

CHAPTER 340  
HB 1388 - FINAL VERSION

21Mar2024... 0693h  
05/22/2024 2022s  
13Jun2024... 2348EBA

2024 SESSION

24-2500  
08/05

HOUSE BILL            **1388**

AN ACT                relative to ethical standards for members of the general court.

SPONSORS:            Rep. Sheehan, Hills. 43

COMMITTEE:          Legislative Administration

---

AMENDED ANALYSIS

This bill defines "special interest" and "organization" for the purposes of determining the ethical duties of members of the general court and makes provisions for the recusal of members of the general court for conflicts of interest.

-----

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                                  Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 340  
HB 1388 - FINAL VERSION

21Mar2024... 0693h  
05/22/2024 2022s  
13Jun2024... 2348EBA

24-2500  
08/05

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to ethical standards for members of the general court.

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

1 340:1 Findings; Purpose. The general court hereby finds:

2 I. That part II, article 7 of the New Hampshire constitution states: "No member of the general  
3 court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the  
4 Legislature; and upon due proof thereof, such member shall forfeit his seat in the Legislature."

5 II. That the general court has adopted principles of public service including the principle requiring  
6 "independent, objective judgment in performing a legislator's duties and deciding all matters on the merits  
7 free from conflicts of interest and both real and apparent improper influences."

8 III. That the New Hampshire general court, consistent with RSA 14-B:3, has adopted guidelines  
9 prohibiting legislators from engaging in certain activities.

10 IV. That in order to comply with New Hampshire's constitutional requirements, to satisfy statutory  
11 requirements, and to maintain the confidence of the New Hampshire citizenry in official legislative  
12 activities, recusal from voting on any legislation when there is a conflict of interest is sometimes required.

13 340:2 Conflicts of Interest. Amend the chapter title of RSA 14-C to read as follows:

14 GIFTS, HONORARIUMS, AND EXPENSE REIMBURSEMENTS REQUIREMENTS  
15 FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES  
16 ***AND CONFLICTS OF INTEREST FOR LEGISLATORS***

17 340:3 New Sections; Recusal for Conflicts of Interest. Amend RSA 14-C by inserting after section 4  
18 the following new sections:

19 14-C:4-a Recusal for Conflicts of Interest.

20 I. A legislator shall recuse themselves from participation in any official legislative activity  
21 pertaining to legislation when:

22 (a) The legislator has a conflict of interest with the subject of the legislation as defined in RSA  
23 14-B:1, I; and

24 (b) The legislator or a member of the legislator's household could reasonably be expected to  
25 incur a direct and substantial financial benefit or detriment as a result of the outcome of the legislative  
26 activity.

27 II. A legislator shall recuse themselves from participation in any official legislative activity  
28 pertaining to the specific legislation that causes a conflict when the legislator or a member of the  
29 legislator's household satisfies all of the following:

30 (a) Receives financial remuneration from an organization;

31 (b) Holds a position to exercise substantial influence over the affairs of the organization; and

**CHAPTER 340**  
**HB 1388 - FINAL VERSION**  
**- Page 2 -**

1           (c) The organization has lobbied, testified, or otherwise attempted to influence the outcome  
2 of the official legislative activity.

3           14-C:4-b Exceptions to Recusal for Conflicts of Interest. A legislator shall not be required to recuse  
4 themselves from participation in any official legislative activity regarding preparation, review, or approval  
5 or disapproval of the state budget or general revenue bills.

6           14-C:4-c Persons Having Substantial Influence. Those persons who hold any of the following  
7 powers, responsibilities, or interest having substantial influence over the affairs of the organization may  
8 include, but are not limited to, the following:

- 9           I. Voting members of the governing body;
- 10           II. Presidents, chief executive officers, or chief operating officers; and
- 11           III. Treasurers and chief financial officers.

