September 13, 2000
No. 48

STATE OF NEW HAMPSHIRE

Legislative

SENATE CALENDAR

MEETINGS & NOTICES

MEETINGS

THURSDAY, SEPTEMBER 14, 2000

CERTIFICATE OF NEED (RSA 151-C:16) Room 205, LOB

9:30 a.m. Regular Meeting

SELF-INSURING STATE EMPLOYEES (HB 1282, Chapter 92, Laws of 2000) Room 212, LOB

10:00 a.m. Regular Meeting

• PLEASE NOTE THE FOLLOWING MEETING HAS A ROOM CHANGE FROM 304, LOB TO 308, LOB

STATE WIRELESS COMMUNICATIONS POLICY (HB 733, Chapter 240, Laws of 2000) Room 308, LOB

10:00 a.m. Presentations by the: Division of Historical Resources & Others

TOBACCO USE ADVISORY (RSA 126-K:19) Room 303, LOB

10:00 a.m. Organizational Meeting

UNREFUNDED ROAD TOLLS (HB 617, Chapter 55,:10, Laws of 2000) Room 201, LOB

10:00 a.m. Regular Meeting

AFFORDABLE HOUSING FUNDING (HB 1199, Chapter 74, Laws of 2000) Room 205, LOB

11:00 a.m. Regular Meeting

• PLEASE NOTE THE FOLLOWING MEETING HAS A LOCATION CHANGE

IMPACT OF WATER WITHDRAWALS ON INSTREAM FLOWS (SB 330, Chapter 242, Laws of 2000) Rooms 113-114, DES on Hazen Dr,

1:00 p.m. Regular Meeting

NEW HAMPSHIRE LAND AND COMMUNITY HERITAGE AUTHORITY, BOARD OF DIRECTORS, RSA 227-M:4 (SB 401, Chapter 245:1, Laws of 2000) Room 103, SH

3:00-5:00 p.m. Organizational Meeting

NH DEPARTMENT OF TRANSPORTATION(New Hampton 1832-H Discuss removal of NH Railroad Bridge over Winona Road, in the Town of New Hampton, the reconst, of Winona Road to a an at-grade crossing with the railroad) New Hampton Town Offices, 6 Pinnacle Road, New Hampton, NH

7:30 p.m. Public Officials

NH DEPARTMENT OF TRANSPORTATION (Salem-Manchester, 10418-C, Widening of I-93) McLaughlin Middle School Cafeteria, 290 South Mammoth Road, Salem, NH

7:30 p.m. Advisory Task Force Meeting

FRIDAY, SEPTEMBER 15, 2000

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES, Rooms 306-308, LOB

9:00 a.m. Regular Meeting

STATE AERONAUTICS LAWS REVISIONS (HB 1161, Chapter 105:3, Laws of 2000) Room 307, LOB

9:30 a.m. Regular Meeting

STATE COMMITTEE ON AGING (RSA 161-F:7,I) Room 205, LOB

10:00 a.m. Regular Meeting

USE OF GENETIC & OTHER HEALTH INFORMATION TESTING & ACCESS (HB 1589, Chapter 304:3, Laws of 2000) Room 302, LOB

12:30 a.m. Regular Meeting

STANDARDS TO PROTECT FINANCIAL SERVICES INFORMATION PRIVACY (HB 1589, Chapter 304:9, Laws of 2000) Room 302, LOB

1:30 p.m. Regular Meeting

MONDAY, SEPTEMBER 18, 2000

NEW HAMPSHIRE PERMISSIBLE FIREWORKS REVIEW COMMITTEE (RSA 160-C:13) Richard M. Flynn Fire Academy, 222 Sheep Davis Road (NH Route 106), Concord , NH

9:00 a.m. Regular Meeting

• PLEASE NOTE THE FOLLOWING INVESTMENT SUBCOMMITTEE MEETING AT 9:00 A.M. HAS BEEN CANCELLED AND RESCHEDULED FOR SEPTEMBER 11TH THE 10:00 A.M. MEETING IS STILL MEETING AS SCHEDULED

