

## 2023 Post Session Report

### 168th New Hampshire Legislative Session

The American Civil Liberties Union of New Hampshire (ACLU-NH) is a nonprofit, nonpartisan membership organization dedicated to preserving the individual rights and liberties guaranteed in the Bill of Rights and the Constitution. ACLU-NH, founded in 1968 by a small group of devoted civil libertarians, is one of 53 affiliates of the ACLU Nationwide.

The 168th New Hampshire legislative session convened on January 4, 2023 and concluded on June 29, 2023. New Hampshire lawmakers filed over 900 bills during the 2023 session, and the ACLU-NH reviewed every one. Dozens of these bills were ACLU-NH priorities because of their potential impact on civil liberties.

Here's how the 2023 New Hampshire legislative session impacted the fundamental rights of Granite Staters.

#### **Session Priorities:**

- o *Build a Society Where "We the People" Means Everyone*
  - o Invest in Communities and People: All New Hampshire residents should ensure basic needs and provide life affirming services, including a living wage; safe, decent, and sanitary housing; adequate nutrition; comprehensive health care and mental health services; and a high-quality education.
  - Support
    - *Protect Access to Safe, Legal Abortion*: Legislators must support legislation that would enshrine abortion rights into state law. This legislation would ensure that, regardless of what happens in the U.S. Supreme Court, abortion will remain safe, legal, and accessible in the Granite State.
      - o **Bill**: HB 88 (Rep. Simpson)
      - o **Bill Summary**: HB 88 would codify the right to abortion prior to 24 weeks into New Hampshire law.
      - o **ACLU-NH Position**: Support
      - o **Why we Support**:
        - The fundamental right to abortion is under real threat in New Hampshire. Now is the time for the legislature to draw a line in the sand and make clear that pregnant people should be able to seek abortion care without shame, stigma, or unnecessary obstacles.
      - o **Bill Status**: Passed the House, but defeated in the Senate.
      - o **Learn More**: [ACLU-NH Fact Sheet](#)

- **Bill:** HB 224 (Rep. Wolf)
  - **Bill Summary:** HB 224 would repeal the harmful criminal penalties that doctors face from New Hampshire's abortion ban.
  - **ACLU-NH Position:** Support
  - **Why we Support:**
    - Criminalizing abortion results in poor health outcomes.
    - Imposing criminal penalties creates an unnecessary barrier to abortion access.
    - The current law singles out qualified providers capable of performing abortions later in pregnancy.
  - **Bill Status:** Passed the House, but defeated in the Senate.
  - **Learn More:** [ACLU-NH Fact Sheet](#)
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- Oppose
    - *Prevent the Government from Controlling Private Healthcare Decisions:* Legislators must oppose efforts to prohibit abortions after any embryonic cardiac activity is detected, which is usually at six weeks. Make no mistake, this is intended to ban abortion in New Hampshire.
      - **VICTORY!**
      - **Bill:** HB 591 (Rep. Testerman)
      - **Bill Summary:** HB 591 would prohibit abortion after any embryonic cardiac activity is detected, which is usually at six weeks.
      - **ACLU-NH Position:** Oppose
      - **Why we oppose:**
        - Would ban almost all abortions in New Hampshire.
        - Places both medical providers and their patients at risk.
      - **Bill Status:** Defeated in the House.
      - **Learn More:** [ACLU-NH Fact Sheet](#)
    - *Stop Harmful "Born Alive" Legislation from Controlling Private Healthcare Decisions:* "Born Alive" legislation reinforces a false and unsubstantiated myth by requiring that a fetus born alive must receive life-preserving care. Legislators must ensure that everyone can make healthcare decisions that are right for them.

o **VICTORY!**

- o **Bill:** HB 346 (Rep. Cordelli)
- o **Bill Summary:** HB 346 would restrict doctors' ability to provide the standard of care in very complicated circumstances such as early labor and fatal fetal diagnosis through the threat of criminal penalties. This bill would control how families can spend the last moments with their babies before they pass.
- o **ACLU-NH Position:** Oppose
- o **Why we oppose:**
  - Could deny parents the ability to choose the type of compassionate care that works for their family and their faith in these situations.
  - Doctors would be forced to administer futile and painful treatment to extend the life of an infant for even just minutes or hours, against the wishes of the parents, under the threat of criminal liability.
  - Would harm families already struggling in tragic situations and is an act of state overreach into what should be a private healthcare decision between families and qualified healthcare providers.
- o **Bill Status:** Defeated in the House.
- o **Learn More:** [ACLU-NH Fact Sheet](#)

