

May 19, 2016  
No. 20

# STATE OF NEW HAMPSHIRE

Web Site Address: [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us)



Second Year of the 164<sup>th</sup> Session of the  
New Hampshire General Court

## SENATE CALENDAR

# VETO MESSAGE

May 3, 2016

## Governor's Veto Message Regarding Senate Bill 446

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on May 3, 2016, I have vetoed Senate Bill 446, relative to requirements of the state building code.

Ensuring that buildings are safe is critical to public safety and our economy, and we must always work to ensure that our families and businesses have the safe environment necessary for them to grow and thrive. By placing an arbitrary restriction on the rules that can be adopted by the State Building Code Review Board and limiting the ability of building inspectors to request relevant information prior to issuing permits, this bill could lead to less safe buildings and is a potential threat to public safety.

Senate Bill 446 unnecessarily ties the hands of local officials, limiting their ability to gather the information necessary to determine the scope of work, what code needs to be applied and the cost of the permit. As a result, it will be more difficult for building inspectors to properly vet projects and ensure that applicants meet the necessary requirements to keep the public safe. Furthermore, the proposed legislation would have set a vague and ambiguous standard, which could lead to an increase in litigation.

The New Hampshire Association of Fire Chiefs and the New Hampshire Planners Association oppose Senate Bill 446, and these changes were not recommended by the State Building Code Review Board, which is composed of a broad cross-section of people involved in planning and development, including home builders, engineers, electricians, plumbers, fire chiefs and municipal officials. No evidence was presented during hearings on this legislation that suggest there is currently an unnecessary burden on applicants, or that this bill would represent a solution as opposed to creating new problems.

This bill makes it more difficult for local officials to effectively do their jobs and ensure that buildings meet the uniform standard necessary to ensure public safety, and it is opposed by many of New Hampshire's foremost experts on building safety. Therefore, I have vetoed Senate Bill 446.

Respectfully submitted,

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Margaret Wood Hassan  
Governor

## ***FRIDAY, MAY 20, 2016***

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

9:00 a.m.                      Rooms 306-308, LOB                      Regular Meeting

### **COMMISSION ON HISTORIC BURYING GROUNDS (RSA 227-C:12-a)**

10:00 a.m.                      Room 101, LOB                      Regular Meeting

### **FISCAL COMMITTEE OF THE GENERAL COURT (RSA 14:30-a)**

10:00 a.m.                      Rooms 210-211, LOB4                      Regular Business

### **COMMISSION TO REVIEW CHILD ABUSE FATALITIES (RSA 169-C:39-k)**

2:30 p.m.                      Room 102, LOB                      Subcommittee Meeting

## ***MONDAY, MAY 23, 2016***

### **COMMISSION TO STUDY ISSUES RELATING TO STUDENTS RECEIVING SPECIAL EDUCATION SERVICES WHILE ATTENDING A CHARTERED PUBLIC SCHOOL (RSA 186-C:30)**

9:00 a.m.                      2 Pillsbury Street                      Work Group  
5th Floor  
Concord, NH

**OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)**

9:00 a.m.	NH Department of Environmental Services Room 208C 29 Hazen Drive Concord, NH	Regular Meeting
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**CHILDHOOD LEAD POISONING PREVENTION AND SCREENING COMMISSION (RSA 130-A:19)**

10:00 a.m.	NH Department of Health and Human Services Rooms 213-214 129 Pleasant Street Concord, NH	Subcommittee Meeting on Prevention
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**COMMITTEE TO STUDY EXOTIC AQUATIC WEEDS AND EXOTIC AQUATIC SPECIES OF WILDLIFE IN THE STATE OF NEW HAMPSHIRE (RSA 487:30)**

11:00 a.m.	NH Department of Environmental Services Room 112 29 Hazen Drive Concord, NH	Regular Meeting
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**COMMISSION TO REVIEW CHILD ABUSE FATALITIES (RSA 169-C:39-k)**

1:30 p.m.	Room 102, LOB	Regular Meeting
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**COMMISSION TO STUDY THE ECONOMIC IMPACT OF THE ARTS AND CULTURE IN NEW HAMPSHIRE (RSA 19-A:14)**