NEW HAMPSHIRE COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2) Room 103, SH

Cancelled Investment Subcommittee Meeting

10:00 a.m. Regular Meeting

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

9:00 a.m. Regular Meeting

• PLEASE NOTE THE FOLLOWING MEETING HAS BEEN CANCELLED AND RESCHEDULED FOR SEPTEMBER 26TH

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000) Room 205, LOB

Cancelled Regular Meeting

DEVELOPMENTAL DISABILITY WAITLIST FUND ALLOCATION OVERSIGHT COMMITTEE (RSA 171-A:1-b) Room 205, LOB

1:00 p.m. Regular Meeting

REDUCING NUMBER OF PERSONS WITH DEVELOPMENTAL DISABILITIES NOT RECEIVING MEDICAID (HB 1607, Chapter 205, Laws of 2000) Room 205, LOB

1:00 p.m. Joint Meeting with Developmental Disability Waitlist (RSA 171-A:1-b)

REDUCING VIOLENT INCIDENTS INVOLVING CHILDREN AND GUNS (SB 163, Chapter 322 Laws 1999) Room 201- 203, LOB

1:00 p.m. Regular Meeting

SEED STERILIZATION OR TERMINATOR TECHNOLOGY (HB 291, Chapter 282, Laws of 1999) Room 303, LOB

1:00 p.m. Regular Meeting

TUESDAY, SEPTEMBER 19, 2000

ATECH SERVICES GENERAL OPERATIONS (SB 176, Chapter 3, Laws of 2000) Room 308, LOB

10:00 a.m. Regular Meeting

RIGHT-TO-KNOW LAW CHANGING METHODOLOGY OF COMMUNICATION (HB 1435, Chapter 60, Laws of 2000) Room 301, LOB

10:00 a.m. Regular Meeting

SULLIVAN COUNTY REGIONAL REFUSE DISPOSAL (HB 379, Chapter 201, Laws of 1999) Room 301, LOB

1:00 p.m. Regular Meeting

WEDNESDAY, SEPTEMBER 20, 2000

NON-CONVENTIONAL VETERINARY PROCEDURES FOR DOMESTIC ANIMALS (HB 1483, Chapter 139, Laws of 2000) Room 301, LOB

9:30 a.m. Regular Meeting

UPGRADE OF ROUTES 11 AND 140 STUDY (HB 541, Chapter 145:1, Laws of 1999) Room 201, LOB

10:00 a.m. Work Session

CONCORD TO LEBANON & LAWRENCE MA TO MANCHESTER PASSENGER RAIL SERVICE Room 304, LOB

10:00 a.m. Regular Meeting

NEWBURYPORT MA TO KITTERY ME EASTERN RAIL LINE (HB 1378, Chapter 45, Laws of 2000) Room 304, LOB

11:00 a.m. Regular Meeting

NEW HAMPSHIRE STATE PORT AUTHORITY STUDY (HB 1559, Chapter 153, Laws of 2000) Room 201, LOB

1:30 p.m. Regular Meeting

PENALTIES FOR DUI (HB 84, Chapter 334:1, Laws of 2000) Room 307, LOB

1:30 p.m. Regular Meeting

NH DEPARTMENT OF TRANSPORTATION (Ossipee 10431,Reconstruction and widening of NH 16 to add 10' shoulders beginning at the intersection of NH 16 and NH 28 and continuing north approx. 3.5 miles) Ossipee Town Hall, 55 Main Street, Ossipee, NH

7:00 p.m. Public Officials

THURSDAY, SEPTEMBER 21, 2000

MISCONDUCT, MISUSE OR ABUSE OF DRIVING PRIVILEGES (HB 1617, Chapter 234, Laws of 2000) Room 203, LOB

