

Bill as
Introduced

HB 448 - AS INTRODUCED

2021 SESSION

21-0687

04/10

HOUSE BILL

448

AN ACT establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

SPONSORS: Rep. Sullivan, Sull. 1; Rep. M. Pearson, Rock. 34; Rep. Merner, Coos 7; Rep. Welch, Rock. 13; Rep. Myler, Merr. 10; Rep. Schultz, Merr. 18; Rep. Schuett, Merr. 20; Rep. Goley, Hills. 8; Rep. Long, Hills. 10; Sen. Cavanaugh, Dist 16

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill establishes a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Committee Established. There is established a committee to study and compare federal
2 Occupational Safety and Health Act standards with the safety and health standards the New
3 Hampshire department of labor uses for public sector employees.

4 2 Membership and Compensation.

5 I. The members of the committee shall be as follows:

6 (a) Three members of the house of representatives, appointed by the speaker of the
7 house of representatives.

8 (b) Three members of the senate, appointed by the president of the senate.

9 II. Members of the committee shall receive mileage at the legislative rate when attending to
10 the duties of the committee.

11 3 Duties. The committee shall:

12 I. Compare OSHA safety and health standards to the standards used by the New
13 Hampshire department of labor for public sector workers. The committee shall also survey public
14 sector employers in New Hampshire to gain insight into the impact of adopting a state OSHA plan
15 which would require public sector employees to be covered by health and safety standards that meet
16 or exceed OSHA standards. Where possible the committee should also seek to learn to what degree
17 some public sector employers are applying safety and health standards that may exceed what is
18 currently required by the department of labor.

19 II. Identify the approximate amount of funding that will be annually provided by the United
20 States Department of Labor and explore how the New Hampshire department of labor could utilize
21 that funding to offset its own expenditures.

22 III. Seek assistance from the New Hampshire department of labor in conducting the
23 comparison of standards and the employer survey. The committee may also solicit advice and
24 testimony from any individual or organization with information or expertise relevant to the
25 committee's objective.

26 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
27 among the members. The first meeting of the committee shall be called by the first-named house
28 member. The first meeting of the committee shall be held within 45 days of the effective date of this
29 section. Four members of the committee shall constitute a quorum.

HB 448 - AS INTRODUCED

- Page 2 -

- 1 5 Report. The committee shall report its findings and any recommendations for proposed
- 2 legislation to the speaker of the house of representatives, the president of the senate, the house
- 3 clerk, the senate clerk, the governor, and the state library on or before November 1, 2022.
- 4 6 Effective Date. This act shall take effect upon its passage.

HB 448 - AS AMENDED BY THE SENATE

05/13/2021 1298s

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CHAPTER 216
HB 448 - FINAL VERSION

05/13/2021 1298s

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2 legislation to the speaker of the house of representatives, the president of the senate, the house
3 clerk, the senate clerk, the governor, and the state library on or before November 1, 2022.

216:6 Effective Date. This act shall take effect upon its passage.

Approved: August 17, 2021
Effective Date: August 17, 2021

Amendments

Sen. Cavanaugh, Dist 16
April 27, 2021
2021-1222s
04/10

Amendment to HB 448

1 Amend section 2 of the bill by replacing subparagraph I(b) with the following:

2

3 (b) One member of the senate, appointed by the president of the senate.

4

5 Amend the bill by replacing section 4 with the following:

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7 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
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UNAPPROVED

Commerce
May 4, 2021
2021-1298s
04/10

Amendment to HB 448

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4

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Committee Minutes

SENATE CALENDAR NOTICE

Commerce

Sen Harold French, Chair
Sen Bill Gannon, Vice Chair
Sen Jeb Bradley, Member
Sen Donna Soucy, Member
Sen Kevin Cavanaugh, Member

