

September 30, 1998

No. 63

STATE OF NEW HAMPSHIRE

Legislative

SENATE CALENDAR

MEETINGS AND NOTICES

LAIID ON TABLE

HB 1280-L, clarifying the procedures for background criminal checks for school employees and volunteers.

MEETINGS

Thursday, OCTOBER 1, 1998

SPECIAL EDUCATION ISSUES COMMISSION (SB 462, Chapter 267:2, 1998) Room 102, LOB

9:00 a.m. Regular Meeting

● **PLEASE NOTE THE LONG-RANGE CAPITAL PLANNING & UTILIZATION COMMITTEE HAS BEEN RESCHEDULED TO OCTOBER 15.**

LAND USE MANAGEMENT & FARMLAND, ETC. PRESERVATION STUDY COMMITTEE
(HB 1238, Chapter 197:2, 1998) Room 303, LOB

10:00 a.m. Regular Meeting

**STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION
STUDY COMMITTEE** (HB 1159, Chapter 31:1, 1998) Room 207, LOB

10:00 a.m. Regular Meeting

FRIDAY, OCTOBER 2, 1998

OSTEOPOROSIS EDUCATION AND ADVISORY COUNCIL (RSA 126-I:3), Room 103, LOB

10:00 a.m. Regular Meeting

STATE SUBSTANCE ABUSE TREATMENT DELIVERY SYSTEM (HB 1174, Chapter 247:1,
1998) Room 102, LOB

10:00-12:00 Regular Meeting

MONDAY, OCTOBER 5, 1998

PERINATAL ALCOHOL, TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19)
Room 101, LOB

9:00-10:30 Regular Meeting

NEW HAMPSHIRE COUNCIL ON APPLIED TECHNOLOGY AND INNOVATION (RSA 12-
H:1) Room 304, LOB

1:00 p.m. Technical Presentation re: Communication Towers

NEW HAMPSHIRE BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-
K:2) Room 205, LOB

2:00 p.m. Regular Meeting

family issues in the court study committee (HB 657, Chapter 152, 1995) Room 208, LOB

3:00-5:00 Regular Meeting

TUESDAY, OCTOBER 6, 1998

LEGISLATIVE ETHICS COMMITTEE (RSA 14-B:2) Room 304, LOB

9:00 a.m. Regular Meeting (Public Hearing on a proposed Advisory Opinion to provide
guidance for legislators for complying with the conflict of interest disclosure procedure of the Ethics
Guidelines)

WATER QUALITY ISSUES STUDY COMMITTEE (HB 1536, Chapter 213, 1997) Room 305, LOB

9:30 a.m. Regular Meeting

EMERGENCY MEDICAL SERVICES BUREAU STUDY COMMITTEE (HB 1150, Chapter 30:1, 1998) Room 302, LOB

1:00 p.m. Regular Meeting

NATURAL, HISTORIC RESOURCE CONSERVATION COMMISSION (SB 493, Chapter 161:2, 1998) Room 305, LOB

1:00 p.m. Regular Meeting

THE DEPARTMENT OF TRANSPORTATION Hooksett Town Hall, 16 Main Street, Hooksett

7:00 p.m. Public Officials Meeting (US 3/NH 28 Bypass Intersection)

