne Dean-Bailey for Election Law. This bill proposed to modify

the requirements for a student claiming domicile for voting purposes by attempting to provide guidance on determination of whether an individual is an in-state or out-of-state student by examining that person's school status. The bill also attempted to delineate a number of factors to be considered as evidence in the domicile inquiry. **The bipartisan majority of the committee found this bill unnecessary and unworkable** in its current form. Last session the legislature addressed domicile requirements for all New Hampshire persons registering to vote and this bill would potentially conflict with requirements of that statute. In the hearing there was testimony that this change might have a chilling effect on student voters. *[League is delighted there was bi-partisan support even during the hearing to kill this awful bill. We testified opposed.]*

**HB 1568-FN, allowing voters to register as members of political organizations. INEXPEDIENT TO LEGISLATE ON A VOICE VOTE** Rep. Steve Negron for Election Law. This bill allows voters to register as members of various political organizations with new guidelines for ballot access [getting one's name on the ballot as a candidate]. If one percent of the voters register as a member of an organization, it qualifies as a "party." This allows creation of a party with only 1% of registered voters while at the same time the group is not recognized as a legal "party." The committee unanimously agreed that the process for ballot access in New Hampshire is open and not difficult.

**HB 1666, relative to redistricting. INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.** Rep. Michael Harrington for Election Law. The bill would create a new metric for evaluating redistricting proposals based on a computer model that attempts to measure the "efficiency gap" in votes cast. There are many unresolved issues with this bill. It establishes a commission made up of only Democrats and Republicans and does not include the third party with ballot status in NH. There is also confusion over how the results of an election determined to have an efficiency gap exceeding the allowed limit are to be handled. Would the loser have solid grounds to challenge the results in court? This bill would completely change the way we redistrict and needs more work before it should be considered for passage. *[League testified in favor of this bill because of research we found showing an "efficiency gap" in state Senate elections over the past 15 years that suggests deliberate gerrymandering.]*

**HB 1667-FN, relative to permissible campaign contributions by business organizations and labor unions and relative funding source disclosure for political advertising. INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.** Rep. Norman Silber for Election Law. This bill primarily provides for two things. First, business organizations and labor unions would need to make political contributions only through a separate, segregated fund with unions soliciting voluntary contributions from certain individuals associated with the union. Secondly, it requires that any advertising by the business organization or union must disclose the "5 natural persons" making the largest contribution. While some testimony indicated the bill would improve disclosure, other testimony expressed a need for a number of amendments which were not received. Concerns were also expressed as to how reporting would occur and be validated. Interests in the disclosure of funding must be balanced with case law, the US and state constitutions, and our own existing laws. *[This campaign finance reform bill was a priority bill for the NH Campaign for Voting Rights, of which League is a member. We are disappointed with the recommendation.]*

**HB 1770-FN-LOCAL, relative to verification of checklists. INEXPEDIENT TO LEGISLATE ON A VOICE VOTE.** Rep. Kathleen Souza for Election Law. This bill, presented with amendment, provided for additional checks on domicile when an **absentee ballot request** is received and there is a request to mail the ballot to an address other than the voter's domicile address. The additional follow-up would be the sending a letter requesting proof of the voter's qualifications to vote in the town or ward within 30 days. It was noted that many communities have a number of persons who stay for the winter months in

more southern states. Without the exercise of significant discretion by the supervisors, some communities could be sending over one hundred letters. While testimony did indicate there may be some problems with absentee ballot requests, such as the lack of the need for identification, this bill did not address those concerns. The committee unanimously agreed the bill as presented was not appropriate for adoption. *[League agrees this bill has problems.]*

**HB 1583**, relative to **indicating citizenship on drivers' licenses** and nondrivers' identification cards. *INEXPEDIENT TO LEGISLATE ON A VOICE VOTE*. Rep. Thomas Walsh for Transportation. This bill adds either "citizen USA" or "non-citizen USA" to all NH driver's licenses and non-driver identification cards. While the committee appreciates the effort in helping preserve the integrity of our elections, members were left with unanswered questions: 1. With our federally compliant state identification, can it even be done? 2. After speaking with several supervisors of the checklist, knowing of all the other allowed forms of identification, what will it accomplish? Finally, with a cost of \$50,000 to implement, the committee felt these questions should be answered first. *[League testified opposed, as did many people who have personally felt the sting of ethnic disparagement in public. Our first testimony in Transportation committee.]*

If all the bills listed as *INEXPEDIENT TO LEGISLATE* are indeed voted so, our work for the second half of the session will much less, as the Senate will never even see the bills.