- *Protect the Privacy of Granite Staters' Health Care Decisions:* Legislators must oppose efforts to single out abortion as the only medical procedure designated for data collection by the Division of Vital Records Administration and/or would require healthcare providers to submit to the state detailed, individualized (as opposed to aggregate) reports on each patient's abortion procedure.

o **VICTORY!**

- o **Bill:** HB 582 (Rep. Stapleton)
- o **Bill Summary:** HB 582 would require the department of health and human services to publish an annual report consisting of an aggregate statistical summary of all abortions performed in New Hampshire, but healthcare providers would be required to submit detailed individualized (as opposed to aggregate) reports on each patient's medical procedure.
- o **ACLU-NH Position:** Oppose
- o **Why we oppose:**
  - This legislation threatens patient privacy.
  - This legislation arbitrarily targets abortion records.

- Bill Status: Defeated in the House.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Protect the Safety of LGBTQ+ Students:* Legislators must oppose efforts to interfere with the ability of school staff to do their job, including attempts to require school staff “out” a transgender student to their parents, potentially before the student is ready to share or who may face an unsafe home environment.
- **VICTORY!**
  - **Bill:** SB 272 (Sen. Carson) & HB 10 (Speaker Packard)
  - **Bill Summary:** SB 272 & HB 10 would require teachers to potentially “out” students that use a different name, gender, or pronouns than those used when they were initially enrolled if asked by parents. This requirement singles out transgender students for a higher level of surveillance than their cisgender peers. It also requires that parents be informed of the extracurricular activities, clubs, or organizations in which their student participates. These mandates exist regardless of any danger the student may face at home because of the disclosure.
  - ACLU-NH Position: Oppose
  - Why we oppose:
    - Singles out transgender youth for a special tier of surveillance in schools.
    - Undermines existing state and federal protections afforded to Granite Staters.
    - It may leave LGBTQ+ students without access to a safe or affirming environment.
  - **Bill Status:** SB 272 passed the Senate, and was defeated in the House. HB 10 was defeated in the House.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Maintain the Prohibition on Conversion Therapy:* Legislators must maintain the ban on conversion therapy, a widely discredited practice that seeks to change a person's sexual orientation or gender identity. Conversion therapy has been debunked by every major medical association in the country. Studies show that LGBTQ+ people who are exposed to conversion therapy are 92 percent more likely to attempt suicide.

- **VICTORY!**
- **Bill:** HB 619 (Rep. Roy)

- Bill Summary: HB 619 would ban gender-affirming healthcare for minors in New Hampshire, as well as any affirmation or education related to being transgender or non-binary in public schools. The bill would also functionally repeal the state's ban on conversion therapy by changing the definition in a way that fails to recognize the coerciveness frequently inherent to this dangerous practice.
  - ACLU-NH Position: Oppose
  - Why we oppose:
    - Would have negative health effects on transgender youth.
    - Would make schools hostile to transgender youth
    - Functionally repeals New Hampshire's ban on conversion therapy; this will inevitably put LGBTQ+ Granite Staters at risk of abuse and coercion.
  - Bill Status: Retained in House Health, Human Services and Elderly Affairs Committee.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Support Trans Youth:* Legislators must oppose efforts to ban young trans athletes from participating in athletic activities or ban the use of the bathroom consistent with their gender.

