

June 30, 2011
No. 31

STATE OF NEW HAMPSHIRE

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**First Year of the 162nd Session of the
New Hampshire General Court
Legislative**

SENATE CALENDAR

THE SENATE IS IN RECESS TO THE CALL OF THE CHAIR

VETO'S

Governor's Veto Message Regarding SB 3

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 15, 2011, I vetoed SB 3, making comprehensive changes to the state retirement system.

Even as this bill sits on my desk with a deadline of today, members of the ongoing conference committee on HB 1 and HB 2 have publicly announced that they will consider substantive changes to this legislation, a version of which is already included in HB 2. Those changes include potentially addressing decisions made yesterday by the Board of the Retirement System that could impact the budgets of the state and local communities.

Given the legislature's stated intent to change this legislation further, and my responsibility to review the legislation in its full and final form, I am vetoing Senate Bill 3 and will assess the legislature's final product.

Respectfully submitted,
John H. Lynch
Governor

Date: June 15, 2011

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Governor's Veto Message Regarding SB 129

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 27, 2011, I vetoed SB 129.

The right to vote is a fundamental right that is guaranteed to all citizens of this State under the United States and New Hampshire Constitutions. An eligible voter who goes to the polls to vote on Election Day should be able to have his or her vote count on Election Day. SB 129 creates a real risk that New Hampshire voters will be denied their right to vote.

Voter turnout in New Hampshire is among the highest in the nation, election after election. There is no voter fraud problem in New Hampshire. We already have strong elections laws that are effective in regulating our elections.

SB 129 requires a voter to present photo identification in order to cast a ballot in any municipal, state or federal election in New Hampshire. The photo identification must be one that is issued by the United States government or the State of New Hampshire, or a driver's license from another state. Without that type of photo identification, the voter can only cast a "provisional" ballot, requiring the voter to return to their city or town clerk's office no later than 2 ½ days after the election with a valid photo ID, a waiver from the Secretary of State, or an affidavit of religious exemption.

Seniors, students, those who are disabled or do not drive, and those who do not already have a state-issued or federal-issued photo ID, may not be able to arrange to obtain a valid photo ID within the tight 2 ½ day timeframe. Many town offices are closed or have only limited hours on Wednesday, Thursday and Friday, when those voters who received a provisional ballot would be expected to return to produce a photo ID and have their vote counted. Voters in areas of the state where DMV offices have been consolidated will also be disadvantaged. Traveling to Concord or Manchester is not an option for everyone. These circumstances will present real hardships, especially for our seniors and disabled voters.

The New Hampshire City and Town Clerks Association, AARP, the League of Women Voters, and the Secretary of State have all opposed provisions of this bill. The bill's provisions for the length of time to produce a valid photo ID after an election and the types of photo IDs allowed are among the most restrictive voter identification provisions in the nation despite any evidence that current law is insufficient protection against voter fraud.

If SB 129 were to take effect, New Hampshire would have a different and more lenient standard to register to vote than to cast a vote. Under current law, a person registering to vote prior to Election Day can execute an affidavit and does not need to produce a photo ID. When a voter chooses to use a photo ID to register, he or she may use any photo ID deemed to be legitimate by the local official, not just a State of New Hampshire or US Government issued ID.

But SB 129 goes even further and actually discriminates between state and federal workers on one hand and municipal and private employees on the other. Under SB 129, a State Trooper can use his or her state photo ID to vote, but a municipal police officer cannot use his or her municipal issued photo ID. State employees can use their agency-issued photo ID's to vote, but employees at private companies may not use their company-issued photo IDs. SB 129 would also allow a person to use a Massachusetts or Maine driver's license as a valid photo ID to vote, even though a municipal photo ID issued by Raymond or Londonderry would not be a valid photo ID. Creating a two-tiered system of photo IDs for registering and voting makes no sense. It will only cause confusion and frustration at the polls that is bound to result in preventing some voters from casting their vote on Election Day.

There is also no provision made in SB 129 to guarantee the confidentiality of those that cast a provisional ballot. Unlike current election law, which protects from public disclosure the names of those persons who request and cast an absentee ballot during the election process, there is no comparable provision guaranteeing confidentiality to those who are issued and cast a provisional ballot. Ballot secrecy is fundamental to our voting system, and SB 129 fails to preserve ballot secrecy for all voters.