Date: April 15, 2021

HEARINGS

Tuesday		04/27/2021
(Day)		(Date)
Commerce	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	HB 227	relative to termination of tenancy at the expiration of the tenancy or lease term.
9:15 a.m.	HB 384-FN	prohibiting the sharing of location data.
9:30 a.m.	HB 385-FN	relative to workers' compensation for heart and lung disease in firefighters.
9:45 a.m.	HB 448	establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.
10:00 a.m.	HB 593-FN	requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/97416675416>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-312-626-6799, or 1-646-558-8656, or 1-301-715-8592, or 1-346-248-7799, or 1-669-900-9128, or 1-253-215-8782
3. Or iPhone one-tap: 13126266799,,97416675416# or 16465588656,,97416675416#
4. Webinar ID: [974 1667 5416](https://www.zoom.us/j/97416675416)
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtriRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 227

Rep. Lynn

HB 384-FN

Rep. Wuelper

Rep. T. Lekas

HB 385-FN

Rep. M. Pearson

Rep. Doucette

Rep. O'Brien

HB 448

Rep. Sullivan

Rep. Myler

Rep. Long

HB 593-FN

Rep. Wilhelm

Rep. M. Smith

Rep. Wallace

Rep. S. Pearson

Rep. Pratt

Rep. M. Pearson

Rep. Schultz

Sen. Cavanaugh

Rep. Chretien

Rep. Verville

Rep. Testerman

Rep. Shurtleff

Rep. Soucy

Rep. Merner

Rep. Schuett

Rep. Oxaal

Rep. Gould

Rep. Goley

Rep. Lanzara

Rep. Welch

Rep. Goley

Rep. Moran

Aaron Jones 271-4063

Harold F. French
Chairman

Senate Commerce Committee

Aaron Jones 271-4063

HB 448, establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Hearing Date: April 27, 2021

Time Opened: 11:04 a.m.

Time Closed: 11:23 a.m.

Members of the Committee Present: Senators French, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : Senator Gannon

Bill Analysis: This bill establishes a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Sponsors:

Rep. Sullivan

Rep. M. Pearson

Rep. Merner

Rep. Welch

Rep. Myler

Rep. Schultz

Rep. Schuett

Rep. Goley

Rep. Long

Sen. Cavanaugh

Who supports the bill: 37 people signed up in support of the bill. Full sign in sheet available upon request.

Who opposes the bill: No one

Who is neutral on the bill: Wesley Gardner (NH Department of Labor)

Summary of testimony presented in support:

Representative Brian Sullivan

- Private sector employees are covered by the federal Occupational Safety and Health Administration (OSHA).
- In contrast, public sector employees are covered by the New Hampshire Department of Labor (DOL), which is responsible for establishing safety and health standards.
- Tom Wooten, a public works employee in Northfield, was killed on the job in 2016. Mr. Wooten's family was disappointed with the lack of detail provided after the investigation into the incident.

- In response, HB 406 was introduced and signed into law in 2019. The bill required public sector employee deaths and serious injuries to be reported in a timelier manner and for investigations to be more thorough.
- Representative Sullivan said HB 448 was the next logical step for the Legislature to take to address the safety and health of public sector employees.
- This bill would establish a study committee that would do the following:
 - First, the committee would compare OSHA safety and health standards for private sector employees to the standards that the New Hampshire DOL has for public sector employees.
 - Second, the committee would determine the impact the adoption of OSHA standards would have on public sector employees.
 - Third, the committee would study the extent in which public sector employers might already be applying standards that exceed that of the New Hampshire DOL.
 - Finally, the committee would study the amount of funding the U.S. Department of Labor could provide to NH to help support the implementation of a state-specific public sector OSHA plan.
- This bill will provide the Legislature with a report by November 2022. The report will help the Legislature determine if a state public sector OSHA plan is appropriate for the state.
- At the public hearing in the House, Deputy Commissioner Rudy Ogden said this study would be worthwhile for the department, even if a public sector OSHA plan isn't adopted. Specifically, this bill would allow the department to complete a comprehensive review of their safety and health standards, which can help them improve their standards for public sector employees.
- Representative Sullivan emphasized that the study committee would allow the Legislature to be fully informed, especially if public sector OSHA legislation is introduced in the 2023 session. Additionally, this bill serves as the next step to help reduce injuries and fatalities among public sector employees.
- **Senator French** asked if Representative Sullivan thought it might be a problem finding three House members to serve on the study committee.
 - **Representative Sullivan** replied that he didn't think so. He volunteered to serve on the study committee and Representative Infantine did as well.
- **Senator French** asked if he thought Representative Sullivan could find three senators.
 - **Representative Sullivan** said that if three senators couldn't be found, then he believed an amendment adjusting the membership of the study committee would be appropriate.
- **Senator Cavanaugh** asked Senator French if he would be fine with a Committee Amendment to reduce the senate membership to one senator. He also said he wouldn't mind serving on the study committee.
 - **Senator French** said the Committee would take that up.