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  - Would have negative health effects on transgender youth.
  - Would make schools hostile to transgender youth
  - Functionally repeals New Hampshire's ban on conversion therapy; this will inevitably put LGBTQ+ Granite Staters at risk of abuse and coercion.
- Bill Status: Retained in House Health, Human Services and Elderly Affairs Committee.
- Learn More: [ACLU-NH Fact Sheet](#)

- *Prevent Restrictions on Medical Care for Transgender Youth:* Lawmakers must oppose legislation that would prohibit transgender people under 18 from receiving essential medical care. Affirming a young person's gender through social transition and gender affirming care - including medical care - saves lives. Passage of such a policy could also negatively impact recruitment and retention of highly qualified medical professionals who would not want to live and work in a state that prohibits necessary medical care.
  - **Bill:** HB 368 (Rep. Cannon)
  - **Bill Summary:** HB 368 would protect out of state transgender healthcare seekers from being prosecuted when they return to their home states.
  - **ACLU-NH Position:** Support
  - **Why we support:**
    - New Hampshire must be proactive in protecting the right to gender-affirming care.
    - It's time the Granite State makes it clear: politicians have no business telling parents that they cannot seek lifesaving care for their transgender children.
  - **Bill Status:** Retained in House Health, Human Services and Elderly Affairs Committee.
  - **Learn More:** [ACLU-NH Fact Sheet](#)
- **VICTORY!**
  - **Bill:** HB 417 (Rep. Testerman)
  - **Bill Summary:** HB 417 would add medically necessary and safe gender-affirming health care to the definition of child abuse.
  - **ACLU-NH Position:** Oppose
  - **Why we oppose:**
    - Gender-affirming care saves lives.
    - Science, medicine, and law are clear: gender-affirming care is necessary to ensure these young Granite Staters can thrive and be healthy.
    - The fight for access to gender affirming care is based on a simple belief — you are the rightful author of your own life story.
  - **Bill Status:** Defeated in the House.
  - **Learn More:** [ACLU-NH Fact Sheet](#)

- Take Affirmative Steps to Confront Racism, Bigotry, and Exploitation: From colonization and slavery, though modern racist and exploitative policies that include regressive taxation, redlining, and voter suppression, the United States has systematically exploited and denied the basic human rights of Black people. And, while Black people have faced the brunt of these injustices, poor white and other marginalized people are harmed too. New Hampshire must help dismantle this racist and exploitative foundation and prioritize investments in its communities that have been directly harmed and under-resourced by this legacy.

- Support

- *Transparency around Federal Checkpoints*: Legislators must support legislation that requires local law enforcement agencies provide notice to the public of federal immigration checkpoints when they are informed by a federal agency that such a checkpoint will occur. Like the notice that is required for state sobriety checkpoints, this notice is designed to mitigate the significant intrusions on civil liberties that these immigration checkpoints create.

- **VICTORY!**

- **Bill**: HB 2 (Rep. Weyler)
- **Bill Summary**: HB 2 would, when informed by a federal agency, require state, county, or municipal law enforcement to provide the public with up to 24 hours' notice that a federal agency intends to conduct an immigration checkpoint.
- **ACLU-NH Position**: Support
- **Why we support**:
  - Notice helps to minimize the intrusion and negative impact of checkpoints on New Hampshire motorists.
  - Immigration checkpoints have been used to circumvent the New Hampshire Constitution.
  - This legislation does not require state or local law enforcement to seek out information about federal immigration checkpoints.
- **Bill Status**: Passed the House and Senate and signed by the Governor.
- **Learn More**: [ACLU-NH Fact Sheet](#)

- *Teach Children the Full Picture of American History*: Legislators must repeal the "Banned concepts" law that unconstitutionally chills New Hampshire teachers from covering how America's

legacy of racism and slavery impacts today's society and students of color.

- **Bill:** HB 61 (Rep. Petrigno)
- **Bill Summary:** HB 61 would repeal 2021's "banned concepts act" and would replace it with language that helps ensure that educators can have honest and open discussions on race and gender.
- **ACLU-NH Position:** Support
- **Why we support:**
  - The banned concepts act restricts the ability of New Hampshire teachers to give our students a full picture of America's history and connect this history to current society.
  - The penalties for violations of the vague banned concepts act are severe.
  - Discussions and instruction on race and gender are critical to an informed community and a sense of belonging.
- **Bill Status:** Defeated in the House.
- **Learn More:** [ACLU-NH Fact Sheet](#)

▪ Oppose

- *Protect Welcoming Communities:* Legislators must not take away the power of local communities to decide whether they want their local law enforcement to do the job of the federal government in enforcing federal immigration laws.