The provisional ballot provision of SB 129 may also impact the State's responsibility to conclude its state primary elections in a timeframe that will allow the general election ballots to be prepared and sent to military and other overseas voters in compliance with federal law. Many of the states that have adopted the use of provisional ballots with photo ID have primaries in the spring or early summer months, much earlier than New Hampshire's state primary. There is also a risk that challenges to election results over the validity of provisional ballots will impact the Secretary of State's ability to meet federal requirements for supplying general election ballots to overseas voters.

For all these reasons, I am vetoing SB 129.

Respectfully submitted,
John H. Lynch
Governor

Date: June 27, 2011

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LAI D ON THE TABLE

SB 14-FN, relative to the brandishing of a firearm. **3/16/11, pending motion Re-refer to committee, Judiciary, SJ 9, pg. 136**

SB 24-FN-L, exempting the Unity school district from the moratorium on school building aid. **3/9/11, pending motion Ought to Pass, Finance, SJ 8, pg. 89**

SB 61, relative to capital appropriations to the liquor commission. **3/30/11, pending motion OT3rdg, Capital Budget, SJ 11, pg. 195**

SB 103, requiring the commissioner of administrative services to develop a plan to consolidate the human resource functions within state government. **2/16/11, pending motion OT3rdg, Finance, SJ 6, pg. 56**

SB 114, prohibiting assessing teacher performance based solely on assessment scores. **3/30/11, pending motion Committee Amendment (1215s), Education, SJ 11, pg. 209**

SB 126-FN, relative to net operating loss carryovers under the business profits tax. **3/23/11, pending motion OT3rdg, Finance, SJ 10, pg. 176**

SB 136-FN, relative to games of chance. **3/23/11, pending motion OT3rdg, Finance, SJ 10, pg. 186**

SB 164, relative to the personal needs allowance of residents of nursing homes. **3/9/11, pending motion OT3rdg, Health and Human Services, SJ 8, pg. 90**

SB 165-FN, relative to the Medicaid uncompensated care fund and the Medicaid enhancement tax. **3/30/11, pending motion OT3rdg, Finance, SJ 11, pg. 226**

SB 178, establishing a commission to study long-term sustainable funding for school building aid and the establishment of eligibility criteria for school building aid in order to ensure that all school age children in every part of the state have access to a safe, healthy, and academic environment for learning. **3/9/11, pending motion Inexpedient to Legislate, Education, SJ 8, pg. 87**

HB 36-FN-L, reducing the fee for copies of birth certificates. **4/13/11, pending motion OT3rdg, Ways and Means, SJ 12, pg. 253**

HB 42, relative to the appropriate officials with whom to file for a primary. **3/30/11, pending motion Ought to Pass, Public and Municipal Affairs, SJ 11, pg. 232**

HB 89, requiring the attorney general to join the lawsuit challenging the Patient Protection and Affordable Care Act. **5/4/11, pending motion Committee Amendment (1585s), Commerce, SJ 15, pg. 297**

HB 113, prohibiting the use of state funds for New Hampshire public television. **5/11/11, pending motion Inexpedient to Legislate, Finance, SJ 16, pg. 328**

HB 156-FN-A, reducing the rates of the tobacco tax. **4/27/11, pending motion Inexpedient to Legislate, Ways and Means, SJ 14, pg. 281**

HB 164, requiring legislative approval for the adoption of the common core state standards in New Hampshire. **6/1/11, pending motion Committee Amendment (2160s), Education, SJ 19, pg. 513**

HB 305, relative to the homestead right. **5/25/11, pending motion Inexpedient to Legislate, Judiciary, SJ 18, pg. 385**

HB 335-FN-A, establishing multi-use number plates. **5/4/11, pending motion Committee Amendment (1658s), Transportation, SJ 15, pg. 310**

HB 341, relative to local spending caps. **5/18/11, pending motion Ought to Pass, Public and Municipal Affairs, SJ 17, pg. 354**

HB 369-FN-L, relative to withdrawal from a school administrative unit or an authorized regional enrollment area school. **4/13/11, pending motion Inexpedient to Legislate, Education, SJ 12, pg. 246**

HB 442-FN, relative to the use of marijuana for medicinal purposes. **5/11/11, pending motion Committee Amendment (1778s), Health and Human Services, SJ 16, pg. 331**