Representative Will Infantine

- As an insurance agent, Representative Infantine has seen workplace fatalities occur.
- Representative Infantine understood why all OSHA standards couldn't be applied to municipal employees. However, for example, it didn't make sense to Representative Infantine why a private company would get a fine for using an inappropriate means to complete a trench, while a public employer wouldn't.
- Representative Infantine agreed to become a member of the study committee, and he supported reducing the senatorial membership of the study committee to just one member.

Samantha Wooten

- In July 2016, Ms. Wooten's father was killed at a public works project in Northfield.
- After her father's death, Ms. Wooten became a construction safety consultant.
- As a consultant, she said that construction hazards don't care if an employee is public or private; therefore, they shouldn't be classified into separate groups.
- Ms. Wooten doesn't blame Northfield or the NH Department of Labor for the accident; however, she said if Northfield were held to the same standards as the private sector, she may know exactly what happened to her father.
- Ms. Wooten said the lack of an investigation made her feel like her father's life wasn't as important as a private sector employee.
- If this type of accident happened in the private sector, OSHA would have begun an immediate investigation and implemented a plan of action to ensure another accident didn't happen again.
- Ms. Wooten said she didn't want another person to feel the heartache she does, and she said that every worker should have the same basic safety rights.

Allison Wooten

- Ms. Wooten said her daughter spoke eloquently, and the entire family supported this bill.

Susi Nord, National Council for Occupational Safety and Health

- Wednesday, April 28th, 2021 marks the 50th anniversary of the implementation of the Occupational Safety and Health Act.
- In 1970, an estimated 30,000 workers were killed yearly in traumatic incidents.
 - These yearly incidents didn't include those who died from occupational illnesses developed later in life, such as black lung, or those who were severely injured.
- In 2019, an estimated 5,000 workers died from traumatic incidents.
 - Ms. Nord said there's some underreporting because not all employees, such as those in the public sector, are included.
- Ms. Nord said that OSHA has made a difference in the lives of 25,000 people every year for at least the past 50 years.

- While occupational fatalities have decreased, an overwhelming majority of them are preventable.
- As Representative Infantine stated, public sector employees don't have to obey the same OSHA standards as private sector employees.
 - When digging trenches, for example, OSHA standards set certain shoring and measurement guidelines.
 - Even with statutes in place, Ms. Nord said that companies can decide to skirt standards to save on cost or time, which can cause fatal incidents.
 - For example, two people were killed in Boston a few years ago as a result of a trench incident. In response, Boston implemented a municipal statute that prevented any company from being hired that had any previous trench deaths or any health and safety citations.
- If Northfield had been given the proper training, then Ms. Nord said Mr. Wooten wouldn't have been put in the situation that killed him.
- Ms. Nord said it's the family that bears the cost when a business or a municipality decides to take a shortcut. Also, taxpayers pay the cost of when state or municipal workers' compensation rates increase.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