9:00 a.m. Regular Meeting

RECORDING LEGISLATIVE PROCEEDINGS (HB 730, Chapter 22, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

PAID FAMILY & MEDICAL LEAVE (HB 1512, Chapter 83, Laws of 2000) Room 307, LOB

10:00 a.m. Regular Meeting

SELF-INSURING STATE EMPLOYEES (HB 1282, Chapter 92, Laws of 2000) Room 212, LOB

10:00 a.m. Regular Meeting

STATUS OF MEN (HB 553, Chapter 272, Laws of 2000) Room 304, LOB

11:00 a.m. Regular Meeting

NH DEPARTMENT OF TRANSPORTATION (Warren-Benton 13209, Pavement rehabilitation and addition of shoulders along NH 25 through Glencliff Village and the reconstruction of NH 25 south of the village) Warren Town Hall, Waters Street, Warren, NH

7:00 p.m. Public Officials

FRIDAY, SEPTEMBER 22, 2000

WORKERS' COMPENSATION ADVISORY (RSA 281-A:62) Room 307, LOB

9:00 a.m. Regular Meeting

EARLY CHILDHOOD EDUCATION COMMISSION (HB 532, Chapter, 135, Laws of 1999) Room 207, LOB

9:30 a.m. Regular Meeting

MONDAY, SEPTEMBER 25, 2000

EARLY CHILDHOOD EDUCATION COMMISSION (HB 532, Chapter 135, Laws of 1999) Room 207, LOB

9:00 a.m. Field trip to Dame Family Center, Parent -Child Center 7 Children's Place (all in Concord)

2:00 - 4:00 p.m. Regular Meeting of Full Commission

PUBLIC HEALTH & ENVIRONMENT COMMISSION (HB 1390, Chapter 114, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

TUESDAY, SEPTEMBER 26, 2000

• PLEASE NOTE THE FOLLOWING MEETING HAS BEEN RESCHEDULED FROM SEPTEMBER 18TH

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000) Room 205, LOB

9:30 a.m. Regular Meeting

LEGISLATOR ORIENTATION (RSA 17-C:2) Room 103, SH

1:00 p.m. Regular Meeting

- **PLEASE NOTE THE FOLLOWING MEETING HAS A TIME CHANGE FROM 10:00 A.M. TO 2:00 P.M.**

STATE RECORDS PRESERVATION OR DISPOSAL (HB 1404, Chapter 138, Laws of 2000) Room 303, LOB

2:00 p.m. Regular Meeting

WEDNESDAY, SEPTEMBER 27, 2000

PAID FAMILY & MEDICAL LEAVE (HB 1512, Chapter 83, Laws of 2000) Room 303, LOB

10:00 a.m. Regular Meeting

SALARY STRUCTURE FOR UNCLASSIFIED STATE OFFICERS (HB 1223, Chapter 26, Laws of 2000) Room 304, LOB

1:00 p.m. Organizational Meeting

THURSDAY, SEPTEMBER 28, 2000

COMMITTEE TO STUDY ALL ASPECTS OF THE CONDOMINIUM ACT ESTABLISHED UNDER RSA 356-B (HB 1457, Chapter 186, Laws of 2000) Room 304, LOB

10:00 a.m. Regular Meeting

SELF-INSURING STATE EMPLOYEES (HB 1282, Chapter 92, Laws of 2000) Room 212, LOB

10:00 a.m. Regular Meeting

MONDAY, OCTOBER 2, 2000

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25) Room 201, LOB

1:00-4:00 p.m. Regular Meeting and Public Hearing

TUESDAY, OCTOBER 3, 2000

TELECOMMUNICATIONS OVERSIGHT (RSA 374:22-h) Room 304, LOB

10:00 a.m. Regular Meeting

WEDNESDAY, OCTOBER 4, 2000

CONCORD TO LEBANON & LAWRENCE MA TO MANCHESTER PASSENGER RAIL SERVICE Room 304, LOB

10:00 a.m. Regular Meeting

NEWBURYPORT MA TO KITTERY ME EASTERN RAIL LINE (HB 1378, Chapter 45, Laws of 2000) Room 304, LOB