HB 451-FN, relative to prerecorded political messages. **4/20/11, pending motion Ought to Pass, Public and Municipal Affairs, SJ 13, pg. 267**

HB 557-FN-A, relative to the standards and burden of proof with respect to the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships. **5/18/11, pending motion OT3rdg, Finance, SJ 17, pg. 348**

HB 614, requiring a performance audit of the guardian ad litem board and guardian ad litem services. **5/11/11, pending motion Ought to Pass, Judiciary, SJ 16, pg. 334**

HB 617, repealing the prohibitions on Sunday business activities. **5/11/11, pending motion Committee Amendment (1723s), Commerce, SJ 16, pg. 321**

HB 634-FN, relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent. **5/11/11, pending motion Committee Amendment (1784s), Judiciary, SJ 16, pg. 336**

HCR 6, requiring the Congress of the United States of America to reaffirm its adherence to the Constitution of the United States regarding international agreements and treaties. **5/18/11, pending motion Committee Amendment (1885s), Internal Affairs, SJ 17, pg. 352**

HCR 11, to urge the Congress of the United States to withdraw the membership of the United States from the United Nations so that the United States may retain its sovereignty and control over its own funds and military forces. **5/18/11, pending motion Committee Amendment (1884s), Internal Affairs, SJ 17, pg. 353**

HCR 12, urging Congress to withdraw the United States from the North American Free Trade Agreement (NAFTA) in accordance with Article 2205 of the agreement. **5/18/11, pending motion Inexpedient to Legislate, Internal Affairs, SJ 17, pg. 353**

HCR 19, affirming States' powers based on the Constitution for the United States and the Constitution of New Hampshire. **5/25/11, pending motion Re-refer to committee, Internal Affairs, SJ 18, pg. 385**

HJR 4, prohibiting the implementation of certain rules of the board of medicine. **5/25/11, pending motion Re-refer to committee, Health and Human Services, SJ 18, pg. 384**

2011 BILLS RE-REFERRED TO COMMITTEE

COMMERCE

SB 71-FN, relative to health care fees in workers' compensation.

SB 74-FN, relative to the life settlements act.

SB 77-FN, relative to the special fund for payment for second injuries under workers' compensation law.

SB 150-FN, authorizing individuals and certain businesses to purchase health insurance from out-of-state insurance companies.

SB 163-FN, relative to the New Hampshire health benefit exchange.

SB 175, regulating the commercial use of a person's identity.

SB 191, relative to the registration of independent contractors for the purposes of workers' compensation.

HB 405, relative to dissolving corporations.

HB 627-FN, relative to "essential benefits" under federal health care reform.

EDUCATION

HB 528-FN-L, requiring school districts to develop a facility maintenance and capital improvement program.

ENERGY AND NATURAL RESOURCES

SB 48, relative to filing of rates for certain telephone services.

SB 84-FN, relative to state regulation of the septic system installation process.

SB 142-FN, relative to reorganizing the permitting process within the department of environmental services.

HB 387, requiring providers of prepaid cellular telephone service to provide subscriber information to the enhanced 911 system.

HB 439-FN-L, relative to claiming an invasive species as a habitat.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 4, requiring legislative approval of cost items for state employee contract negotiations.

SB 143-FN, requiring the commissioner of administrative services to develop a proposal for state employees to make monetary contributions to a health savings account or other tax-advantaged account.

SB 177, relative to training of directors and officers of nonprofit corporations.

SB 185-FN, establishing a restitution fund for victims of financial fraud and continually appropriating a special fund.

SB 186-FN, repealing the exemption from the consumer protection act for certain regulated trade and commerce.

SB 188-FN, relative to the authority and roles of the banking department, the attorney general, and the bureau of securities regulation in state regulation of securities.

HB 102, establishing a committee to study certain issues relative to the insurance department, banking department, and bureau of securities regulation of the office of the secretary of state.

HB 418-FN, relative to the use of open source software and open data formats by state agencies and relative to the adoption of a statewide information policy regarding open government data standards.

FINANCE

SB 159-FN-L, establishing a state infrastructure bank.

SB 181-FN-L, relative to distribution of funds for education.

HB 72-FN-A, establishing a state aeronautical fund.

HB 508-FN, establishing a performance measurement system for state agencies.

