2015 Legislative Session Summary

The 2015 session began and ended with speculation about the fiscal year 2016-2017 state budget. The House passed a bare-bones budget, but fully expected the Senate to restore funding for many critical safety-net programs, the university and community college system, tourism promotion, and clean-energy programs.

The Senate followed through and was able to include in its budget high-priority commitments to ease the tax burden on New Hampshire businesses through modest reductions to the business profits tax and business enterprise tax. The Senate did not approve funding for reauthorization of the New Hampshire Health Protection Program.

Citing “unpaid-for tax giveaways to big corporations, many based out-of-state,” Gov. Maggie Hassan vetoed the bill the moment it reached her desk. As of this writing, the impasse between the Legislature and governor continues. BIA continues its advocacy for business tax reductions, noting that New Hampshire has one of the highest corporate tax burdens in the country. The proposed tax reductions in the vetoed budget included reducing the BPT from 8.5 percent to 7.9 percent and lowering the BET from .75 percent of payroll to .675 percent. The latter reduction to the BET would primarily benefit small businesses, including start-ups, who pay the tax regardless of profitability.

In many other policy areas, it was a quiet session or at least one where legislators seemed more comfortable “studying” issues (in the form of retained bills or study commissions) instead of acting on them. For example, despite concerns expressed by many business leaders that high electricity rates are hurting New Hampshire’s economy, little was achieved legislatively to improve the situation. And although many anti-business bills, such as mandating paid sick time or implementing a state sales tax, were killed, other bills that would have been helpful to employers, such as making New Hampshire a right-to-work state or developing a unified definition of “employee” across state departments, failed to make it through the process.

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"SESSION REVIEW" CONTINUED FROM PAGE 1

The Legislature did pass long-overdue legislation updating New Hampshire’s securities act. Like recent BIA-led improvements to our LLC and corporation statutes, the new securities provisions clarify text, eliminate outdated and confusing regulations, and substitute clear language more closely aligned with current practices and regulatory policies. Ultimately, the securities act update will protect investors and reduce hurdles for businesses trying to raise capital needed to grow and create jobs.

There was a lot of unfinished business we will likely see next year, including continuing debate on eminent domain issues involving new energy infrastructure projects, efforts to undermining implementation of more rigorous education standards and reauthorization of the New Hampshire Health Protection Program, which provides expanded access to health care for low-income individuals and families. On that note, although decisions reauthorizing the program will likely be deferred until 2016 and not be part of the current, unresolved budget, it’s important to note this program is providing critical health care to more than 40,000 New Hampshire residents. Additionally, the level of uncompensated care provided by NH hospitals is falling, which should put downward pressure on healthcare inflation and, by extension, health insurance premiums. Business leaders understand there is a strong, well-established connection between the health of a population, workforce productivity and, by extension, health insurance premiums. Business leaders

What follows is our annual Legislative Scorecard, which tracks votes on key legislation affecting the business community. Like any effort to recap a legislative session, this scorecard is not all inclusive but reflects how your legislators voted on a number of important issues. Many bills that would have negatively impacted New Hampshire businesses never made it through the legislative process. We hope you will enjoy reading this issue and use it as one way to evaluate your state representative’s or senator’s friendliness toward your business and its ability to sustain and create jobs.

2015 Session Roll Call Votes

HOUSE VOTES
HB 208 Relative to allowance sales under the NH Regional Greenhouse Gas Initiative program
This bill as proposed would require all revenue from allowance sales (i.e. permits) for the Regional Greenhouse Gas Initiative (RGGI) program to be rebated to all electric retail consumers in the state on a per-kilowatt-hour basis. BIA supported this version of the bill with the hope it would provide modest relief to high electrical energy costs. The roll call vote is on the Science, Technology and Energy Committee recommendation of ought to pass with amendment. A yea vote is consistent with BIA’s position (201 yea – 154 nay). Victory