11:00 a.m. Regular Meeting

NH DEPARTMENT OF TRANSPORTATION (Swanzey 12775, NH Route 32 over South Branch Ashuelot River) Swanzey Town Hall, 620 Old Homestead Highway, Swanzey, NH

7:00 p.m. Public Hearing Commission

THURSDAY, OCTOBER 5, 2000

AFFORDABLE HOUSING FUNDING (HB 1199, Chapter 74, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

NH DEPARTMENT OF TRANSPORTATION (Candia 13310 NH Route 27/NH Route 43) Candia Town Office, 74 High Street, Candia, NH

7:00 p.m. Public Hearing Commission

FRIDAY, OCTOBER 6, 2000

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3) Room 205, LOB

9:00-11:00 a.m. Regular Meeting

MONDAY, OCTOBER 9, 2000

COMMITTEE TO STUDY AND IDENTIFY THE DUTIES OF THE FISH AND GAME COMMISSION (SB 356, Chapter 30:1, Laws of 2000) Room 102, LOB

10:00 a.m. Regular Meeting

TUESDAY, OCTOBER 10, 2000

COMMITTEE TO STUDY PRESCRIPTION DRUG ACCESS (SB 367, Chapter 208:2, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

WEDNESDAY, OCTOBER 11, 2000

PRIORITY & FUNDING OF TRANSPORTATION 10 –YEAR PLAN PROJECTS (HB 2000, Chapter 45, Laws of 2000) Room 201, LOB

9:30 a.m. Regular Meeting

NEW HAMPSHIRE TASK FORCE ON DEAFNESS AND HEARING LOSS (HB 1602, Chapter 234, Laws of 2000) Room 306, LOB

10:00 a.m. Regular Meeting

WELLNESS & PRIMARY PREVENTION COUNCIL (RSA 126-M:3) Room 205, LOB

10:00 a.m. Regular Meeting

MENTAL HEALTH CARE TREATMENT UNDER MANAGED CARE (HB 1134, Chapter 39:1, Laws of 2000) Room 302, LOB

1:00 p.m. Regular Meeting

MONDAY, OCTOBER 16, 2000

• PLEASE NOTE THE FOLLOWING MEETING HAS BEEN CANCELLED

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

Cancelled Regular Meeting

WEDNESDAY, OCTOBER 18, 2000

LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE Room 201, LOB

9:30 a.m. Regular Meeting

CONCORD TO LEBANON & LAWRENCE MA TO MANCHESTER PASSENGER RAIL SERVICE Room 304, LOB

10:00 a.m. Regular Meeting

NEWBURYPORT MA TO KITTERY ME EASTERN RAIL LINE (HB 1378, Chapter 45, Laws of 2000) Room 304, LOB

11:00 a.m. Regular Meeting

THURSDAY, OCTOBER 19, 2000

AFFORDABLE HOUSING FUNDING (HB 1199, Chapter 74, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

FRIDAY, OCTOBER 20, 2000

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES Rooms 306-308, LOB

9:00 a.m. Regular Meeting

MONDAY, OCTOBER 23, 2000

PUBLIC HEALTH & ENVIRONMENT COMMISSION (HB 1390, Chapter 114, Laws of 2000) Room 205, LOB