HB 520-FN, requiring certain bills to have performance standard notes.

HEALTH AND HUMAN SERVICES

HB 479-FN, relative to receivership of nursing homes and other residential health care facilities.

HB 632, relative to labeling requirements for dispensing of drugs by automated pharmacy systems.

INTERNAL AFFAIRS

CACR 6, relating to taxation. Providing that a 3/5 vote is required to pass legislation imposing new or increased taxes or license fees, or to authorize the issuance of state bonds and providing that the general court shall appropriate funds for payment of interest and installments of principle of all state bonds.

CACR 12, relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education.

SCR 1, urging Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States.

JUDICIARY

SB 17, relative to evidence of admissions in medical injury actions.

SB 41, relative to enforcement of the timber tax and excavation tax by the department of revenue administration.

SB 44, relative to payment of rent pending a landlord-tenant action.

HB 110, requiring professional safety and security services personnel to report certain criminal offenses.

HB 145, permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties.

HB 146, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy.

HB 158, relative to the misuse of social security numbers.

HB 210-FN, relative to the use of deadly force to protect oneself.

HB 225-FN, relative to the return of personal property confiscated by law enforcement agencies from a person charged with a crime.

HB 330-FN, relative to carrying firearms.

HB 378-FN, inserting an exception to the criminal threatening statute, relative to the minimum mandatory sentence for a felony conviction involving the possession, use, or attempted use of a firearm, and relative to the definition of "non-deadly" force.

HB 597, revising the child support guidelines based on an income shares model of calculating child support.

HB 648, relative to eminent domain petitions by public utilities.

PUBLIC AND MUNICIPAL AFFAIRS

SB 83-FN, enabling municipalities to create other post-employment benefits (OPEB) trusts.

SB 94, relative to state certification of community residences in municipalities with zoning ordinances which accommodate certified community residences.

HB 186-FN, relative to the definition of political communication.

HB 382, relative to the maintenance of municipal public cemeteries.

HB 466-FN, eliminating the ballot law commission.

HB 588, relative to polling hours and location of polling places.

WAYS AND MEANS

SB 13-FN, increasing the limit on single wagers for games of chance conducted by charitable organizations.

SB 132-FN-A-L, establishing exemptions from the real estate transfer tax.

SB 155-FN-A, relative to section 179 expense deductions under the business profits tax.

SB 167-FN-A-L, establishing a production jobs creation credit under the business enterprise tax and making changes affecting small business to the business profits tax, the business enterprise tax, and the meals and rooms tax.

SB 182-FN-A-L, relative to video lottery and table gaming, providing property tax relief for local economies, providing services for problem gamers, and promoting tourism and public safety.

MEETINGS

THURSDAY, JULY 7, 2011

COMMISSION ON HEALTH CARE COST CONTAINMENT (RSA 21-S:2)

9:30 a.m.

Room 303, LOB

Regular Meeting

FRIDAY, JULY 8, 2011

ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128)

9:00 a.m.	NH Employment Security 32 South Main Street Concord, NH	Subcommittee Meeting on Seasonal Employment
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STATE SUGGESTION AND EXTRAORDINARY SERVICE AWARD EVALUATION COMMITTEE (RSA 99-E:1, I)

9:30 a.m.	Room 101, LOB	Regular Meeting
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HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)

10:00 a.m.	Room 205, LOB	Regular Meeting
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MONDAY, JULY 11, 2011

GUARDIAN AD LITEM BOARD (RSA 490-C:1)

1:00 p.m.	Room 101, LOB	Regular Meeting
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THURSDAY, JULY 14, 2011

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)

1:00 p.m.	NH Hospital Association Building Airport Road Concord, NH	Medical Sharps Subcommittee Meeting
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FRIDAY, JULY 15, 2011

CHILD CARE ADVISORY COMMITTEE (RSA 126-A:17)

9:00 a.m.	Health and Human Services Dolloff Building, 4 th Floor 117 Pleasant Street Concord, NH	Regular Meeting
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FISCAL COMMITTEE OF THE GENERAL COURT (RSA 14:30-a)

10:00 a.m.	Rooms 210-211, LOB	Regular Business
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NH LAND AND COMMUNITY HERITAGE AUTHORITY BOARD OF DIRECTORS (RSA 227-M:4)