HB 365 Prohibiting an employer using credit history in employment decisions
This legislation sought to prohibit employers from being able to use the credit history of an applicant when making employment decisions. BIA opposed this bill. Though few employers check credit histories, those that choose to do so should have the ability to access that information if they believe it is relevant to the hiring decision. The roll call vote is on a Labor Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (200 yea – 142 nay). Victory

HB 431 Relative to the placement of all new elective electric transmission lines in New Hampshire
This legislation would have resulted in recommendations for siting certain transmission lines, which included placement in rights of way and burial. BIA opposed this bill because we believe it would have resulted in costly mandates on energy infrastructure development and upward pressure on rates paid by business and other energy consumers. The roll call vote is on the Science, Technology and Energy Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (213 yea – 131 nay). Victory

HB 547 Requiring the assessing standards board to make recommendations on the valuation of telecommunications poles and conduits and the assessment of utility property
BIA supported this bill, which began as a vehicle to return a long-standing property tax exemption for poles and conduits designed to create a level playing field between landline telephone/cable service and wireless communications. The bill was amended by the Way and Means Committee to discard the exemption and insert language to make the valuation process more consistent and taxation less onerous to telephone and cable providers. BIA also supported this revised version of the bill with the hope that it would end ongoing costly litigation between landline providers and municipalities. The roll call vote is on the Way and Means Committee recommendation of ought to pass with amendment. A yea vote is consistent with BIA’s position (205 yea – 162 nay). Victory

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This legislation sought to repeal the four-cent increase in the gas tax (road toll) from the 2014 legislative session that was supported by BIA to finance important road and bridge infrastructure projects. The bill also repealed specific projects included in the 2014 legislation such as the expansion of I-93 between Salem and Manchester and funding for the NH Municipal Block Aid grant to help fund local road improvements and the Municipal Bridge fund which is designed to reduce the number of structurally deficient, “red-listed” bridges in the state. The roll call vote is on a Public Works Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (243 yea – 108 nay).

**HB 600 Relative to paid sick leave for employees**

This legislation would have required that employers provide paid sick leave for employees. BIA opposed this bill as an intuitional challenge by the government to design private sector benefits packages that increase employer costs and make New Hampshire a less competitive state for companies to grow or relocate to. The roll call vote is on a Labor Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (218 yea – 122 nay). Victory

**HB 658 Prohibiting collective bargaining agreements that require employees to join a labor union**

This legislation sought to establish New Hampshire as the only right-to-work state in New England. Right-to-work means that employees cannot be forced to join or financially support labor unions in the workplace. BIA supported this legislation believing it would give New Hampshire an economic advantage over other non-right-to-work states at no cost to taxpayers. The roll call vote is on a Labor Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (198 yea – 145 nay). Victory

**SB 101 Prohibiting the state from requiring implementation of “Common Core” standards**

This bill sought to prohibit the NH Department of Education or the State School Board from requiring school districts to adopt standards known as “Common Core.” BIA opposed this legislation, noting that school districts are currently able to implement more rigorous standards in their individual districts if desired and that stronger education standards are important to prepare our students for 21st-century jobs. The roll call vote is on an Education Committee recommendation of ought to pass. A nay vote is consistent with BIA’s position (202 yea – 138 nay). Defeat

**SENATE VOTES**

**HB 208 Relative to allowance under the NH Regional Greenhouse Gas Initiative Program**

This bill as amended by the Senate would require revenue from allowance sales (i.e. permits) for the Regional Greenhouse Gas Initiative (RGGI) program to be rebated to commercial and industrial users, but would eliminate rebates to residential customers and instead use that revenue for long-term capital projects and energy-efficiency projects for municipalities and school districts. BIA supported this version of the bill because it would provide modest relief from high energy costs for New Hampshire’s commercial and industrial sectors. The roll call vote is on the Energy and Natural Resources Committee recommendation of ought to pass with amendment. A yea vote is consistent with BIA’s position (13 yea – 11 nay). Victory

