

NEW HAMPSHIRE UNION LEADER

A “To Do” list for lawmakers

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THE NEW HAMPSHIRE legislative session just ended. What an odd session it was.



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Shortly after Gov. Chris Sununu announced the pandemic state of emergency in March, the Legislature shut down. As one week of legislative inactivity rolled into the next, State House observers wondered how and when legislative leadership would bring the session to a close. Now we know.

The House restarted its work through “virtual” Zoom committee meetings in late May and met in-person in mid-June at UNH’s Whittemore Center on the Durham campus, one of the few places in the state that would allow the 400 members of the House to “socially distance” themselves while conducting a session. For its part, the Senate began holding public hearings via Zoom in late May and conducted in-person sessions in the House chamber at the State House in mid-June. The House chamber is large enough to allow the 24-member Senate to safely social distance.

To further complicate what was already an unusual session, the House failed to “suspend the rules” when they met at the Whittemore Center. This parliamentary maneuver was needed to take up House and Senate bills that were technically still “alive,” but well beyond self-imposed House deadlines for action. The Senate chose to amend several different House bills, which they could do without suspending their rules, to ensure their highest-priority issues remained in play.

Several of these bills caught BIA’s attention. HB 1166 was amended into a bill that would make permanent temporary COVID-19 related reasons allowing individuals to receive unemployment insurance benefits.

In fact, it went one step further. It allows individuals who have a “reasonable” fear of contracting the virus to choose to stay on unemployment and continue to receive benefits rather than returning to work, this despite an employer’s good faith efforts to follow federal and state workplace health guidelines.

The bill also establishes mandatory new requirements on employers of companies with as few as 15 employees to provide family medical leave time away from work for COVID-19 reasons (federal law only applies to companies of 50 employees or more), and allows those individuals to receive unemployment benefits while they’re away from work.

Passed by the House last Tuesday, this legislation will deplete New Hampshire’s unemployment insurance trust fund and cost employers hundreds of millions of dollars in higher unemployment insurance taxes at the very time many are struggling to survive.

BIA will be leading the charge encouraging Gov. Sununu to veto this bill.

We also have misgivings about HB 731, which raises the minimum wage in New Hampshire to \$12 per hour. BIA opposes this bill, not because we oppose a higher minimum wage but because raising the minimum wage here will put upward pressure on all wages paid by Granite State employers.

Any increase in the minimum wage should occur at the federal level to create a level playing field for employers in every state. Gov. Sununu has vetoed minimum wage increases from past sessions, and we will be asking for his veto again this year.

BIA will also be asking the governor to veto HB 1264. This bill puts PFAS MCLs (per- and polyfluoroalkyl substances maximum contaminant levels), recently promulgated by New Hampshire’s Department of Environmental Services, into statute.

Why is this bad? Because the bill is little more than an end-run by the Legislature to avoid a court order halting the imposition of the standards (which, by the way, are among the lowest in the country) due to the department’s insufficient cost-benefit analysis.

An appropriate cost-benefit analysis is necessary to know if the cost of these aggressive MCLs are worth the health benefits gained.

Legislation to end-run the courts is simply bad policy and deserves a veto from the governor.

There are other matters the Legislature did not focus on this session that will require immediate attention when lawmakers return next year.

Revenue thresholds built into the budget last year could trigger tax increases for businesses in New Hampshire.

With a healthy economy, we would have seen tax rates stay at their current rate or perhaps even go down.

COVID-19 changed everything. Businesses either shut down to comply with Gov. Sununu's "stay at home" orders or slowed down due to a wounded economy. Consequently, business tax revenues (the largest source of revenue for the state) fell dramatically.

Rooms and meals taxes (the second largest revenue source) also declined. It's all but certain that budgeted revenue will not be realized, triggering an increase in both the Business Profits Tax and Business Enterprise Tax.

Businesses are struggling to reopen or return to pre-pandemic conditions.

Adding to their burden by increasing business taxes is, to put it mildly, unhelpful.

There's a narrow window of time to act in January before tax increases are felt by the business community, but legislators must be swift.

BIA will continue its efforts to pass legal "safe harbor" legislation to protect businesses from COVID-19 related liability litigation.

Without such protections, businesses, even those that are complying with all federal and state health guidelines, are targets for lawsuits from employees, customers, and visitors claiming that they were exposed to COVID-19 at the business. Similar

legislation has already passed in states like Utah and Oklahoma. It must be a high priority when the Legislature begins its new session in January.

Lawmakers will have their own "To Do" lists of course. But the priorities of enterprises that drive the state's economy, employ its residents, and generate the bulk of state and local tax revenue should be paramount.