10:00 a.m.	Church Landing Meredith, NH	Regular Meeting
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THURSDAY, JULY 21, 2011

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m.	Rooms 305-307, LOB	Regular Meeting
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FRIDAY, JULY 22, 2011

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62)

9:00 a.m.	Rooms 305-307, LOB	Regular Meeting
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NEW HAMPSHIRE RAIL TRANSIT AUTHORITY (RSA 238-A:2)

10:00 a.m.	Room 201, LOB	Regular Meeting
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MONDAY, JULY 25, 2011

NH COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2)

9:00 a.m.	NH Higher Education Assistance Foundation 4 Barrell Court Concord, NH	Investment Committee
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10:00 a.m. NH Higher Education Regular Meeting
 Assistance Foundation
 4 Barrell Court
 Concord, NH

MONDAY, AUGUST 1, 2011

COMMISSION RELATIVE TO CHILDREN'S HEALTH INSURANCE (RSA 126-H:10)

1:00 p.m. Room 103, LOB Regular Meeting

GUARDIAN AD LITEM BOARD (RSA 490-C:1)

1:00 p.m. Room 101, LOB Regular Meeting

TUESDAY, AUGUST 2, 2011

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)

1:00 p.m. Room 205, LOB Health Information Exchange
 Subcommittee Organizational
 Meeting

THURSDAY, AUGUST 4, 2011

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m. Rooms 305-307, LOB Continued Meeting

FRIDAY, AUGUST 5, 2011

ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128)

9:00 a.m. NH Employment Security Quarterly Meeting
 32 South Main Street
 Concord, NH

MONDAY, AUGUST 8, 2011

EXOTIC AQUATIC WEEDS AND SPECIES COMMITTEE (RSA 487:30)

10:30 a.m. Room 308, LOB Regular Meeting

FRIDAY, AUGUST 12, 2011

STATE SUGGESTION AND EXTRAORDINARY SERVICE AWARD EVALUATION COMMITTEE (RSA 99-E:1, I)

9:30 a.m. Room 101, LOB Regular Meeting

THURSDAY, AUGUST 18, 2011

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)

9:00 a.m. Rooms 305-307, LOB Regular Meeting

FRIDAY, AUGUST 19, 2011

GOVERNOR'S COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT (RSA 12-J:1)

2:30 p.m. Rooms 302-304, LOB Regular Meeting

FRIDAY, AUGUST 26, 2011

NEW HAMPSHIRE RAIL TRANSIT AUTHORITY (RSA 238-A:2)

10:00 a.m. Room 201, LOB Regular Meeting

ENROLLED BILL AMENDMENTS ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR 2011 BILLS:

SENATE BILLS: 2, 3, 26, 30, 35, 50, 51, 52, 53, 63, 81, 86, 88, 89, 97, 116, 120, 147, 148, 156, 174, 189

HOUSE BILLS: 1, 2, 25, 26, 35, 44, 55, 86, 130, 132, 142, 175, 191, 246, 248, 262, 284, 288, 291, 313, 337, 339, 348, 381, 390, 398, 426, 489, 490, 532, 571, 585, 609, 621, HCR 9

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FISCAL NOTE ADDITIONS AND UPDATES HAVE BEEN AMENDED TO THE BILLS ON THE WEB SITE AND ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR THE FOLLOWING 2011 BILLS:

SENATE BILLS: 1, 3, 12, 20, 21, 22, 33, 35, 40, 53, 56, 58, 66, 70, 71, 72, 74, 75, 76, 81, 82, 83, 125, 128, 129, 130, 131, 132, 133, 136, 138, 139, 142, 145, 147, 148, 151, 152, 154, 155, 156, 157, 159, 160, 161, 162, 163, 165, 168, 170, 172, 183, 185, 186, 188

HOUSE BILLS: 26, 35, 72, 186, 205, 206, 210, 229, 231, 284, 289, 299, 330, 337, 411, 419, 444, 462, 468, 488, 489, 519, 528, 542, 557, 571, 601, 609, 621, 642

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NOTICES

The LOB garage will be closed for essential repairs beginning July 5th and ending November 11th. Storrs Street garage will be open to all employees and legislators who will be displaced during the repairs. Thank you.

