

MINUTES
LEGISLATIVE ETHICS COMMITTEE
APRIL 7, 2025, MEETING
{Approved: May 16, 2025}

The Legislative Ethics Committee (RSA 14-B:2) met on Monday, April 7, 2025, at 1:00 P.M. in Room 103 of the State House.

The following members were present: the Honorable Edward M. Gordon, Chairman, the Honorable Donna Sytek, Vice Chairman, Senator Cindy Rosenwald, Senator Ruth Ward, Representative Bob Lynn, Representative Catherine Rombeau, and the Honorable David H. Hess. Also participating were Richard M. Lambert, Executive Administrator and Richard J. Lehmann, Senate Legal Counsel.

The Committee's meeting consisted of the following agenda items:

ITEM #1

Consideration of the draft *Minutes* from the Committee's meeting held on March 24, 2025.

Following review, Vice Chairman Sytek moved to approve the *Minutes* with a correction to the time of adjournment, which should have read 3:15 not 2:15. Representative Lynn seconded the motion, and the Committee voted 6 to 0 in favor of the motion.

ITEM #2

Discussion of *Interpretive Ruling 2025-4*, defining "substantial" in relation to the recusal requirement.

Chairman Gordon noted that a draft ruling had been distributed to the Committee and said it was based on the Committee's discussion at the March 24 meeting. He said that the intent was that because the term 'substantial' in the law is ambiguous, "some standard needs to be applied in order make it enforceable. And the standard which I considered as possible would be the standard that we had already adopted in RSA Chapter 14-C and that was that you are unable to accept gifts in an amount greater than \$250 per calendar year. And because, in effect, what the legislature is saying is that's the amount that's acceptable. Beyond that, we could *presume* that you would be potentially influenced by an amount greater than that. So, I'm saying without any other standard to apply that perhaps we could apply that standard until the legislature decides to create a different, or better standard, or a more specific standard."

Representative Lynn said, "My inclination is that I think what you suggest makes sense. ... We're making an educated guess, but I think that there's a basis to do it. And if the legislature decides that it wants to be more specific, or wants to change the number, or whatever, they can do it. But it seems to me that it's a reasonable position to take, and so I would support it."

Vice Chairman Sytek said, "I just wonder about the '\$250 in a calendar year.' In the retirement bill that we looked at, you get your increase on your anniversary date. And so, if your anniversary date is in December, you might not get your \$250, but you would get more than that the next year. So, do we need to say '\$250 in a calendar year'?"

Mr. Hess said he agreed with Vice Chairman Sytek and also wanted to point out that in the ruling "it should be clear that (the \$250 amount is) only a presumptive criterion and that it's not absolute. And that the presumption can be overridden by any particular factual circumstances. So, while it's a guideline, it's not an ironclad definition..."

Representative Lynn said, “I agree completely with Mr. Hess on this. The only other thing I would say is instead of saying ‘calendar year’ you could just say ‘\$250 in a year’ and I think if you just word it that way that to me would mean from the time you got your first benefit, you measure back a year from when you got any kind of benefit and if within a year you get \$250 then you need to recuse yourself.”

Chairman Gordon said, “So, two clarifications. One is the calendar year clarification...and the other one is clarification with regard to presumption, making that clear.”

Representative Rombeau asked Chairman Gordon if his intention was to adopt the ruling right then and noted that Senator Rosenwald was not yet present and had expressed concerns about the issue of defining “substantial.”

Chairman Gordon said, “What I would do today is take whatever we discuss today, redraft it and send it out for everyone to look at.”

The Committee agreed to that approach.

ITEM#3

Continuation of the Initial Review of *Complaint 2025-1*. (Nonpublic Session)

Vice Chairman Sytek moved to enter nonpublic session, pursuant to RSA 14-B:3, I(d), to continue an Initial Review of *Complaint 2025-1*. Representative Lynn seconded the motion, and the Committee voted as follows:

Mr. Hess	Yea	
Representative Lynn	Yea	
Representative Rombeau	Yea	
Senator Ward	Yea	
Senator Rosenwald		(Not yet present)
Chairman Gordon	Yea	
Vice Chairman Sytek	Yea	

{MOTION ADOPTED}

{NONPUBLIC SESSION}

Vice Chairman Sytek moved to exit nonpublic session. Representative Lynn seconded the motion, and the Committee voted as follows:

Mr. Hess	Yea	
Representative Lynn	Yea	
Representative Rombeau		(Not present)
Senator Ward	Yea	
Senator Rosenwald	Yea	
Chairman Gordon	Yea	
Vice Chairman Sytek	Yea	

{MOTION ADOPTED}

Chairman Gordon stated: “The Committee has just voted to come out of nonpublic session, now that we’re back in public session. During the nonpublic session, the Committee voted to dismiss *Complaint 2025-1* after completing its initial review.”