**SB 450 Establishing a commission to study and make recommendations for a common definition of employee**

This legislation, supported by BIA, attempted to provide a uniform definition for “employee.” Currently, the NH Department of Employment Security uses one definition – the “ABC” test – to determine employment status for the payment of unemployment taxes and collection of benefits. The NH Department of Labor uses a different test for compliance with workers’ compensation requirements. These differing definitions create a confusing and inconsistent regulatory climate for employers. The Senate roll call vote is on a floor amendment striking the BIA-supported language and in its place creating a commission to further study the issue. A nay vote is consistent with BIA’s support for the original language (11 yea – 10 nay). Defeat

**SB 1 Reducing the rate of the business profits tax**

This bill sought to modestly reduce the rate of the business profits tax from 8.5 percent to 7.9 percent over a three-year period. New Hampshire has one of the highest corporate income tax rates in the country and BIA supports legislation reducing the BPT is one of our top priorities. The roll call vote is on a Ways and Means Committee recommendation of ought to pass. A yea vote is consistent with BIA’s position (14 yea – 10 nay). Victory

**SB 2 Reducing the rate of the business enterprise tax**

This bill sought to modestly reduce the rate of the business enterprise tax from .75 percent to .675 percent over a three-year period. The BFT is unique to New Hampshire. It particularly impacts small businesses and start-ups because the tax is paid regardless of profitability. BIA’s support for reducing the BFT is one of our top priorities. The roll call vote is on a Ways and Means Committee recommendation of ought to pass. A yea vote is consistent with BIA’s position (14 yea – 10 nay). Victory

**SB 6 Increasing the research and development tax credit**

This bill sought to increase the overall state investment in the research and development tax credit program from the current $2 million per year to $7 million per year (which closely matches demand for this tax credit from the advanced manufacturing sector). New Hampshire has experienced a growth in high-paying research and development related employment since the R&D tax credit was initiated. BIA’s support for this legislation is one of our top priorities. The roll call vote is on a Ways and Means Committee recommendation of ought to pass. A yea vote is consistent with BIA’s position (24 yea – 0 nay). Victory

**SB 107 Prohibiting collective bargaining agreements that require employees to join or contribute to a labor union**

This legislation sought to establish New Hampshire as the only right-to-work state in New England. Right-to-work means that employees cannot be forced to join or financially support labor unions in the workplace. BIA supported this legislation, believing it would give New Hampshire an economic advantage over other non-right-to-work states at no cost to taxpayers. The roll call vote is on a Commerce Committee recommendation of ought to pass. A yea vote is consistent with BIA’s position (12 yea – 12 nay). Defeat

**SB 223 Relative to name availability for business organizations**

This legislation, supported by BIA, modifies the name availability standard for a business organization from “distinguishable from” to simply “distinguishable from,” and not the same as or likely to be confused with or mistaken for” to simply “distinguishable from, and not the same as.” Making this small but important change removes much of the subjectivity involved in approving business names by the Secretary of State. The roll call vote is on a Commerce Committee recommendation of ought to pass. A yea vote is consistent with BIA’s position (24 yea – 0 nay). Victory

**SB 232 Exempting certain leases from the real estate transfer tax**

This bill clarifies that New Hampshire shall not collect real estate transfer taxes on leased property, specifically long-term ground leases. This bill resulted from state efforts to begin taxing these long-term leases, creating higher costs for many businesses, without legislative or rule-making authority. BIA supported this bill, which was intended to provide the NH Department of Revenue Administration with clear legislative intent for this issue. The roll call vote is on a Ways and Means Committee recommen-
### Senate Scorecard

#### Champion of Business: Members scoring 86-100%

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| Make it your business
| BiAofNH.com      |               |          |        |        |      |      |      |        |        |        |        |        |        |