- **VICTORY!**
- **Bill:** SB 132 (Sen. Gannon)
- **Bill Summary:** SB 132 would effectively mandate local law enforcement to prioritize federal needs before their own—regardless of the unique safety concerns localities face here in the Granite State. It would do so by barring local police departments from adopting or enforcing any policy that "[l]imits, prohibits, or discourages ... cooperating with federal agencies or officials to verify or report the immigration status of" any noncitizen.
- **ACLU-NH Position:** Oppose
- **Why we oppose:**
  - Demands that local police do the bidding of the federal government.



- Undermines community trust in law enforcement and will make New Hampshire less safe
  - Bill Status: Passed the Senate and tabled in the House.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Protect Access to the Ballot:*
  - **VICTORY!**
  - **Bill:** HB 460 (Rep. Lynn)
  - **Bill Summary:** HB 460 would remove the qualified voter affidavit from the voter registration process that allows people who do not have with them proof of age, identity, or citizenship when registering to vote. Similarly, it would potentially remove the domicile affidavit used by people who do not have proof of domicile. Instead, those people would now be sent home to gather those documents or—if they can't be found—denied the right to vote entirely.
  - **ACLU-NH Position:** Oppose
  - **Why we oppose:**
    - Would impose new, unnecessary hurdles in front of people exercising their fundamental right to vote.
    - Removing the qualified voter affidavit and potentially the domicile affidavit violates the U.S. Constitution.
    - Reimplementing voter challenges is likely unconstitutional.
  - **Bill Status:** Defeated in the House.
  - **Learn More:** [ACLU-NH Testimony](#)
- *Eliminate Harmful and Racist Policing and Punishments*
  - **Prioritize Public Safety:** Implement harm reduction strategies in response to community issues, including substance use disorders, homelessness, and mental illness, and rein in other abusive police strategies.
    - **Support**
      - *End New Hampshire's War on Marijuana:* Legislators must legalize the possession of marijuana by adults with racial equity at the foundation of this reform. New Hampshire's marijuana laws needlessly ensnare thousands of people -- disproportionately Black people -- in its criminal justice system every year. This does not make us safe, wastes taxpayer dollars, and it ruins lives.
  - **Bill:** HB 639 (Rep. Osborn)

- Bill Summary: HB 639 would allow adults (over age of 21) to possess up to four ounces of marijuana and create state-licensed private retail sales.
  - ACLU-NH Position: Support
  - Why we support:
    - A marijuana possession arrest can ruin lives.
    - New Hampshire's war on marijuana is a monumental waste of tax dollars.
    - New Hampshire's war on marijuana is enforced with a staggering racial bias.
  - Bill Status: Passed the House, but defeated in the Senate.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Defelonize the Possession of Drugs*: Legislators must stop saddling thousands of people -- disproportionately Black people -- with felony records each year for possession of controlled drugs.
    - **Bill**: HB 473 (Rep. Roy)
    - Bill Summary: HB 473 would reduce first-time possession or use of schedule I, II, III, or IV controlled drugs from a class B felony to an unclassified misdemeanor and subsequent violations from a class A to a class B felony.
    - ACLU-NH Position: Support
    - Why we Support:
      - Public safety resources should be focused on enhancing public safety.
      - Saddling people with felony records for the possession of drugs does not make our communities safer.
      - New Hampshire laws are enforced with a staggering racial bias.
      - New Hampshire's drug laws are a waste of taxpayer dollars.
    - Bill Status: Passed the House, but defeated in the Senate.
    - Learn More: [ACLU-NH Fact Sheet](#)
- *Expand New Hampshire's Harm Reduction Strategy*: Lawmakers must provide additional evidence-based harm reduction tools, including allowing the establishment of overdose prevention centers, which are a data-driven approach to saving lives and reducing harm.
    - **VICTORY!**
    - **Bill**: HB 287 (Rep. Newell)