Senator Peter Bragdon, Senate President

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SUNDAY, JULY 10, 2011

The New Hampshire Liberty Alliance, publisher of the Gold Standard, invites all members to attend our annual Liberty Dinner. The NHLA Legislator of the Year award will be announced and the annual Liberty Rating legislative report card will be distributed. Date and time: Sunday, July 10th at the Chateau Restaurant, 201 Hanover Street in Manchester, 5:00 p.m. Reception and 6:00 p.m. Dinner. Legislators receive a discounted price of only \$25, which may be paid at the door. RSVP to info@nhliberty.org. More details at nhliberty.org.

Senator James R. Forsythe

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LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee has voted unanimously to issue the following interpretive ruling, which is printed below in its entirety.

INTERPRETIVE RULING 2011-#1

(June 17, 2011)

Obligations of Legislators in Connection with Proposed Petitions for the Redress of Grievances

Questions have arisen regarding the obligations of legislators who receive requests from members of the public to present petitions for redress of grievances on their behalf. Specifically, the questions are (1) Whether legislators are obliged to "present" (*i.e.* sponsor) a petition simply at the request of a member of the public; and (2) Whether legislators are obliged to keep the content of a proposed petition confidential prior to its pre-

sentation. The Committee has reviewed applicable provisions of the New Hampshire Constitution, statutes, rules, and Ethics Guidelines governing the conduct of legislators in the performance of their duties as such, and interprets them as follows.

1. Obligation to present a petition. No such governing provision requires a legislator to “present” a petition simply because the legislator was requested to do so by a member of the public. On the contrary, as with any matter a legislator may be asked to sponsor, legislators must be free to exercise their best judgment about sponsoring it. As Edmund Burke, a great English legislator of the 18th Century put it: “Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.”

2. Obligation to keep confidential the content of a proposed petition. No such governing provision requires a legislator to keep confidential the content of petitions or other legislation the legislator is asked to sponsor by a member of the public, prior to its presentation. In the absence of express agreement by the legislator to hold the information confidential, there is no reasonable expectation that the content of a proposed petition will remain confidential. On the contrary, as with other proposed legislation, legislators should be free to pursue appropriate due diligence to evaluate the merits of a proposal before sponsoring it, which may well involve consultation with third parties about the relevant facts and other considerations.

For the Committee,
Martin L. Gross
Chairman

LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee has voted unanimously to issue the following advisory opinion, which is printed below in its entirety.

Advisory Opinion 2011-1
Response to a Request for an Advisory Opinion
From Greg Moore, Policy Director,
NH House of Representatives
(June 24, 2011)

By letter dated June 21, 2011, Greg Moore, Policy Director, NH House of Representatives has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, it would be permissible for him to accept invitations tendered by New Hampshire Motor Speedway in Loudon NH, to attend events at the Speedway on July 16 and 17, 2011.

According to information provided to the Committee by Mr. Moore, on June 20 he received the invitations, copies of which are available for inspection on the Committee’s website. They invite his attendance, along with a guest, at races to be held at the Speedway on July 16 and 17, 2011, and to view the races from the “Main Grandstand Luxury Suite 2,” with lunch to be served at noon. Since the invitations specify no admission price associated with attendance at the events, presumably they extend an offer for attendance on a complimentary basis.

Specifically, Mr. Moore asks for the Committee’s opinion on his accepting the invitations, as well as to provide him with clarification for offers such as this that he might receive in the future. The question presented is whether the invitations may be accepted in light of the restriction on acceptance of gifts imposed under RSA Chapter 15-B.

Relevant provisions of applicable statute and the Ethics Guidelines are:

RSA 15-B:2, V(a) “Gift” means:

(1) *****

(2) Any ... tangible thing, intangible thing, service, or the use thereof having more than insignificant economic value. Any such item with a value of less than \$25 is presumed to be of insignificant economic value.