● **PLEASE NOTE THE NEW HAMPSHIRE COMMISSION ON THE SMITHSONIAN FESTIVAL OF AMERICAN FOLKLIFE HAS BEEN Cancelled**

WEDNESDAY, OCTOBER 7, 1998

ALTERNATIVE AGRICULTURAL PRODUCTS EFFECTS AND JURISDICTION (HB 1120, Chapter 103:1, 1998) Room 307, LOB

9:00 a.m. Regular Meeting

BUILDING TRADES CONSOLIDATION UNDER SINGLE LICENSING BOARD STUDY COMMITTEE (SB 364, Chapter 123:1, 1998) Room 101, LOB

9:00 a.m. Organizational Meeting

NEW HAMPSHIRE CONSTITUTION, PART 2ND. ART. 41, 72-a & 73-a, ADOPTION (HB 1338, Chapter 330:1, 1998) Room 208, LOB

10:00 a.m. Regular Meeting

SPECIAL EDUCATION SERVICES DELIVERY PERSONNEL SHORTAGES (HB 1215, Chapter 144, 1998) Room 207, LOB

10:00 a.m. Regular Meeting

CHILD AND FAMILY RESOURCE GROUP (SB 360, Chapter 122:2, 1998) Room 201-203, LOB

10:00-12:00 Regular Meeting

AFFORDABLE HEALTH INSURANCE FOR UNINSURED & UNDERINSURED STUDY COMMITTEE (HB 1411, Chapter 340, 1998) Room 302, LOB

11:00 a.m. Regular Meeting

THURSDAY, OCTOBER 8, 1998

● **PLEASE NOTE THE ALTERNATIVE AGRICULTURAL PRODUCTS EFFECTS AND JURISDICTION HAS BEEN RESCHEDULED TO OCTOBER 7.**

NEW HAMPSHIRE CONSTITUTION, PART 2ND. ART. 41, 72-a & 73-a, ADOPTION (HB 1338, Chapter 330:1, 1998) Room 208, LOB

10:00 a.m. Regular Meeting

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:28-a) Room 105A, SH

10:00 a.m. Executive Session to Draft The Final Report

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY COMMITTEE (HB 1159, Chapter 31:1, 1998) Room 207, LOB

10:00 a.m. Regular Meeting

TUESDAY, OCTOBER 13, 1998

UPDATING OF NEW HAMPSHIRE FENCE LAWS STUDY COMMITTEE (HB 1154, Chapter 62, 1998) Room 301, LOB

9:00 a.m. Regular Meeting

CHILDREN WITH DISABILITIES AND THEIR FAMILIES (sb 443, Chapter 160:1, 1998) Room 101, LOB

10:00 a.m. Families Will Be There To Talk About Their Concerns Of Children With Disabilities

DISTRICT COURT EVENING SESSIONS STUDY COMMITTEE (HB 734, Chapter 29, 1998) Room 208, LOB

10:00 a.m. Regular Meeting

DRIVER TRAINING PROGRAM PARTICIPATION FOR OLDER DRIVERS STUDY COMMITTEE (SB 316, Chapter 212:1, 1998) Room 102, LOB

10:00 a.m. Regular Meeting

PRESERVATION OF AND ACCESS TO LEGISLATIVE RECORDS IN STATE ARCHIVES STUDY COMMITTEE (HB 111, Chapter 36, 1998) Records Management & Archives, 71 South Fruit Street, Concord

10:00 a.m. Regular Meeting

PUBLIC WATER ACCESS ADVISORY BOARD (RSA 233-A:2,I), Director's Conference Room

10:00-12:00 Meeting

CHILD AND FAMILY RESOURCE GROUP STUDY COMMITTEE (SB 360, Chapter 122:2, 1998), Nashua City Hall, Third Floor Auditorium, 229 Main Street, Nashua

2:00-4:00 Regular Meeting (For More Information Contact Lisa Beaulieu 594-3330, Everyone is Welcome To Attend, Those Who Cannot Attend Should Send Written Testimony, Refreshments Will Be Served)

PHARMACEUTICAL ASSISTANCE FOR THE ELDERLY (SB 507, Chapter 221:2, 1998) Exeter Senior Citizens Center, 30 Court Street, Exeter

2:30-4:30 Regular Meeting

WEDNESDAY, OCTOBER 14, 1998

FISCAL COMMITTEE OF THE GENERAL COURT Room 210-211, LOB

9:00 a.m. Regular Business

9:30 a.m. Audits: Department of Regional Community Technical Colleges, Veterans' Home

Electric rate reduction financing study committee (HB 651, Chapter 263, 1998) Room 304, LOB

10:00 a.m. Regular Meeting

THURSDAY, OCTOBER 15, 1998

LONG RANGE CAPITAL PLANNING & UTILIZATION COMMITTEE (RSA 17-M:1) Room 201,LOB

9:30 a.m. Skyhaven Subcommittee Meeting

ADEQUATE EDUCATION COSTS AND MUNICIPALITY GRANT DISTRIBUTION COMMISSION (SB 462, Chapter 267:2, 1998) Room 102, LOB

10:00 a.m. Regular Meeting

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY COMMITTEE (HB 1159, Chapter 31:1, 1998) Room 207, LOB