- **Bill Summary:** HB 287 would remove fentanyl and xylazine test strips from the definition of drug paraphernalia.
  - **ACLU-NH Position:** Support
  - **Why we Support:**
    - Drug testing kits are a data-driven approach to saving lives and reducing harm in New Hampshire.
    - Major governmental and non-governmental medical and public health agencies and organizations support access to fentanyl test strips and other drug-checking supplies as a harm reduction tool.
  - **Bill Status:** Passed the House and Senate and awaiting action by the Governor.
  - **Learn More:** [ACLU-NH Fact Sheet](#)
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- **Ensure Police Are Accountable:** Hold police accountable when they abuse their power, including rolling back police immunity protections, requiring standardized data collection, and strengthening open government laws.
    - **Support**
      - *Hold Law Enforcement Accountable:* Legislators must end qualified immunity to ensure that victims of police misconduct can access justice and the police who violate civil rights are held accountable.
    - **Bill:** HB 647 (Rep. Tony Lekas)
    - **Bill Summary:** HB 647 would establish a cause of action against the state for violations against individual rights. Under this proposal, the government employer and not a government employee would be the defendant.
    - **ACLU-NH Position:** Support
    - **Why we support:**
      - This legislation is a New Hampshire solution to a substantial hurdle faced by Granite Staters seeking to hold police officers and other government actors accountable for violating their rights – a hurdle known as qualified immunity.
      - Qualified Immunity effectively closes the courthouse doors to victims of police abuse.
    - **Bill Status:** Defeated in the House.
    - **Learn More:** [ACLU-NH Fact Sheet](#)
  - *Racial Profiling Data Collection:* Legislators must analyze all aspects of our current justice system as there is a gross

overrepresentation of Black and Brown people currently incarcerated. The only way to study a system is by looking at data. Therefore, it is extremely important we gather facts and data around all points of our justice system – from arrest to sentencing.

- **Bill:** HB 597 (Rep. David Meuse)
  - **Bill Summary:** This bill would memorialize the 2020 recommendation of Governor’s Commission on Law Enforcement Accountability, Community and Transparency (“LEACT”) and require the collection of race and ethnicity data for police stops.
  - **ACLU-NH Position:** Support
  - **Why we support:**
    - Providing for racial data collection in police stops was a key LEACT recommendation and was supported by various law enforcement groups.
    - The lack of comprehensive data around law enforcement and New Hampshire communities of color is a key weakness of New Hampshire.
  - **Bill Status:** Defeated in House
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- End Policing for Profit: Focus police on the fair administration of justice, not collecting revenue or meeting quotas, including eliminating civil asset forfeiture, prohibiting expenditures beyond what is explicitly allocated to the department via the budgeting process.
    - Support
      - *Rein in Policing for Profit* – Legislators must continue to move toward the elimination of civil asset forfeiture, including by eliminating loopholes that allow state and local law enforcement agencies use of federal forfeiture laws that permit law enforcement to take and keep your property without even charging you with a crime.
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- **Bill:** HB 593 (Rep. Dan McGuire)
  - **Bill Summary:** HB 593 would replace civil forfeiture with criminal forfeiture—requiring a conviction as a prerequisite to the loss of property and ensuring access to counsel.
  - **ACLU-NH Position:** Support
  - **Why we support:**
    - Civil forfeiture has strayed from its original purpose.
    - Civil forfeiture leaves NH’s most vulnerable with little recourse.

- Civil forfeiture incentivizes the pursuit of profit over the fair administration of justice.
  - Bill Status: Retained in House Criminal Justice and Public Safety.
  - Learn More: [ACLU-NH Fact Sheet](#)
- Eliminate Inhumane and Counterproductive Punishment: Eliminate the inhumane, unnecessary, and expensive incarceration of people in jails and prisons, including by ending parole, repealing mandatory minimum laws, ending cruel and unusual conditions of confinement, and prioritizing non-carceral approaches to public safety, including restorative and transformative justice.
  - Oppose
    - *Stop Prison Expansion*: Granite Staters cannot afford the costs of building a new prison nor should we place the economic burden on our community members when data shows a consistent decline in the state’s prison population. It is not only financial irresponsibility to build a new prison, but historically speaking, the construction of new prison facilities always contributes to mass incarceration as a new prison means more cells that must be filled.
      - **VICTORY!**
      - **Bill**: HB 2 (Rep. Weyler)
      - **Bill Summary**: HB 2 included a request for \$50 million as a “deposit” for the design and construction of a new state prison.
      - **ACLU-NH Position**: Oppose
      - **Why we oppose**:
        - Since 2014, New Hampshire’s prison population has declined 35 percent and crime has decreased over 31 percent, showing that we can safely reduce our reliance on incarceration.
        - Around half of the people currently caged in the men’s prison are there due to a parole violation, and many others could be eligible to leave the state prison and transition into community-based supervision if adequate resources were being allocated to halfway houses and other community solutions.
        - The real solution here is to utilize community resources that divert people from reincarceration, not deepen the systems of incarceration through the construction of a new prison – especially in a vacuum.