#### Friend of Business: Members scoring 70-85%

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### House Scorecard

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#### Key to Symbols
- ♦ = Vote consistent with BIA position
- ○ = Vote inconsistent with BIA position
- — = No vote recorded due to absence, abstention or conflict of interest
- N/A = No score because member was present for 50% or less of the votes
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**THIRD QUARTER 2015**

**HOUSE SCORECARD**
Roll Call Votes

SB 261 Establishing a state minimum wage

This legislation sought to establish a state minimum wage (currently New Hampshire follows the federal minimum wage of $7.25/hour) and increase the wage to $10 over a three-year period. BIA opposed this bill believing it would increase labor costs and have a detrimental impact on job growth. If the minimum wage is increased, it should happen at the federal level so employers around the country are impacted the same. The roll call vote is on a Finance Committee recommendation of inexpedient to legislate. A yea vote is consistent with BIA’s position (14 yea – 10 nay). Victory.

SB 266 Adopting the Uniform Securities Act

This legislation seeks to modernize New Hampshire’s securities regulations, which have not been updated and are based on the Uniform Securities Act of 1956. It clarifies text, eliminates outdated and confusing provisions, and substitutes clear language that is more closely aligned with current practices and regulatory policies. BIA supported this bill, which reduces hurdles for businesses trying to raise capital needed to grow and create jobs. The roll call vote is on a Commerce Committee recommendation of ought to pass with amendment. A yea vote is consistent with BIA’s position (23 yea – 0 nay). Victory.
New Hampshire’s electrical energy crisis

Your air conditioner may have hummed its way through the hot days of summer, but New Hampshire, part of the New England electric energy power grid, is in the midst of an electrical energy crisis. Don’t think so? Consider this:

- The latest report from the U.S. Energy Information Administration once again shows New England has the highest commercial, industrial and residential energy prices in the contiguous U.S. (save Alaska and Hawaii).

  - The same source reports that NH’s electrical energy prices for residential, commercial and industrial sectors are nearly 60 percent higher than the national average.

  - New Hampshire’s Public Utilities Commission reported recently that the region paid nearly $5 billion more for electrical energy during the winter of 2013-14, and $2 billion more last winter, than during the benchmark winter of 2011-12. (New Hampshire makes up about 10 percent of regional numbers).

  - Higher costs reduce discretionary income for families. At Hampshire makes up about 10 percent of regional numbers).

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  - Because natural gas is used as a heating fuel in the winter, the region’s growing reliance has led to high electricity costs during cold months when natural gas is used by both home owners and businesses.

  - The success of well-intended programs like the Renewable Portfolio Standard (RPS) and the Regional Greenhouse Gas Initiative (RGGI), which were enacted to help address climate change, depends on rapid development of renewable resources and ample natural gas supply to make up for the retirement of traditional fuel sources. Unfortunately, strong local opposition to energy infrastructure development projects such as wind, hydro and natural gas has significantly contributed to the situation that we are in today—alarminglly expensive energy.

Why Should We Care?

Our economic future depends on a vibrant manufacturing sector and the tens of thousands of NH residents it employs, tax revenue it provides to all levels of government, and economic vitality it generates for our economy.

Up to now, the Business and Industry Association worried about lost job growth and economic vigor as advanced manufacturers expanded operations elsewhere. Our electrical energy crisis presents a bleaker scenario: advanced manufacturers moving existing operations and jobs from NH to lower-cost places around the country or world.

New Hampshire and New England policymakers need to allow for development of energy infrastructure projects while working through local concerns. With NH’s and the region’s economies at stake, the time for action is now. Lack of urgent attention may well lead to job losses and a lagging economy for decades to come.