AJ
Date Hearing Report completed: April 29, 2021

Speakers

Commerce Committee Testify List for Bill HB448 on 2021-04-27

Support: 37 Oppose: 0 Neutral: 1 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Wooten, Samantha	samantha.e.wooten@gmail.com	603.630.1685	A Member of the Public	Myself	Support	Yes
Nord, Susi	susi@nationalcosh.org	603-548-0808	A Member of the Public	Myself	Support	Yes
Sullivan, Brian	briansullivannh@gmail.com	603.381.7889	An Elected Official	Myself	Support	Yes
infantine, will	repinfantine@gmail.com	603.493.9779	An Elected Official	House Labor Committee	Support	Yes
Raff, Alan	araff9@gmail.com	603.714.0258	A Lobbyist	NH AFL-CIO	Support	No
Lewandowski, Jean	jlewando@hotmail.com	Not Given	A Member of the Public	Myself	Support	No
Schuett, Dianne	dianne.schuett@leg.state.nh.us	603.224.0314	An Elected Official	cosponsor - Merr. County, Dist. 20	Support	No
Hamblet, Joan	joan.hamblet@leg.state.nh.us	603.205.4925	An Elected Official	Myself	Support	No
Harriott-Gathright, Linda	linda.HarriottGathright@leg.state.nh.us	16038804537	An Elected Official	Myself	Support	No
Ballentine, John M	mikeb@btine.com	Not Given	A Member of the Public	Myself	Support	No
Baird, Cathryn	Not Given	Not Given	A Member of the Public	Myself	Support	No
WOOTEN, ALLISON	allison.wooten@gmail.com	603.497.7088	A Member of the Public	Myself	Support	No
Hawkins, Brian	bhawkins@nhnea.org	603-545-7305	A Lobbyist	NEA-NH	Support	No
VAIL, SUZANNE	suzanne.Vail@leg.state.nh.us	603.234.0704	An Elected Official	Hillsborough County 30	Support	No
Casino, Joanne	joannecasino@comcast.net	603.746.3491	A Member of the Public	Myself	Support	No
Hamer, Heidi	Not Given	Not Given	An Elected Official	Myself	Support	No
Almy, Susan	susan.almy@comcast.net	603.448.4769	An Elected Official	Myself	Support	No
Cloutier, John	jocloutier@comcast.net	16034773690	An Elected Official	Myself	Support	No
Grassie, Chuck	chuck.grassie@leg.state.nh.us	16039787417	An Elected Official	Strafford 11	Support	No
Mombourquette, Donna	Not Given	Not Given	A Member of the Public	Myself	Support	No
Cornell, Patricia	Not Given	Not Given	An Elected Official	Myself	Support	No
Dontonville, Roger	rdontonville@gmail.com	603.632.7719	An Elected Official	Myself	Support	No
Gilman, Representative Julie	julie.gilman@leg.state.nh.us	Not Given	An Elected Official	Myself	Support	No
Stevens, Representative Deb	debstevens4ward7@gmail.com	603.820.0866	An Elected Official	My 10K constituents	Support	No
Tucker, Kathy	Not Given	Not Given	A Member of the Public	Myself	Support	No

Commerce Committee Testify List for Bill HB448 on 2021-04-27

Support: 37 Oppose: 0 Neutral: 1 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Booras, Hon. Efstathia	efstathiab73@gmail.com	603.930.3220	An Elected Official	Constituents	Support	No
Dontonville, Anne	Adontonville@gmail.com	603.632.7719	A Member of the Public	Myself	Support	No
Heath, Mary	Not Given	Not Given	An Elected Official	hills 14	Support	No
Bartlett, Rep Christy	christydbartlett@gmail.com	603.717.8151	An Elected Official	Merrimack 19	Support	No
Lonano, James	Not Given	Not Given	A Member of the Public	Myself	Support	No
Bixby, Peter	peter.bixby@leg.state.nh.us	16037495659	An Elected Official	Myself	Support	No
Chase, Wendy	Not Given	603.319.7259	An Elected Official	Myself	Support	No
Graham, Nancy	nancygraham806@gmail.com	425.765.6921	A Member of the Public	Myself	Support	No
Pimentel, Rod	Rodpimentel@leg.state.nh.us	Not Given	An Elected Official	Myself	Support	No
Gardner, Wesley	wesley.gardner@dol.nh.gov	603.271.3590	State Agency Staff	Department of Labor	Neutral	No
Schapiro, Joe	joe.schapiro@leg.state.nh.us	603.852.5039	An Elected Official	Cheshire 16, Keene	Support	No
Lacasse, Marco	Not Given	16033615808	A Member of the Public	Myself	Support	No
McBeath, Rebecca	NHStateHouse@gmail.com	Not Given	An Elected Official	Myself	Support	No

Testimony



April 27, 2021

Senator Harold French, Chair
NH Senate Commerce Committee
Concord, NH 03301

Dear Chairman French:

I am writing to you on behalf of the National Council for Occupational Safety and Health (National COSH). Our mission is to advance worker health and safety through training, education, research and advocacy. National COSH supports HB 448 because public workers deserve the same protection as workers in the private sector.