10:00 a.m. Regular Meeting

FRIDAY, NOVEMBER 3, 2000

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3) Room 205, LOB

9:00-11:00 a.m. Regular Meeting

THURSDAY, NOVEMBER 9, 2000

NUCLEAR DECOMMISSIONING FINANCING COMMITTEE (RSA 162-F:15) Room 302-304, LOB

10:00 a.m. Purpose of the meeting is to discuss possible changes to RSA 162-F

MONDAY, NOVEMBER 13, 2000

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

9:00 a.m. Regular Meeting

TUESDAY, NOVEMBER 14, 2000

WELLNESS & PRIMARY PREVENTION COUNCIL (RSA 126-M:3) Room 207, LOB

10:00 a.m. Regular Meeting

FRIDAY, NOVEMBER 17, 2000

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES, Rooms 306-308, LOB

9:00 a.m. Regular Meeting

MONDAY, NOVEMBER 27, 2000

NEW HAMPSHIRE COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2) Room 103, SH

9:00 a.m. Investment Subcommittee Meeting

10:00 a.m. Regular Meeting

MONDAY, DECEMBER 11, 2000

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

9:00 a.m. Regular Meeting

TUESDAY, DECEMBER 12, 2000

WELLNESS & PRIMARY PREVENTION COUNCIL (RSA 126-M:3) Room 207, LOB

10:00 a.m. Regular Meeting

FRIDAY, DECEMBER 15, 2000

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES Rooms 306-308, LOB

9:00 a.m. Regular Meeting

NOTICES

STATE OF NEW HAMPSHIRE

SUPREME COURT

2000-179, OPINION OF THE JUSTICES

(reformed public school financing system)

O R D E R

The following request of the senate for an opinion of the justices was adopted on March 23, 2000, and filed with the supreme court on March 27, 2000. By letter dated May 31, 2000, the

court asked the senate if it desires the court to respond to the request even if the answer is returned after the adjournment of this legislative session. On June 8, 2000, the senate responded in the affirmative.

SENATE RESOLUTION 13

Whereas, there is presently pending before the senate SB 462-FN-A-LOCAL, "An act establishing a reformed public school financing system for ensuring educational adequacy for all children; establishing a state public education assistance system funded solely with state tax revenues, and making an appropriation therefor"; and

Whereas, SB 462-FN-A-LOCAL would establish a comprehensive system for financing public schools within the state, including state aid through "baseline adequacy assistance" and through "adequacy guarantee aid," along with local resources raised through property taxes administered through local democratic decision-making (hereinafter, the "financing program"); and

Whereas, SB 462-FN-A-LOCAL would distribute $750 million of state financial aid to school districts in the first fiscal year ending July 31, 2001, with $550 million distributed through the "baseline assistance" method on a weighted per pupil basis and $200 million distributed through the "adequacy guarantee assistance" method based on a foundation aid formula that assesses the relative financial needs of each community using several factors including per capita income, local property valuations, and measures of local tax "effort"; and

Whereas, SB 462-FN-A-LOCAL's total appropriation of $750 million of state financial aid would be funded by the following state-imposed taxes and revenues: (i) $409 million of revenues raised by a state property tax imposed at a uniform rate of $6.10 per $1,000 of equalized valuation of non-public utility real property throughout the state, and (ii) $341 million of revenues raised by other state taxes and general fund sources; and

Whereas, the balance of the public education costs throughout the state over the state assistance of $750 million would be funded with revenues raised by local real property taxes that would be established in each community through local democratic processes; and

Whereas, under this integrated financing program, direct state appropriations would account for approximately half of the total dollars spent on public elementary and secondary education, ranking New Hampshire much higher than the following states (based on U.S. Department of Education data for School Year 1996-1997):

State	Local	State	Federal
Connecticut	59.4%	37.1%	3.5%
Massachusetts	55.3%	39.9%	4.8%
New York	54.8%	39.8%	5.4%
Pennsylvania	55.2%	39.3%	5.5%
Rhode Island	54.0%	40.6%	5.4%

Whereas, SB 462-FN-A-LOCAL would reflect a legislative determination that the provision of an adequate education is not a static concept, but is best accomplished through the establishment of a process that encourages local communities to evaluate on an annual basis the costs and structure of local public education; and