2:00 p.m.	NH Institute of Art 148 Concord Street Manchester, NH	Regular Meeting
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***WEDNESDAY, MAY 25, 2016*****JOINT COMMITTEE ON EMPLOYEE CLASSIFICATION (RSA 14:14-C)**

12:00 p.m.	Room 103, SH	Regular Meeting
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***THURSDAY, MAY 26, 2016*****COMMISSION ON PRIMARY CARE WORKFORCE ISSUES (RSA 126-T)**

2:30 p.m.	NH Medical Society 7 North State Street Concord, NH	Regular Meeting
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***FRIDAY, JUNE 3, 2016*****NEW HAMPSHIRE RAIL TRANSIT AUTHORITY (RSA 238-A:2)**

9:00 a.m.	Room 203, LOB	Regular Meeting
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**BOARD OF MANUFACTURED HOUSING (RSA 205-A:25)**

1:00 p.m.	Room 307, LOB	Regular Meeting
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***MONDAY, JUNE 6, 2016*****COMMISSION TO STUDY ISSUES RELATING TO STUDENTS RECEIVING SPECIAL EDUCATION SERVICES WHILE ATTENDING A CHARTERED PUBLIC SCHOOL (RSA 186-C:30)**

9:00 a.m.	Room 207, LOB	Regular Meeting
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**TASK FORCE ON WORK AND FAMILY (RSA 276-B:2, I)**

1:15 p.m.	Room 207, LOB	Regular Meeting
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***TUESDAY, JUNE 7, 2016***

**NH BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2)**

6:00 p.m.	Monadnock Community Hospital	Public Hearing
	452 Old Street Road	
	Peterborough, NH	

***FRIDAY, JUNE 10, 2016***

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

9:00 a.m.	Room 307, LOB	Regular Meeting
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**ASSESSING STANDARDS BOARD (RSA 21-J:14-a)**

9:30 a.m.	Room 304, LOB	Regular Meeting
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**NEW HAMPSHIRE STATE HOUSE BICENTENNIAL COMMISSION (RSA 17-R:1)**

10:00 a.m.	Room 308, LOB	Regular Meeting
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***MONDAY, JUNE 13, 2016***

**COMMISSION TO STUDY THE ECONOMIC IMPACT OF THE ARTS AND CULTURE IN NEW HAMPSHIRE (RSA 19-A:14)**

2:00 p.m.	Room 303, LOB	Regular Meeting
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***TUESDAY, JUNE 14, 2016***

**LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE (RSA 17-M:1)**

10:00 a.m.	Room 201, LOB	Regular Business
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**CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2)**

10:30 a.m.	Room 201, LOB	Regular Business
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***FRIDAY, JUNE 17, 2016***

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

11:00 a.m.	Room 205, LOB	Regular Meeting
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***MONDAY, JUNE 20, 2016***

**NEW HAMPSHIRE VETERANS HOME BOARD OF MANAGERS (RSA 119:3-a)**

9:00 a.m.	NH Veterans Home	Regular Meeting
	Tarr South Conference Room	
	139 Winter Street	
	Tilton, NH	

**CHILDREN'S SAVINGS ACCOUNT PROGRAM COMMISSION (RSA 195-J:1)**

1:15 p.m.	Room 207, LOB	Regular Meeting
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**INTERBRANCH CRIMINAL AND JUVENILE JUSTICE COUNCIL (RSA 651-E:2)**

1:30 p.m.	Room 204, LOB	Regular Meeting
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***FRIDAY, JUNE 24, 2016***

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

9:30 a.m.	Rooms 301-303, LOB	Regular Meeting
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## ***MONDAY, JUNE 27, 2016***

**NEW HAMPSHIRE COMMISSION ON DEAFNESS AND HEARING LOSS (RSA 125-Q)**

1:30 p.m.