Member News

Jane Stratton of Absolute Resource Associates, an environmental firm, has been promoted to project manager. Since joining the company in 2006, Stratton has won many hats, ranging from customer service and lab assistant, to marketing and administrative support. www.absoluteresouceassociates.com

Anthem Blue Cross and Blue Shield in New Hampshire has named Scott Westover as its payment innovation strategy director. Westover, who has extensive experience in the health care industry, will be responsible for leading Anthem’s payment innovation and collaboration efforts with health care providers in the state. www.anthem.com

Attorney Jason Reimers, part owner of BCM Environmental and Land Law in Concord, was recently elected to chair the environmental and natural resources law section of the New Hampshire Bar Association. This section of the bar focuses on the impact of environmental laws, the understanding and application of federal, state and local environmental and natural resources laws, public education and consultation with professionals to verify that state laws conform to scientific principles. www.nhlandlaw.com

Bernstein Shur has again earned top ratings from Chambers USA, a directory of the nation’s top law firms and leading business lawyers. The firm received the highest possible ranking in three categories: Corporate Mergers and Acquisitions, Energy and Natural Resources, and Real Estate. www.berNSTeINshur.com

The attorneys and staff of Nelson Kinder and Mossaeau have joined with Devine Millimet. This combination created the largest litigation department of any New Hampshire-based law firm – 38 lawyers – at Devine Millimet. The move also brought Devine Millimet into Boston, in the heart of the Financial District, where Nelson Kinder has had an office since 2000. www.devinemillimet.com

At the annual meeting of the Rockingham County Bar Association, attorney Tom Watson was inducted into the “Loyal Order of the Rock,” lifetime achievement award established to honor attorneys who have practiced law for at least 30 years, demonstrating their love of law and dedication to clients, colleagues and community. Watson is a shareholder in the firm Drummond Woodsum, concentrating his practice in the areas of business law, civil litigation and real estate. www.dwmlaw.com

Eleven attorneys at the law firm of Gallagher, Callahan and Gartrell were selected by their peers for inclusion in The Best Lawyers in America® 2016 (Copyright 2015 by Woodward/White, Inc., of Aiken, SC). Those recognized are: Charles Bauer of Concord; R. Matthew Cains of Hopkinton; Peter Cline of Bedford; Samantha Elliott of Concord; W. John Funk of Gilmanton; Dodd Griffin of Concord; Susan Hollinger of Rochester; Donald Pfundstein of Concord; Ari Pollack of Concord; Michael Ruedig of Concord; and Donald Saxon of Utah. Best Lawyers® also named Donald Pfundstein as Concord’s 2016 “Lawyer of the Year” for Government Relations Practice. www.gcglaw.com

Six local attorneys from Hinckley Allen were recently selected by their peers for inclusion in the 2016 edition of The Best Lawyers in America® Donald D. Cotti (Litigation – Construction), Priscilla E. Kimball (Health Care Law), Mark S. McCue (Corporate Law), Nelson A. Raust (Trusts and Estates), John H. Sokul, Jr. (Land Use and Zoning Law, Litigation – Land Use and Zoning, Real Estate Law), and Richard Y. Uchida (Land Use and Zoning Law, Litigation – Real Estate, Real Estate Law). In addition, Richard Y. Uchida was named the Best Lawyers® 2016 Land Use and Zoning “Lawyer of the Year” in Concord. www.hinckleyallen.com

Charla Stevens, an attorney with McLane, Graf, Raulerson and Middleton and chair of BIA’s HR, Health Care and Workforce Development Committee, was appointed chair of New Hampshire’s Personnel Appeals Board. Stevens is the chair of McLane’s Employment Law Practice Group, and also practices in the Education and Health Care Practice Groups. Also, 38 of McLane’s attorneys have been listed in the Best Lawyers in America® 2016. Included in the list for the first time are: Beth Deragon, Margaret Keroauc, Mark Rouvalis and Jeremy Walker. www.mclane.com

Attorney Sarah Knowlton has joined Rath, Young and Pignatelli and will focus her practice on energy and utility matters, as well as representation of health care providers. Knowlton has significant experience representing electric, gas, water, steam and telecommunications utilities on a broad range of matters including mergers and acquisitions, rate cases, financings, integrated resource planning, and efficiency matters. www.ryplaw.com