Currently the New Hampshire Department of Labor has jurisdiction to oversee workplace health and safety for public sector employees. In fact, the state of New Hampshire passed HB 406 in 2019 which put that jurisdiction into statute, but it has been in administrative rules for decades. The benefit of a federally approved OSHA State Plan is that it enables NHDOL to take advantage of the resources of the federal government to better protect our public sector workers. These resources include matching funds for what we are already spending on OSH oversight; research and development of up-to-date standards as well as support for a consultation program to help public employers assess their own health and safety programs or develop one if needed. When this committee heard NHDOL's testimony on HB 406, the Deputy Commissioner said several times that NHDOL does the best they can with limited resources. The Committee created by this bill will work to quantify what is currently in NHDOL rules, what public employers are already doing to protect workers and what is needed to bring our efforts up to the federal requirements of private employers.

It is already policy in the state of New Hampshire that public employees who often do some of the most dangerous jobs in the state are protected by common sense policies and standards as their neighbors and friends in the private sector are by the federal OSHA. Public employees make up approximately 15% of NH's workforce and face the same hazards as their private sector counterparts. This bill would enable the state of New Hampshire to make sure our small towns, schools and counties have resources to know and understand how best to protect their workers and it would give the NHDOL the resources it needs to do a better job overseeing the health and safety of our state, county and municipal employees.

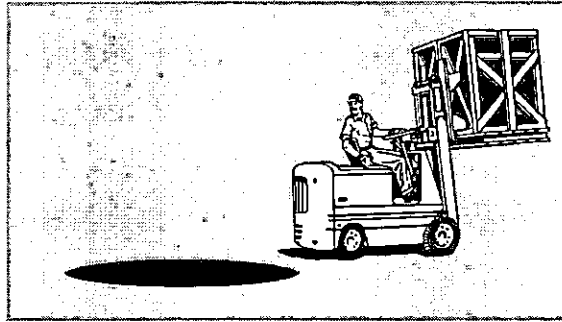
I ask that you vote HB 448 *ought to pass* and protect thousands of NH workers.

Respectfully,

Susi Nord
National Council for Occupational Safety and Health

CC: Committee Members, Permanent Record

7 Ways to Improve Operations Without Sacrificing Worker Safety



By Dr. David Michaels

March 21, 2018

<https://hbr.org/2018/03/7-ways-to-improve-operations-without-sacrificing-worker-safety>

When I ask corporate leaders why they are committed to preventing serious injuries and deaths among their workers, most say they care about their employees and don't want to see anyone hurt. They'll also note that "safety pays" in reducing costs, or admit they fear reputational damage following a significant incident at their company.

In my experience, these rationales rarely lead to significant changes in workplace safety and the prevention of serious injuries and deaths. Underneath it all, many business leaders have an implicit but unfounded belief that, while it is necessary to reduce workplace injury risk, there is a trade-off between profits and the expenditures necessary to keep workplaces safe. One example of this sticks in my mind.

During my years at OSHA, where I served as the Assistant Secretary of Labor from 2009 through the beginning of 2017, I received several reports of safety system failures at DuPont facilities. I watched with concern as the company, under pressure from activist shareholders to increase profits, cut costs and let its safety program deteriorate. Needed repairs and upgrades were delayed, worker training postponed, and risk assessments overlooked. The culmination was an incident at an insecticide plant in LaPorte, Texas, where, as a result of a basic process safety management failure, an extremely toxic chemical—methyl mercaptan—was released and two workers were overcome. With inadequate equipment, others rushed in to save their colleagues. In all, four workers were killed.

We fined DuPont a few hundred thousand dollars—a high penalty for OSHA but petty cash for DuPont. To get management's attention, I issued a statement declaring that "these four preventable workplace deaths and the very serious hazards we uncovered at this facility are evidence of a failed safety program."

It worked. CEO Ellen Kullman came to see me and promised a top to bottom review of the DuPont safety program. I was pleased with our meeting, feeling like she had made a real commitment. And then, less than two weeks later, she stepped down.