- Bill Status: \$40 of the \$50 million of the proposed funding was stripped from HB 2.
  - Learn More: [ACLU-NH Fact Sheet](#)
- *Ensure Integrity of the Courts*
- End Two-Tiered Justice: Ensure that guilt and punishment are determined by facts rather than the wealth of the defendant.
  - Support
    - *Eliminate Wealth-Based Driver's License Suspensions*: Legislators must eliminate the suspension of driver's licenses for unpaid court fines and fees. Wealth-based driver's license suspensions have no public safety justification, place unnecessary hurdles in front of people seeking to support their families, and perpetuate New Hampshire's two-tiered justice system.
      - **Bill**: HB 650 (Rep. Telerski)
      - **Bill Summary**: This bill modifies the circumstances under which a driver's license may be suspended or revoked for nonpayment of fines, fees, or restitution; removes suspension of a driver's license or privilege as a sentencing punishment for nonpayment of fines, fees, or restitution; and authorizes the commissioner of safety to expunge the records of individuals covered by this bill.
      - **ACLU-NH Position**: Support
      - **Why we support**:
        - Every Granite Stater deserves access to medical care, religious services, employment, and much more. Wealth-based driver's license suspensions creates a two-tiered justice system where rich and poor people with otherwise identical records are given punishment at different rates.
      - **Bill Status**: Retained in Committee
      - Learn More: [ACLU-NH Fact Sheet](#)
    - *Strengthen Bail Reform*: Legislators must strengthen New Hampshire's existing bail system to ensure that trained judges make all decisions surrounding bail. This can be accomplished by simply replacing bail commissioners with magistrate judges.
      - **Bill**: HB 46 (Rep. Harriot-Gathright)
      - **Bill Summary**: HB 46 would establish a committee to study the use of court magistrates throughout the state court

- system to supplement or replace the current bail commissioner positions.
  - ACLU-NH Position: Support
  - Why we support:
    - Creates an opportunity to study the bail commissioner system and the potential benefits of replacing bail commissioners with magistrate judges. This legislation enjoys broad bipartisan support.
  - Bill Status: Passed the House and Senate, but the House non-concurred with the Senate's amendments.
  - Learn More: [ACLU-NH Fact Sheet](#)
- Oppose
- *Don't Roll Back Reforms to New Hampshire's Bail System –* Legislators must oppose efforts to revert to a bail system that needlessly incarcerated thousands of Granite Staters at a staggering financial cost to taxpayers. This legislation is based in fear, not evidence. In fact, crime rates in NH have decreased over 14 percent since the implementation of bail reform. Current law already allows a judge to detain individuals pretrial if they are a flight risk or danger to the community and judges should retain that discretion.
- **VICTORY!**
- **Bills:** HB 38, HB 318, HB 653, SB 248, SB 249, SB 252
  - Bill Summary: Each of these bills would have undermined bail reform and resulted in the needless incarceration of Granite Staters.
  - ACLU-NH Position: Oppose
  - Why we oppose:
    - Current law already allows the court to detain any individual pretrial and challenge a release order the state disagrees with.
    - This legislation is based in fear, not evidence.
    - This legislation will likely harm public safety.
    - This legislation will disproportionately harm Black people.
  - Bill Status: SB 249 and SB 252 passed the Senate and were retained in House Criminal Justice and Public Safety. HB 38, HB 318, and HB 653 were retained in House Criminal Justice and Public Safety. SB 248 was Rereferred to Committee.
  - Learn More: ACLU-NH Fact Sheets: [HB 38](#), [HB 318](#), [HB 653](#), [SB 248](#), [SB 252](#)