

INTERPRETIVE RULING 2025-6 (May 16, 2025)

The Legislative Ethics Committee has received a request for a ruling from Representative Gregory G. Hill, seeking to have the Committee provide its interpretation of the terms “state budget” and “general revenue bills” as set forth in RSA 14-C:4-b, Exceptions to Recusal for Conflicts of Interest. More specifically, noting that the definitions of “budget” and “trailer bill” are contained in RSA 9:2 and RSA 9:2-a, he asked whether the Committee would interpret the recusal exception for “state budget” to apply only to HB 1 or whether it would include both HB1 and HB 2 (the trailer bill). In addition, he asked whether “members with conflicts of interest that arise during consideration of amendments to House Bill 2 would be required to recuse?”

In making its interpretation, the Committee considered the legislative history of RSA 14-C:4-b, as enacted into law by 2024 House Bill 1388, reviewed the statutory provisions set forth in RSA 9:2 and RSA 9:2-a, and took into account the provisions of New Hampshire Constitution, Part II, Article 18-a.

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

RSA 9:2 Transmission to the Legislature. – Not later than February 15 of the year of each biennial legislative session, the governor shall transmit to the legislature a document to be known as a **budget** setting forth the governor's financial program for each of the fiscal years of the ensuing biennium and having the character and scope hereinafter set forth. (Emphasis added.)

RSA 9:2-a Transmission to the Legislature; Changes to Statutory Law. – Not later than February 15 of the first year of each biennial legislative session, the governor shall transmit to the legislature a document to be known as the **trailer bill** containing any changes to statutory law deemed necessary for the ensuing biennium. ***This document shall be separate from the document known as the budget as provided in RSA 9:2 and shall not be considered a budget bill as provided in part II, article 18-a of the New Hampshire constitution.*** ... (Emphasis added.)

New Hampshire Constitution Part II, Article 18-a [Budget Bills.] All sections of all **budget bills before the general court shall contain only the operating and capital expenses for the executive, legislative and judicial branches of government**. No section or footnote of any such budget bill shall contain any provision which establishes, amends or repeals statutory law, other than provisions establishing, amending or repealing operating and capital expenses for the executive, legislative and judicial branches of government.

Committee Analysis

Having given due consideration to RSA 9:2 and the constitutional provisions of Part II, Article 18-a, the Committee concludes that the term “state budget,” as set forth in RSA 14-C:4-b, applies to the state’s operating budget, currently and traditionally designated as House Bill 1, and the state’s capital budget, currently and traditionally designated as House Bill 25. The Committee notes that the legislature may elect to give those budget bills different designations in the future.

The trailer bill is currently and has been traditionally designated as HB 2, although the legislature may elect to give it a different designation in the future. While the trailer bill may at times enact provisions which produce the revenues required to implement the budget, that is not its primary purpose. Given its role, the Committee finds that HB 2 is not a “general revenue” bill as provided in RSA 14-C:4-b.

RSA 9:2-a clearly provides that “the trailer bill” “shall not be considered a budget bill as provided in part II, article 18-a of the New Hampshire constitution.” While it is not defined as a budget bill, HB 2 plays a critical role in the implementation of the state budget. It is indispensable to the budget process as it contains “any changes to statutory law deemed necessary for the ensuing year.” While the budget reflects the State’s priorities and how its funds will be expended, the trailer bill makes the statutory changes necessary to establish, amend or repeal laws in order for the budget to work.

In considering the intent of RSA 14-C:4-b as it applies to recusal, it makes little sense to require legislators to recuse themselves from the trailer bill but not the budget. Furthermore, the trailer bill contains a collection of subject matters. Requiring recusal might lead to substantial numbers of legislators being unable to participate. The obvious intent of the legislature when it enacted the provisions of RSA 14-C:4-b in 2024 HB 1388 was to except from recusal the large critically important omnibus bills such as the budget, capital budget and the trailer bill.

Therefore, recognizing the inconsistency in the definition of “budget bill,” the Committee finds unanimously that, notwithstanding the provisions of RSA 9:2-a, the legislature intended that the exception for recusal for budget bills applies to the trailer bill. The Committee would recommend that the legislature address this apparent statutory conflict in future legislation.

The Ethics Committee was divided over whether a legislator who has a conflict of interest on an amendment to the trailer bill is exempted from recusal by RSA 14-C:4-b. That statute provides that the exception from recusal would apply to “any official activity regarding the preparation, review, or approval or disapproval of the state budget or general revenue bills.” While the language of the statute does not include “amendment” as a qualifying official activity, the amendment process might be considered part of preparation of the budget.

A majority of the Committee believed that it was logically inconsistent to require a legislator to recuse for a conflict of interest on a bill during the regular legislative process and then allow that legislator to vote on the same bill when it is offered as an amendment to the trailer bill. A minority of the Committee believed that the process of amending the trailer bill is different than the regular legislative process. Making amendments is part of preparation of the trailer bill and it would be impractical to require recusal at that time. The Committee vote 4-3 in favor of requiring recusal. The Committee would recommend that the legislature address this issue in future legislation.

Conclusions

In summary, the Ethics Committee interprets House Bill 1 (the budget), HB 2 (the trailer bill) and House Bill 25 (the capital budget) to be “state budget” bills as provided in RSA 14-C:4-b. The Ethics Committee is divided over whether RSA 14-C:4-b exempts legislators with conflicts of interest from recusal on amendments to HB 2. A slight majority believes recusal would be required. Some future legislation may be required to address and clarify the recusal provisions.

We appreciate the opportunity to be of assistance.

For the Committee,
Edward M. Gordon
Chairman

[Vote: 7-0]