Her successor, Ed Breen, was quoted as saying, "as we confront a challenging environment, [Kullman] and the management team already have taken actions to accelerate cost reductions. Looking ahead, we will continue to drive productivity, and we plan to conduct a deep dive into the details of our cost structure and allocation of capital to ensure we deliver appropriate returns for shareholders."

When I read DuPont CEO Breen's words "accelerating cost reductions," my heart sank. I thought immediately of BP and the other industrial giants whose "accelerating cost reductions" had disastrous consequences. These kinds of statements speak to a leader's choice of values, and a failure to understand the relationships between a safe work environment and operational performance. They convey to workers what's really important, and they create ample context for inadequate safety focus lower down the organization.

It doesn't have to be this way. Companies can be successful and safe at the same time. The reality is that virtually all workplace injuries are preventable, and safety management and operational excellence are intimately linked. Injuries and catastrophic events, in addition to being tragic, are evidence that production is not being managed correctly. Improved operational performance will result in fewer injuries.

Here are some steps CEOs, executives, and boards can take to accomplish just that.

Start at the top.

From the CEO down, the message should be, "We care about safety because we care about you — doing it right means *no one* gets hurt." Take safety as seriously, if not more seriously, than anything else you do.

One former CEO who exemplifies this message is Jim Gallogly, who was hired to be CEO of LyondellBasell, one of the world's largest plastics, chemicals and refining companies, in 2009. When Gallogly arrived, the firm was in bankruptcy; his job was to return it to profitability (which he did). At his first meeting with employees, however, he announced that he wasn't going to begin by talking about the firm's financial challenges. Instead, the new CEO wanted to focus on something far more important: his absolute commitment to safety. He subsequently included a report of the firm's safety performance in every earnings call, too.

Aside from prioritizing safety with employees and investors, corporate leaders need to be familiar with the nature, extent, and potential of the major risks — and the risk mitigation plans — associated with their facilities. Many executives require every serious injury to be reported to them immediately. At Cummins, Inc., for example, serious incidents are reported directly to the COO and communicated to business unit vice presidents as well. They are then reviewed by the company's Manufacturing Leadership Council.

When operational staff knows that the C-suite will be on the receiving end of such reports, and that they will be analyzed in detail, it reminds mid-level management of the importance of risk reduction and injury prevention.

Use the right incentives.

The term "safety culture" is misleading because it suggests organizations have multiple cultures: one for safety, another for production, and perhaps others for quality and for sales. In reality, each company has its own organizational culture, and all too often, when production needs suddenly to increase, production takes precedence over safety.

At the safest, most successful companies, safety is what the firm does — and what the firm is at its core — not something that is separate from operations. In fact, a study of 19 manufacturing firms on quality, productivity, and economic performance, along with subjective data on how workers and managers felt about their safety program, found that:

"As safety deteriorates, product quality and plant performance, based on internal and external measures, suffers. There is more scrap, more rework, and employees are less involved. Such outcomes are in line with the core concepts of total quality management which would suggest that employees who do not feel safe in their jobs are not likely to do their jobs well.... Safety and operating performance measures should be viewed as in concert with each rather than as competing entities."

Operations managers must get the message, though direct comments, performance reviews, and bonuses, that safety is a central part of their jobs. I have seen far too many employers who fail to penalize managers when their safety management systems are failing but their production numbers are good. LyondellBasell, for example, has a policy that makes it clear that safety is no less important than profits. According to Jim Gallogly, no matter how low the OSHA recordable injury rate, if there is a serious incident — a fire, a chemical release, a worker is seriously hurt — no manager gets a bonus.

Don't blame workers for injuries.

Workers are humans and humans make mistakes. No matter the job, at some point a person will get tired, bored, or distracted. Because of this, errors are inevitable. Well-functioning safety programs understand this and have multiple backup systems to ensure that mistakes do not result in injuries or deaths.

It's also worth remembering that serious events are almost always caused by multiple factors — not the actions of one person — and that the prevention of these events is most effective when many indicators are considered together.

The most effective path to preventing injuries is to consider human errors as the consequences, rather than as causes, of operational failure. As James Reason, the organizational psychologist who authored the seminal book *Managing the Risks of Organizational Accidents*, wrote, "(w)hen an adverse event occurs, the important issue is not who blundered, but how and why the defenses failed."