10:00 a.m. Regular Meeting

WOMEN'S HEALTH CARE STUDY COMMITTEE (HB 1536, Chapter 118, 1998) Room 302, LOB

1:00 p.m. Regular Meeting

FRIDAY, OCTOBER 16, 1998

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular Meeting

judicial council (RSA 494:1), Room 208, LOB

12:00-5:00 Regular Meeting

MONDAY, OCTOBER 19, 1998

MARINE PATROL SERVICES STUDY COMMITTEE HB 1605, Chapter 178, 1998) Room 204, LOB

9:00 a.m. Regular Meeting

VICTIM'S ASSISTANCE SUBCOMMITTEE OF THE GOVERNOR'S COMMISSION ON DOMESTIC VIOLENCE, Room 103, LOB

9:30 a.m. Meeting

STATEWIDE SCHOOL TECHNOLOGY PLAN OVERSIGHT COMMITTEE (HB 262, Chapter 191, 1997) Room 207, LOB

1:00 p.m. Regular Meeting

TUESDAY, OCTOBER 20, 1998

CHILDREN WITH DISABILITIES AND THEIR FAMILIES (sb 443, Chapter 160:1, 1998) Room 101, LOB

10:00 a.m. Review Draft Report Due November 1, 1998

NATURAL, HISTORIC RESOURCE CONSERVATION COMMISSION (SB 493, Chapter 161:2, 1998) Room 306, LOB

1:00 p.m. Regular Meeting

PHARMACEUTICAL ASSISTANCE FOR THE ELDERLY (SB 507, Chapter 221:2, 1998)
Plymouth Regional Senior Center, Railroad Square, Plymouth

1:30 p.m. Regular Meeting

THURSDAY, OCTOBER 22, 1998

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY COMMITTEE (HB 1159, Chapter 31:1, 1998) Room 207, LOB

10:00 a.m. Regular Meeting

FRIDAY, OCTOBER 23, 1998

WORKER'S COMPENSATION ADVISORY COUNCIL (RSA 281-A:62) Room 306, LOB

9:00 a.m. Regular Meeting

MONDAY, OCTOBER 26, 1998

OIL FUND DISBURSEMENT BOARD (RSA 146-D:4) Room 305, LOB

9:00 a.m. Regular Meeting

TUESDAY, OCTOBER 27, 1998

FOSTER CARE SYSTEM TASK FORCE (SB 346, Chapter 277:1, 1998), Room 308, LOB

9:30 a.m. Regular Meeting

THURSDAY, OCTOBER 29, 1998

WOMEN'S HEALTH CARE STUDY COMMITTEE (HB 1536, Chapter 118, 1998) Room 302, LOB

1:00 p.m. Regular Meeting

THE DEPARTMENT OF TRANSPORTATION, Carroll Town Hall Gym, PO Box 146, Carroll

7:00 p.m. Public Hearing Commission (Carroll-Bethlehem US Route 302)

FRIDAY, NOVEMBER 6, 1998

OSTEOPOROSIS EDUCATION AND ADVISORY COUNCIL (RSA 126-I:3), Room 103, LOB

10:00 a.m. Regular Meeting

TUESDAY, NOVEMBER 10, 1998

NEW HAMPSHIRE COMMISSION ON THE SMITHSONIAN FESTIVAL OF AMERICAN FOLKLIFE (SJR 20, Chapter 204, 1996), Room 307, LOB

3:00 p.m. Meeting

TUESDAY, NOVEMBER 17, 1998

Foster care system task force (SB 346, Chapter 277:1, 1998) Room 308, LOB

2:00 p.m. Regular Meeting

FRIDAY, NOVEMBER 20, 1998

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular Meeting

TUESDAY, DECEMBER 1, 1998

New HAMPSHIRE commission on the Smithsonian festival of American FOLKLIFE (SJR 20, Chapter 204, 1996), Room 307, LOB

3:00 p.m. Regular Meeting

FRIDAY, DECEMBER 4, 1998

OSTEOPOROSIS EDUCATION AND ADVISORY COUNCIL (RSA 126-I:3), Room 103, LOB

10:00 a.m. Regular Meeting

FRIDAY, DECEMBER 11, 1998

BOARD OF CLAIMS (RSA 541-B:3), Room 202, LOB

9:00 a.m. Quarterly Meeting

MONDAY, DECEMBER 14, 1998

Public water access advisory board (RSA 233-A:2,I), Director's Conference Room

10:00-12:00 p.m. Meeting

FRIDAY, DECEMBER 18, 1998

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular Meeting

NOTICES

The Nuclear Decommissioning Financing Committee (NFDC) will be conducting hearings regarding North Atlantic Energy Service Corporation's (North Atlantic) Annual Decommissioning Update from October 19 through October 23, 1998, at 9:00 a.m., Room 305-307.

The subjects and issues to be considered in the proceeding include the following:

1. Anticipated energy producing life (including but not limited to steam generator issues);
2. The most appropriate way to decommission the plant;
3. The funding method;
4. Adequate assurance of collection;
5. Adequacy and accuracy of estimate;
6. Escalation and contingency factors.

Senator Gary Francoeur

NOTICE

LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee will hold a public hearing on Tuesday, October 6, 1998, at 9:00 a.m., in Room 304, LOB to receive input on a proposed Advisory Opinion. The proposed Advisory Opinion is printed below in its entirety.