RSA 15-B:2, V(b) “Gift” shall not include:

- (1) A political contribution as defined in RSA 664.
- (2) A commercially reasonable loan, made in the ordinary course of business.
- (3) Repayment to an elected official, public official, public employee, constitutional official, or legislative employee of a bona fide loan made by such a person.
- (4) A ceremonial plaque, award, or other commemorative object, which is personally inscribed to the recipient and which has inconsequential economic value. A ceremonial object or award with a value of \$150 or less is presumed to be of inconsequential economic value.
- (5) Objects or services which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.
- (6) Money in any form, an object, or any tangible or intangible thing or service of economic value, where the donor’s act of giving is purely private and personal in nature and the money, object, or tangible or intangible thing or service of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.
- (7) Wages, salary, benefits, mileage, or payment for expenses received by the person in his or her regular course of employment or business which is unrelated to the government position held.
- (8) Wages, salary, benefits, mileage, or payment for expenses paid to the person by the state, a county, or the United States of America related to performance of official duties.
- (9) Tickets or free admission to a charitable, ceremonial, or political event provided that:
 - (A) The proceeds of the event are subject to the political contributions and expenditure reporting law, RSA 664; or
 - (B) The event is sponsored by a charitable organization that is registered with the division of charitable trusts, department of justice, or which is a charitable organization pursuant to section 501(c)(3) of the federal tax code; or
 - (C) The event is published as an event open for attendance by any member of the general court in the calendar of the senate or the house.
- (10) Meals, beverages, lodging, or transportation associated with attendance at:
 - (A) Any event for which the primary significance is ceremonial or celebratory, provided the event is public or, if by invitation only, is planned to have an attendance greater than 50 people; or
 - (B) Any event where the person is attending in an official capacity representing the state and/or the senate, house, or the agency of which the person is a member.
- (11) Expense reimbursement or an honorarium.
- (12) Meals and beverages consumed at a meeting or event, the purpose of which is to discuss official business.
- (13) Monetary or non-monetary awards or recognition issued under the suggestion and extraordinary service award program under RSA 99-E.

RSA 15-B:3, III prohibits knowing acceptance of gifts by legislators, legislative officers or staff. Violation of RSA 15-B is also a prohibited act by legislators under the Ethics Guidelines, Section 4, Paragraph I(g), and in the case of legislative employees, Section 6, Paragraph III (a).

We advise as follows: It appears from the available facts that the economic value of the invitations is \$25.00 or more. RSA 15-B:2, XI defines “value” as “the amount at which property or services would change hands between a willing buyer and a willing seller when neither is under any compulsion to buy or sell and both have reasonable knowledge of the relevant facts.” According to information publicly available on the Speedway’s website, the price of general admission to the track on July 16 is \$40.00, and on July 17 is \$39.00. Furthermore, there can be no doubt that the value of accommodation in “Main Grandstand Luxury Suite 2” (which is an enclosed, air conditioned, sound insulated sky box with lunch and beverages provided) would substantially exceed the price of general admission, if it were offered to the public.

Accordingly, even if it were only complimentary general admission that was being offered, the value of the invitations would fall within the statutory definition of “gift” in RSA 15-B:2, V(a) unless excluded from that

category by one of exceptions listed in RSA 15-B:2, V(b). Accommodation in “Luxury Suite 2” clearly involves additional value which in itself would likely constitute a gift. Based on information available to the Committee, none of the exceptions listed in RSA 15-B:2, V(b) would appear to apply.

The Committee therefore concludes that acceptance of the invitations would constitute acceptance of a gift prohibited by RSA 15-B:3, III, as well as the cited provisions of the Ethics Guidelines. Violation of RSA 15-B would be punishable as a misdemeanor. RSA 15-B:9.

The same conclusion would apply to any other invitation of similar value, unless qualifying for any of the listed exceptions.

We appreciate the opportunity to be of assistance.

Martin L. Gross, Chairman
For the Committee

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SENATE SCHEDULE

Monday, July 4, 2011	Fourth of July (State Holiday)
Monday, September 5, 2011	Labor Day (State Holiday)
Monday, October 10, 2011	First day to file legislation for 2012 Senate Session
Friday, October 21, 2011 at 4:00 p.m.	Last day for the Office of Legislative Services to accept drafting of a Senate Bill or Resolution with complete information for the 2012 Session.
Thursday, November 10, 2011 at 4:00 p.m.	Deadline for sponsor to sign off on legislation.
Friday, November 11, 2011	Veterans' Day (State Holiday)
Tuesday, November 22, 2011 at 4:00 p.m.	Deadline for co-sponsors to sign off on legislation.
Thursday, November 24, 2011	Thanksgiving Day (State Holiday)
Friday, November 25, 2011	Day after Thanksgiving (State Holiday)
Monday, December 26, 2011	Christmas Day (State Holiday)

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