Rethink how you think about injury rates.

Injury rates, often called "OSHA recordables" are important metrics, in that they reflect the very real experience of your workforce. At the same time, injury rates and reports of specific incidents are what are known as lagging indicators. While they identify problems that often need immediate attention, they do not adequately evaluate a firm's safety and health management system.

This may be the opposite of what many CEOs hear from their safety professionals. For many years, it was a common belief that preventing minor injuries will also prevent the most serious ones. In fact, the causal chains that lead to most serious and fatal injuries are quite different than those leading to the majority of "OSHA recordable" injuries (#4 talks more about these). This is especially true in the high-risk sectors where a single event can be catastrophic. Famously, BP executives were on the Deepwater Horizon drilling rig the night before that horrific explosion, giving its workers an award for their low injury rate.

That said, you should set concrete goals for injury rates at your company. But instead of focusing on a lower rate, I would recommend setting an aspirational goal of zero injuries (while making it clear that reporting injuries is an absolute requirement). The undesirable premise underlying the goal of a lower injury rate — versus aspiring to no injuries — is that it is OK for some workers to get hurt, as long as fewer get hurt than before.

Focus on leading indicators.

To make substantial progress in injury prevention, companies must select a set of indicators that measure progress toward that firm's chosen goals. These are called "leading indicators" because, unlike lagging indicators like recordable injuries, they are predictive of fatalities, serious injuries, or events that may have catastrophic consequences.

The measures could involve hazard identification or abatement, incident investigations, or the time it takes to close out of recommendations, among others. Each firm needs to select or develop its own, appropriate to its functions and products. Start with a small number and then add more as your program matures.

The pharmaceutical manufacturer Allergan, for example, tracks "good observations," reports that include near misses, unsafe conditions, or suggestions for reducing risk. Beyond providing a mechanism for workers to alert management to problems, this metric encourages a continual focus on risk reduction. Good observations are a take-off point for another measure the company tracks: speed in which serious or high gravity hazards are addressed. Simply receiving the observations is not enough, of course; eliminating the serious hazards are what is important.

Whatever the metrics, top managers should use them to measure the evolution of their safety management system (see #5 below), and they should be an integral component of managerial performance payments. The performance of senior executives at Dow Chemical, for example, is evaluated using leading safety indicators, not injury rates.

Embrace a safety and health management system.

Managing for safety requires managers to implement a systemic process to find and fix workplace hazards before workers are hurt. Generically these programs are called Safety and Health Management Systems (SHMSs) or Injury and Illness Prevention Programs. They all involve an iterative, continual improvement process that have as their operating principle the Plan Do Check Act cycle (or the Plan Do Study Act cycle, sometimes called the "Deming Wheel") widely in use today.

In order to be successful, an SHMS must involve support from leadership; worker participation (including the acting involvement of a union if one present in an organization); hazard identification, assessment, prevention and control; opportunities for education and training; and regular program evaluation and improvement.

SHMSs should also include protocols for investigating incidents that are sometimes called near misses or close calls. These incident investigations, conducted with the participation of managers, workers, and safety experts, examine the chain or root causes that led to the incident and then develop recommendations for preventing them in the future.

Welcome a regulator as a “cheap consultant.”

A visit from an OSHA inspector often triggers fear, if not panic, especially among inexperienced managers. But many OSHA inspections lead to substantial improvements in a firm’s operations. I was amused to hear an executive at one of the nation’s largest chemical manufacturers tell me that he looked at OSHA inspections as an inexpensive consultant, since our fines were always less than he would have to pay an industrial hygienist to do that same inspection for him.

In fact, most firms actually benefit from OSHA inspections, and I’m not just saying this because I worked there. According to researchers David I. Levine and Michael W. Toffel, OSHA’s random inspections of high hazard establishments result in a 9% reduction in injuries that triggered workers’ compensation claims in the four years following the inspection. On average, each inspection reduced employer expenditures for wage replacement and medical costs by \$350,000. Further, not only do the OSHA inspections prevent injuries, “they cause no discernible damage to employers’ ability to stay in business and no reductions in sales or credit ratings... Nor did we identify any effects of workplace inspections on wages, total payroll, or employment.”