Representative Jeb E. Bradley, Chairman

Senator Richard L. Russman, Vice-Chairman

Senator John A. King

Representative Sarah K. Bonneau

Shawn N. Jasper

Peter C. Scott

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PROPOSED

ADVISORY OPINION

The Legislative Ethics Committee received and reviewed a request for an Advisory Opinion to provide guidance for legislators for complying with the financial disclosure and conflict of interest disclosure provisions of the Ethics Guidelines.

Ethics Guidelines Section 3, Legislator's Financial Disclosure Form, requires every legislator to file a Financial Disclosure Form with the Office of the Secretary of State on or before January 31 of each year. The form consists of two sections. Completion of Section 1 of the form, which requires a legislator to identify sources of income in excess of \$10,000 during the preceding calendar year, is mandatory. Completion of Section 2 of the form, which affords a legislator the opportunity to disclose and describe any financial interest that the legislator or legislator's spouse may have in certain businesses, professions, occupations, groups, or matters, is optional. Section 2 of the form is intended to eliminate the requirement in most circumstances for a legislator to file a specific Declaration of Intent Form, as provided in Ethics Guidelines Section 5, at the time of participation in any official activity in which a legislator has a potential conflict of interest.

Conflicts of interest, as defined for legislators in Ethics Guidelines Section 2, exist when a legislator's participation in any legislative activity has a direct material financial effect upon the legislator, or the legislator's spouse, which is distinguishable from its effect upon the general public. It is the responsibility of legislators to determine when a conflict of interest exists and to act accordingly through the use of the appropriate disclosure procedure.

There are 3 ways for a legislator to proceed when the legislator believes that a conflict of interest exists.

Option #1: Completion of Section 2 of the Legislator's Financial Disclosure Form. The so-called "checklist" allows a general disclosure of a legislator's financial interests in certain issues likely to come before the General Court. Although disclosure of financial interests on the checklist would satisfy the Ethics Guidelines' disclosure requirements in most circumstances, it will not relieve a legislator from the requirement of filing a specific Declaration of Intent Form if a legislator's participation in pending legislation or other official activities could reasonably be expected to result in any benefit that is either: (1) limited to the legislator or the legislator's spouse (or a small group which includes the legislator or the legislator's spouse); or (2) of a significantly greater magnitude than would result to other individuals with similar financial interests. In such cases, the legislator must choose either Option #2 or Option #3.

Option #2: Filing a Declaration of Intent Form and indicating "I will participate." When a legislator becomes aware that participation in an official activity could reasonably be expected to result in any benefit that is either limited to the legislator or the legislator's spouse (or a small group which includes the legislator or the legislator's spouse) or is of a significantly greater magnitude than would result to other individuals with similar financial interests, the legislator must file a

Declaration of Intent Form. On the form, a legislator may elect to declare an intention to participate in the activity but must detail the nature of the conflict of interest in order to do so. Use of the Declaration of Intent Form is also required for disclosure of any conflicts of interest which have occurred subsequent to filing the checklist form in January of the current year.

Option #3: Filing a Declaration of Intent Form and indicating "I will not participate."

When a legislator becomes aware that participation in an official activity could reasonably be expected to result in any benefit that is either limited to the legislator or the legislator's spouse (or a small group which includes the legislator or the legislator's spouse) or is of a significantly greater magnitude than would result to other individuals with similar financial interests, the legislator must file a Declaration of Intent Form and may elect to abstain from participation in any activity relating to the issue. The decision to participate or not to participate is solely that of each individual legislator. The greater the perceived financial benefit is to the legislator, however, the more seriously the legislator may want to consider electing not to participate.

The Committee believes that the following hypothetical examples may be helpful in understanding the conflict of interest disclosure procedure and choosing an appropriate disclosure option:

- The legislator is a lawyer and a partner/owner of a two-person law firm. The legislature is considering one bill relating to the Business Enterprise Tax and another relating to the regulation of lawyers. The legislator has disclosed the financial interest in checklist categories: "(k) the practice of law," and "(q) New HAMPSHIRE Taxes: Business Enterprise Tax." No filing of a specific Declaration of Intent Form is required because these generic disclosures on the checklist adequately cover these general pieces of legislation.
- The legislator owns a restaurant and has disclosed this financial interest in checklist category "(i) restaurants and lodging." There is a bill before the legislature to raise the Rooms & Meals Tax generally. As in the example above, the legislator is not required to file a specific Declaration of Intent Form before voting on or participating in any official activity relating to the bill because the legislator's generic disclosure on the checklist adequately covers this legislation which is of a general nature.
- The legislator is a member of the New HAMPSHIRE Retirement System and has disclosed this financial interest in checklist category "(g) the New HAMPSHIRE Retirement System." Advisory Opinion 1992 - #3 has previously held that membership in the System constitutes a conflict of interest with respect to any proposed legislation which would affect the amount or timing of benefits payable by the System to the legislator or a member of the legislator's immediate family. The legislature is considering a bill to increase the state's contribution to the System for all members. The legislator stands to derive a direct financial benefit from passage of this legislation, however, this benefit would presumably be no greater than the benefit derived by the many other members of the System throughout the state. Therefore,