Room 205, LOB

Regular Meeting

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### **2016 BILLS REMAINING ON THE TABLE:**

**SENATE BILLS:** 27, 131, 304, 338, 346, 351, 365, 382, 408, 413, 445, 455, 463, 470, 473, 476, 504, 520, 531, 542, 551

**HOUSE BILLS:** 629, 1153, 1156, 1231, 1247, 1252, 1356, 1570

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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 2015-2016 BILLS:**

**SENATE BILLS:** 64, 127, 129, 138, 155, 157, 193, 203, 210, 227, 238, 239, 256, 265, 301, 302, 315, 319, 330, 332, 339, 342, 344, 356, 369, 376, 389, 401, 406, 409, 441, 444, 447, 452, 461, 464, 465, 466, 467, 468, 480, 481, 482, 483, 485, 488, 491, 494, 495, 496, 503, 510, 515, 521, 522, 523, 527, 530, 532, 533, 534, 535, 540, 549, 550, 551, 552

**HOUSE BILLS:** 197, 216, 280, 353, 380, 466, 521, 535, 593, 628, 636, 661, 668, 1116, 1154, 1175, 1182, 1198, 1219, 1245, 1246, 1266, 1272, 1349, 1357, 1381, 1385, 1423, 1426, 1428, 1430, 1503, 1527, 1547, 1568, 1586, 1589, 1590, 1591, 1595, 1599, 1608, 1616, 1628, 1633, 1637, 1644, 1654, 1655, 1656, 1661, 1664, 1680, 1685, 1695, 1696, 1697

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**ENROLLED BILL AMENDMENTS ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR 2016 BILLS:**

**SENATE BILLS:** 25, 110, 144, 146, 238, 265, 312, 330, 332, 370, 375, 378, 380, 386, 453, 543, 576

**HOUSE BILLS:** 377, 659, 1116, 1165, 1195, 1197, 1208, 1239, 1245, 1264, 1283, 1289, 1331, 1332, 1349, 1354, 1357, 1388, 1391, 1553, 1588, 1616, 1618, 1664, 1665, 1696, HCR 12

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## **NOTICES**

**MONDAY, MAY 23, 2016**

Legislators and friends are cordially invited to the New Hampshire Federation of Republican Women's 2016 Lilac Luncheon & State Primary Straw Poll on Monday, May 23<sup>rd</sup> at the Holiday Inn Concord, 172 N. Main, Concord, NH. A VIP reception starts at 11:00 a.m. with the luncheon at noon. The Keynote Speaker is Charlie Arlinghaus, President of the Josiah Bartlett Center for Public Policy. For event and ticket information, contact Representative Jeanine Notter [jeanine.notter@leg.state.nh.us](mailto:jeanine.notter@leg.state.nh.us) Representative Barbara Biggie [barbara.biggie@leg.state.nh.us](mailto:barbara.biggie@leg.state.nh.us) or [www.NHFRW.org](http://www.NHFRW.org).

Senator Sharon M. Carson  
Senator Jeanie L. Forrester

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### THURSDAY, MAY 26, 2016

The Propane Gas Association of New England is hosting its annual Outdoor Living Safety Day on the State House lawn on Thursday, May 26<sup>th</sup>, from 9:00 a.m. to 2:00 p.m. 12 NH propane companies will be grilling and discussing propane safety for the summer season. The Governor and State Fire Marshal have been invited. All are welcome to stop by and visit!

Senator Jeb Bradley, Senate Majority Leader  
Senator Jeff Woodburn, Senate Minority Leader

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### WEDNESDAY, JUNE 1, 2016

The members of the NH Snowmobile Association cordially invite all Legislators and staff to a reception in the State House cafeteria on Wednesday, June 1<sup>st</sup>, from 7:30 a.m. to 9:30 a.m. where a breakfast will be served. The breakfast has been rescheduled from an earlier date. Please be sure to take notice of this change. We look forward to seeing you there.

Senator Jeb Bradley, Senate Majority Leader  
Senator Jeff Woodburn, Senate Minority Leader

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### Legislative Ethics Committee

#### Retirement Gifts

Questions have arisen about what limits the ethics gift law (RSA 15-B) places on the giving and accepting of retirement gifts given by legislators to other legislators.

For your information, this notice sets forth the following relevant provisions of applicable law:

**15-B:2 Definitions.** – For the purposes of this chapter: \*\*\*

V. (a) “Gift” means:

(1) Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money. (2) Any other 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.

(b) Notwithstanding subparagraph (a), “gift” shall not include: \*\*\*

(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.

**15-B:3 Prohibition on Gifts.** –

I. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any elected official, public official, public employee, constitutional official, or legislative employee.

II. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any family member, as defined in this chapter, of any elected official, public official, public employee, constitutional official, or legislative employee, with a purpose of influencing or affecting the official conduct of such official or employee.

III. No elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift, as defined in this chapter.

What these provisions mean for legislators and staff is that they may give a colleague a gift and the recipient may accept it, provided it has a value of less than \$25. This provision may not be circumvented by giving the gift to a family member of the legislator.

The law provides an exception to the \$25 limit for ceremonial items such as plaques and other objects that are inscribed with the recipient's name and have a value of \$150 or less. Thus, a clock or print or similar memento worth up to \$150 would be permissible if it bears the name of the recipient. However, merely adding personalization does not negate the requirement that the item also be presumed to have inconsequential economic value (not more than \$150). So an engraved pewter mug would be permissible, but an engraved iPad would not.

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## **Legislative Ethics Committee**

### **INTERPRETIVE RULING 2016-3**

(May 6, 2016)

New Hampshire Constitution Part II, Article 7  
Ethics Guidelines Section 1, Principles of Public Service  
Ethics Guidelines Section 5, Conflict of Interest Procedure

Representative Shawn N. Jasper, Speaker of the House, has requested an Interpretive Ruling on the following questions:

"Is Part II, Article 7 of the New Hampshire Constitution or Ethics Guidelines, Section 1, Principles of Public Service, violated by a legislator who attempts to separate himself or herself from his or her office by identifying himself or herself as a representative of a public interest group while presenting testimony in advocacy of the group's position on a bill at a hearing before a legislative committee?

Is the legislator required to disclose a conflict of interest in accordance with Ethics Guidelines Section 5?"

The Committee responds as follows:

#### Relevant Provisions of the NH Constitution and the Ethics Guidelines

**[Art.] 7. [Members of Legislature Not to Take Fees or Act as Counsel.]** No member of the general court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the legislature; and upon due proof thereof, such member shall forfeit his seat in the legislature.

*September 5, 1792*

#### **1 Principles of Public Service.**

##### **I. Public Office as a Public Trust**

Legislators should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

##### **II. Principle of Independent Objective Judgment**

Legislators should employ independent objective judgment in performing their duties, deciding all matters on the merits free from conflicts of interest and both real and apparent improper influences.

##### **III. Principle of Accountability**

Legislators should assure that government is conducted openly, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.

#### **5 Conflict of Interest Procedure.**

**I.** No declaration shall be required if no benefit or detriment could reasonably be expected to accrue to the legislator or the legislator's family member as a member of a business, profession, occupation, or other group, to any greater extent than to any other member of such business, profession, occupation, or other group, provided that disclosure of the legislator's or family member's membership is made in the Financial Disclosure Form pursuant to section 3 of the Ethics Guidelines. For purposes of these guidelines, groups shall be limited to ones generally recognized and of a substantial size.

**II.** When a legislator becomes aware that a conflict of interest exists or may exist and the conditions set forth in paragraph I are not met, the legislator shall proceed in accordance with either subparagraph (a) or (b):

(a) Declare that the legislator will not participate in any official activity associated with the issue.

(b) Declare that the legislator intends to participate in the official activity and will provide a description of the conflict of interest including:

- (1) names of all entities, both public and private, which might be affected;
- (2) the nature of any benefit which may accrue to the legislator or legislator's family member;
- (3) the nature of any financial interest in the issue;
- (4) the nature of any relationship which existed, exists or may exist between the legislator and
- (5) any person or entity which might be affected;
- (6) such additional information as may be required to permit clear public awareness and understanding of the nature and extent of the conflict.

III. The declaration required in subparagraphs II (a) and (b) of this procedure shall be publicly announced prior to the legislator's initial participation in the official activity. The information required in subparagraph (b) shall be filed with the clerk of the member's respective body within 24 hours of the time of the official activity and be made available for public inspection during normal business hours.