Today and every day in the future, corporate leaders need to reassess what safety means and how their company can achieve it. They need to recognize that safety is a value proposition, that safety management and operational excellence are inextricably linked. If you ask the CEOs of companies who take this seriously, my bet is you won’t hear the same old tired line that “safety is a priority.” They understand that safety is not a priority — it is an essential precondition of their work. It is a fundamental component of their operating culture. Safety, ultimately, is at the core of what they do.

David Michaels, PhD, MPH, is Professor of Environmental and Occupational Health at the Milken Institute School of Public Health at the George Washington University. From 2009 to January 2017, Dr. Michaels served as the United States Assistant Secretary of Labor for Occupational Safety and Health, the longest serving in OSHA’s history. He also served as the Assistant Secretary of Energy for Environment, Safety and Health, 1998-2001. His current research focus is on the relationship between injury, safety and health management, productivity and profitability.

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
 2021-2022 Session

Bill # HB 448

Hearing date: 4/27/21

Executive Session date: 5/4/21

Motion of: Amendment (21-1777s) Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP-A Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: CONSENT Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: SEN. FRENCH

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, May 6, 2021

THE COMMITTEE ON Commerce

to which was referred **HB 448**

AN ACT

establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1298s

Senator Harold French
For the Committee

Currently, the federal Occupational Safety and Health Act (OSHA) doesn't apply to public sector employees. This bill would establish a study committee that would examine and compare federal OSHA standards with the safety and health standards the New Hampshire Department of Labor has for public sector employees. As amended, only one senator would serve on the study committee and the meeting quorum would be reduced to three members.

Aaron Jones 271-4063

FOR THE CONSENT CALENDAR

COMMERCE

HB 448, establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Ought to Pass with Amendment, Vote 5-0.

Senator Harold French for the committee.

Currently, the federal Occupational Safety and Health Act (OSHA) doesn't apply to public sector employees. This bill would establish a study committee that would examine and compare federal OSHA standards with the safety and health standards the New Hampshire Department of Labor has for public sector employees. As amended, only one senator would serve on the study committee and the meeting quorum would be reduced to three members.

General Court of New Hampshire - Bill Status System

Docket of HB448

Docket Abbreviations

Bill Title: establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees.

Official Docket of HB448.:

Date	Body	Description
1/10/2021	H	Introduced (in recess of) 01/06/2021 and referred to Labor, Industrial and Rehabilitative Services HJ 2 P. 48
1/21/2021	H	Public Hearing: 01/28/2021 01:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96195399441 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/3/2021	H	Executive Session: 02/11/2021 01:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/98476278055
2/17/2021	H	Committee Report: Without Recommendation (Vote ; RC) HC 12 P. 32
2/25/2021	H	Special Order to Regular Calendar of next Session day Without Objection HJ 4 P. 46
4/9/2021	H	Ought to Pass: MA DV 201-166 04/09/2021 HJ 7 P. 22
4/9/2021	H	Reconsider (Rep. T. Smith): MF DV 143-230 04/09/2021 HJ 7 P. 22
4/13/2021	S	Introduced 04/08/2021 and Referred to Commerce; SJ 12
4/15/2021	S	Remote Hearing: 04/27/2021, 09:45 am; Links to join the hearing can be found in the Senate Calendar; SC 20
5/6/2021	S	Committee Report: Ought to Pass with Amendment #2021-1298s , 05/13/2021; Vote 5-0; CC; SC 23
5/13/2021	S	Committee Amendment #2021-1298s , AA, VV; 05/13/2021; SJ 15
5/13/2021	S	Ought to Pass with Amendment 2021-1298s, MA, VV; OT3rdg; 05/13/2021; SJ 15
6/10/2021	H	House Concurs with Senate Amendment 2021-1298s (Rep. Infantine): MA DV 355-4 06/10/2021 HJ 10 P. 12
7/12/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/12/2021	H	Enrolled (in recess of) 06/24/2021
8/17/2021	H	Signed by Governor Sununu 08/17/2021; Chapter 216; Eff: 08/17/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 448

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 21-1778 - amendment # _____

- amendment # 21-1798 - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Arcon Jones
Committee Aide

7/21/21
Date

Senate Clerk's Office [Signature]