12           14-C:4-d Facts and Circumstances Tending to Show Substantial Influence. Whether a person holds  
13 a position to exercise substantial influence over the affairs of the organization shall be determined based  
14 on the totality of the circumstances. Facts and circumstances tending to show that a person has  
15 substantial influence over the affairs of an organization include, but are not limited to, the following:

- 16           I. The person founded the organization;
- 17           II. The person is a substantial contributor to the organization;
- 18           III. The person's compensation is primarily based on revenues derived from activities of the  
19 organization, or of a particular department or function of the organization, that the person controls;
- 20           IV. The person has or shares authority to control or determine a substantial portion of the  
21 organization's capital expenditures, operating budget, or compensation for employees;
- 22           V. The person manages a discrete segment or activity of the organization that represents a  
23 substantial portion of the activities, assets, income, or expenses of the organization, as compared to the  
24 organization as a whole; or
- 25           VI. The person owns a controlling interest (measured by either vote or value) in a corporation,  
26 partnership, or trust or other entity.

27           14-C:4-e Facts and Circumstances Tending to Show No Substantial Influence. Facts and  
28 circumstances tending to show that a person does not have substantial influence over the affairs of an  
29 organization include, but are not limited to, the following:

- 30           I. The person has taken a bona fide vow of poverty as an employee, agent, or on behalf, of a  
31 religious organization;
- 32           II. The person is a contractor (such as an attorney, accountant, or investment manager or  
33 advisor) whose sole relationship to the organization is providing professional advice (without having  
34 decision-making authority or a title of authority within the organization) with respect to transactions from  
35 which the contractor will not economically benefit either directly or indirectly (aside from customary fees  
36 received for the professional advice rendered);
- 37           III. The direct supervisor of the individual does not hold a position to exercise substantial  
38 influence over the affairs of the non-governmental organization, business, or person;

CHAPTER 340  
HB 1388 - FINAL VERSION  
- Page 3 -

1 IV. The person does not engage in any management decisions affecting the organization as a  
2 whole or a discrete segment or activity of the organization that represents a substantial portion of the  
3 activities, assets, income, or expenses of the non-governmental organization, business, or person, as  
4 compared to the organization as a whole; or

5 V. Any preferential treatment a person receives based on the size of that person's contribution is  
6 also offered to all other donors making a comparable contribution as part of a solicitation intended to  
7 attract a substantial number of contributions.

8 340:4 New Paragraph; Legislative Ethics; Definition; Organization. Amend RSA 14-B:1 by inserting  
9 after paragraph III the following new paragraph:

10 III-a. "Organization" shall be construed broadly to mean any business, corporation, whether for  
11 profit, non-profit, not-for-profit, social welfare organization, or natural person. "Organization" shall not  
12 include the United States of America, the state of New Hampshire, a county within the state of New  
13 Hampshire, or any political subdivision within the state of New Hampshire.

14 340:5 Legislative Ethics; Definition; Special of Interest. Amend RSA 14-B:1, V to read as follows:

15 V. "Special interest" means any financial or non-financial personal interest in the outcome of a  
16 matter that is the subject of official activity, distinct from and greater than the interests of the public at  
17 large.

18 (a) A financial interest exists where a legislator or household member, *or a person or*  
19 *organization, whether nonprofit or for profit, by which the legislator is employed, or from which the*  
20 *legislator receives compensation, to act as the person's or organization's agent or advocate*, could stand  
21 to gain or lose anything of material value as a result of the official activity.

22 (b) A non-financial personal interest exists where a legislator or household member has a  
23 responsibility for the welfare of an organization, *whether nonprofit or for profit*, by virtue of holding a  
24 position with a fiduciary responsibility, such as a board member, trustee, or director.

25 (c) *A legislator's or household member's ownership of securities of a publicly traded*  
26 *corporation shall not be construed to constitute a "special interest" in matters that may affect the*  
27 *corporation unless the legislator or household member serves as an officer, board member, trustee or*  
28 *director of the corporation or owns more than one percent of the outstanding securities of the corporation.*

340:6 Effective Date. This act shall take effect January 1, 2025.

Approved: August 02, 2024  
Effective Date: January 01, 2025