### Committee Analysis

An examination of the historical context in which Part II, Article 7 of the New Hampshire Constitution was adopted in 1792, indicates the article was intended to prohibit members of the General Court who were attorneys from taking fees or acting as counsel or advocate in cases pending in the General Court. By way of background, it is useful to note that when the article was adopted, members of the legislature who were also attorneys frequently represented citizens in petitions submitted to the legislature seeking redress of various grievances. From New Hampshire's provincial period, through early statehood and into the nineteenth century, the state's legislature (or "General Court") spent a great deal of its time considering and acting upon petitions from its citizens. During this period, when there were no standing committees in the legislature or bureaucratic agencies in the executive branch to directly address the needs or grievances of individuals or groups of citizens, many pieces of legislation derived from petitions. It was a common practice for litigants in civil cases to petition the legislature seeking new trials, or appeals or reversals of decisions in the courts. Until the practice was ruled unconstitutional by the New Hampshire Supreme Court in the case of Merrill v. Sherburne in 1818, the state's laws were replete with examples of interference by the legislature in individual court cases. It was the practice of lawyer-members acting as counsel to the parties submitting petitions to the legislature, and the participation of the lawyer-members in the drafting of the bills resulting from the petitions and in the debates and votes on the bills before the legislature, that led to the adoption of the article.

Additionally, the language used in Part II, Article 7 supports the interpretation that the article was meant to apply to court cases brought before the general court. In late 18<sup>th</sup> Century America, the term "cause" was defined as "a subject of litigation," meaning the same as the term "case," and an advocate was defined as someone who "pleads the cause of another in a court of judicature."

**Accordingly, the Committee determined the constitutional article would not prohibit a legislator from identifying as a representative of a public interest group and advocating the group's position on general legislation at a hearing before a legislative committee.**

The second part of the Speaker's question relating to a legislator representing a public interest group is not so easily decided. While the Ethics Guidelines provide extensive regulation and reporting of activities that involve a financial benefit or detriment to a legislator or family member, there are circumstances that may raise ethical concerns even when there is no financial effect entailed.

Clearly, if the legislator were being paid to advocate for a public interest group, that would be lobbying and is prohibited under Section 4, Prohibited Activities of the Guidelines. However, legislators are often involved as volunteers in organizations whose mission they support and advocate for before legislative committees. In the absence of specific provisions in the Guidelines for such circumstances we turn to the general principles that provide the framework for ethical conduct.

Ethics Guidelines, Section 1, Principles of Public Service, declares that legislators should use the powers and resources of public office to advance public interests and not pursue any "private interest incompatible with the public good," and "employ independent objective judgment in performing their duties, deciding all matters on the merits free from conflicts of interest and both real and apparent improper influences."

**The Committee determined that legislators may wear two hats: first as an elected official, and also as representative of an advocacy group, as the long as the private interest is not incompatible with the public good.** Recognizing that there may be a difference of opinion about "public good" and "improper influences" the Committee relied on Ethics Guidelines, Section 1, Paragraph III, Principle of Accountability, which requires that government be "conducted openly, equitably and honorably" and "permits the



citizenry to make informed judgments and hold government officials accountable.” To achieve this transparency, **the Committee advises that legislators representing an organization must file a declaration of intent under Section 5, Conflict of Interest Procedure of the Guidelines**, indicating that they will participate in official action on a particular bill. While the form is designed for financial conflicts of interest, the Committee believes disclosure of a legislator’s dual role as elected official and unpaid representative of an advocacy group will allow the public and his or her constituents to decide if such participation is compatible with the public good.

Honorable Donna Sytek, Chairman  
 Senator Sharon M. Carson, Vice Chairman  
 Representative Janet G. Wall  
 Senator Martha Fuller Clark  
 Representative David A. Welch  
 Honorable John A. Graham  
 Attorney David H. Bradley

For the Committee,  
 Donna Sytek  
 Chairman

*[Vote: 6-1]*

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## SENATE SCHEDULE

Thursday, May 26, 2016	Deadline to SIGN Committee of Conference Reports.
Monday, May 30, 2016	Memorial Day (State Holiday)
Thursday, June 02, 2016	Deadline to ACT on Committee of Conference Reports.
Monday, July 04, 2016	Independence Day (State Holiday)
Monday, September 05, 2016	Labor Day (State Holiday)
Friday, November 11, 2016	Veterans’ Day (State Holiday)
Thursday, November 24, 2016	Thanksgiving Day (State Holiday)
Friday, November 25, 2016	Day after Thanksgiving (State Holiday)
Monday, December 26, 2016	Christmas Day (State Holiday)