the legislator's disclosure of membership in the System on the checklist would satisfy the requirements of the Ethics Guidelines' disclosure provisions in this example. Although not required, the legislator may elect to file a Declaration of Intent Form and declare an intention to participate or not participate. The greater the perceived financial benefit is to the legislator, the more seriously the legislator may want to consider choosing these options.

- The legislator owns land subject to current use assessment. Advisory Opinion 1996 - #1 has previously held that the current use tax system constitutes a financial interest, and therefore a potential conflict of interest, with respect to any official activity pertaining to the tax. The legislature is considering a bill to change the land use change tax, a tax assessed when land which has been classified as open space land is changed to a use which disqualifies it for current use assessment. This bill would potentially affect the financial benefit of current use land ownership for every owner of land in current use. The legislator has disclosed the ownership of land in current use in checklist category "(h) the current use land assessment program." This disclosure would be sufficient in most cases given the large number of individuals in the state owning land subject to current use assessment and the probability that the financial benefit or detriment of the bill would affect all such landowners similarly. As in the example above, the legislator may elect to file a Declaration of Intent Form and declare an intention to participate or not participate. The greater the perceived financial benefit is to the legislator, the more seriously the legislator may want to consider choosing these options.
- The legislator is an attorney who represents an electric utility. The legislature is considering one bill relating to the Public Utilities Commission and another relating to the regulation of electric utilities. The legislator has disclosed the financial interest in checklist category "(k) the practice of law." This disclosure would be sufficient if the legislator receives very little income from the utility. If, however, the legislator receives a significant income from the utility, the legislator must in addition either: (1) check checklist category "(l) any business regulated by the Public Utilities Commission" and disclose the name of the utility; or (2) file a specific Declaration of Intent Form for each of the two bills. As a practical matter, the legislator may not want to disclose the names of all businesses with whom the legislator deals. Accordingly, the usual and preferred course would be to file a Declaration of Intent Form as the need arises. In some circumstances, the legislator may consider declining to participate, depending on the nature of the legislator's relationship with the utility, the amount of income generated, and the terms of the legislation.
- The legislator is a developer and has disclosed this financial interest in checklist category "(d) real estate, including brokers, agents, developers, and landlords." There is a bill to construct a new exit ramp off of a state highway. The legislator owns a parcel of land the value of which would be directly affected by construction of the exit ramp. Because the legislator stands to benefit directly from this specific legislation, the legislator's generic disclosure on the checklist form is inadequate. The legislator in this example must also file a specific Declaration of Intent Form and declare an intention to participate or not participate.

- The legislator is not a developer or professional Realtor and therefore has not made any disclosure in checklist category "(d)" or elsewhere on the checklist regarding a parcel of land owned by the legislator. The bill referenced in the above example would affect the value of this legislator's land. The legislator in this example must file a specific Declaration of Intent Form and declare an intention to participate or not participate.
- The legislator has an ownership interest in a hotel and makes disclosure of such in checklist category "(i) restaurants and lodging." There is a bill to allow video gambling in a few specific hotels, including the legislator's. Although the legislator has disclosed ownership in a hotel, the legislator could reasonably be expected to financially benefit from the bill in a way that only a few other individuals in the state would. The legislator must file a specific Declaration of Intent Form and declare whether the legislator will participate or will not participate.
- The legislator's spouse is a teacher in the state's public school system. The legislator could have elected to disclose this financial interest by checking checklist category "(n) education" and writing on the line below "My wife/husband is a public school teacher." Instead the legislator has chosen not to complete the optional checklist section of the Legislator's Financial Disclosure Form. There is a bill relating to teacher tenure. Because the legislator has made no disclosure of this financial interest, the legislator must file a specific Declaration of Intent Form and declare an intention to participate or not participate before voting on or participating in any official activity relating to this bill.

In adopting the Ethics Guidelines, the General Court has sought to balance the need of the public to know when a member may have a conflict of interest with the goal of providing a disclosure process that is clear and uncomplicated for members to use. The Committee recognizes that the application of any guideline to individual circumstances may pose questions not easily addressed in an advisory opinion which is general in nature. The Committee is available to provide advice with respect to specific situations as they arise.