Whereas, SB 462-FN-A-LOCAL would further reflect a legislative determination that incorporation of significant local resources in such a manner that vests local parental and academic resources in the local public school system is the best means of providing an adequate

public education for all children throughout the state; and

Whereas, SB 462-FN-A-LOCAL would further reflect a legislative determination that such reliance on local resources, while producing vibrant and excellent education systems in most communities throughout the state, would present the possibility in certain needy communities that local resources could be insufficient to ensure the provision of an adequate public education; and

Whereas, to address directly this possibility, SB 462-FN-A-LOCAL would implement a state financial assistance program that would substantially increase state aid to public education over the level that was in place prior to 1999; and

Whereas, SB 462-FN-A-LOCAL would distribute such state aid among communities based on the foundation aid formula in accordance with legislative determinations assessing the relative needs of various recipient communities, based on several factors including per capita income, local property valuations, and measures of local tax "effort"; and

Whereas, as a result of these determinations of need, the level of state aid distributed among communities would differ greatly, with no community receiving the same amount of state aid per pupil as any other community; rather such state aid would be distributed in a manner intended to satisfy the state's obligation to guarantee funding to ensure that all children are provided with an adequate education; and

Whereas, all of such state aid would be funded with state revenues that are administered in a manner that is proportional and reasonable throughout the state; and

Whereas, a question has been raised whether SB 462-FN-A-LOCAL satisfies the New Hampshire
Constitution; and

Whereas, some believe that this court's decision in *Claremont School District v. Governor*, 142 N.H. 462 (1997)("*Claremont II ")* mandates that the general court must, first establish and define
"adequate education" on a dollar cost basis throughout the state, and, second, pay for all of the resulting adequate education dollar costs using a common formula throughout the state, regardless of the relative needs of various communities; and

Whereas, such a construction of the court's *Claremont II* decision has led to the enactment of Chapter 17 and Chapter 65 of 1999 New Hampshire Laws, which distribute state financial assistance among every community throughout the state on a strict weighted per pupil basis, regardless of the quality of the local public school system or the capacity of the local community to provide funds through local resources; and

Whereas, in contrast, SB 462-FN-A-LOCAL treats "adequate education" as a quality that is not definable by any common formula applied throughout the state on a dollar cost basis, provides for an adequate education throughout the state through a comprehensive mix of local and state funding similar to that reflected in other New England states, and incorporates within the funding mix a state aid distribution formula that is designed to allocate limited state aid to communities that are most in need in a manner that guarantees funding to ensure that all children receive an adequate education throughout the state; and

Whereas, the approach in SB 462-FN-A-LOCAL appears consistent with the ultimate constitutional requirement that it is "the State's duty to provide a constitutionally adequate

education and to guarantee adequate funding" (emphasis added); and

Whereas, the senate respectfully requests expeditious review of this resolution by the court because SB 462-FN-A-LOCAL is intended to become effective on July 1, 2000, and because enactment of public school financing legislation that fails to satisfy the constitutional requirements of the Claremont II decision could present the risk that local and state governments might be required to refund substantial amounts of local property tax revenues; now therefore be it

Resolved by the Senate:

That the Justices of the Supreme Court be respectfully requested to give their opinion upon the following important questions of law:

(a) Would the enactment of SB 462-FN-A-LOCAL satisfy the requirements of part II, articles 5, 6, and 83 of the New Hampshire constitution?

(b) Would the enactment of SB 462-FN-A-LOCAL violate any other provisions of the New Hampshire constitution?

That the senate clerk transmit copies of this resolution and SB 462-FN-A-LOCAL to the justices of the supreme court.

Typewritten memoranda on the questions presented by the request may be furnished by any legislator, attorney, organization, interested party, or member of the public on or before October 2, 2000. An original and twelve copies of any memorandum must be filed with the clerk's office.

Brock, C.J., did not participate.

DATE: August 18, 2000 ATTEST: Howard J. Zibel Clerk