ITEM #4

Discussion of the adoption of “Ethics Scenarios” to provide guidance for compliance with recusal and disclosure requirements.

Chairman Gordon noted that the Committee had been provided with a new copy of the revised “Ethics Scenarios.” The Committee then discussed each scenario.

Ethics Scenarios

The Committee believes that the following hypothetical scenarios may be helpful in understanding the conflict of interest disclosure procedure and recusal requirements and knowing when disclosing financial interests on the Financial Disclosure Form, filing a Declaration of Intent Form, making a verbal disclosure, or recusing are required.

The Committee is issuing these scenarios to provide general guidance. Individual circumstances may dictate specific responses that differ from those presented below. The Committee is available to provide advice with respect to specific situations as they arise.

(1) A legislator is a retired state employee belonging to Group 1 of the New Hampshire Retirement System (“NHRS”). A bill would provide a cost of living adjustment (“COLA”) to all NHRS retirees for amounts up to \$50,000 **but not affecting contribution levels or future expected benefits of members who have not yet retired.**

Financial Disclosure Form’s “Checklist”? - Yes. The Committee has previously held that legislators, or legislators who have a household member, who are retired NHRS members collecting benefits or active members making contributions, have a financial interest which must be disclosed on the Financial Disclosure Form filed at the beginning of the legislative biennium. The membership should be reported under “(g) The New Hampshire Retirement System.”

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes. The legislator is required to report recusal.

Recusal? – Yes. As the retired legislator would qualify to receive the proposed COLA, the legislator could reasonably be expected to incur a direct and substantial financial benefit. Recusal would be required by RSA 14-C:4-a, I, and the legislator would be required to refrain from participating in any legislative activities involving the bill.

(The Committee voted 5 to 1 to include #1 in the ruling.)

(2) A legislator is the parent of a child who is currently enrolled in the New Hampshire public school system. Under current law, the legislator’s income exceeds the threshold that allows participation in the Education Freedom Account (“EFA”) program. A bill would remove that income cap and allow the legislator’s child to become eligible to participate in the EFA program.

Financial Disclosure Form’s “Checklist”? – No. [~~At the time when the legislator was required to file the form, the legislator was not a participant in the program and had no financial interest to report.~~]

Verbal disclosure? – No. [~~The legislator will recuse and will not be participating in verbal advocacy.~~]

Declaration of Intent? – [~~Yes, to report the required recusal.~~] **No.**

Recusal? – [~~Yes. Because the proposed legislation would allow the legislator to participate in the program when she previously could not, the legislator could incur a direct and substantial financial benefit from the bill’s enactment and recusal would be required.~~] **No. Parents who have children attending NH public schools constitute a sufficiently broad cross-section of society. The legislator’s financial interest would not be considered *distinct from* nor *greater than* the public at large.**

(The Committee voted 5 to 1 to include #2 in the ruling.)

(2A) A legislator is the parent of a child who is currently enrolled in a private school in New Hampshire and another legislator has a child who is being home educated. Under current law, both legislators’ incomes exceed the threshold that allows participation in the Education Freedom Account (“EFA”) program. A bill would remove that income cap and allow the legislators’ children to become eligible to participate in the EFA program.

Financial Disclosure Form’s “Checklist”? – No.

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Yes. Parents who have children enrolled in private schools or who home educate their children constitute a narrow subsection of the public at large. Because the proposed legislation would allow the legislators to participate in the program when they previously could not, the legislators could incur a direct and substantial financial benefit from the bill’s enactment and recusal would be required.

(The Committee voted 4 to 2 to exclude #2A from the ruling.)

(3) A legislator's household member is a registered lobbyist and a senior member of a lobbying firm representing several clients. The lobbyist testifies on a bill affecting one of the household member's clients.

Financial Disclosure Form's "Checklist"? - ~~No.~~ **Yes. The legislator should check "(r) Other" and disclose the financial interest in the lobbying firm.**

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report the required recusal.

Recusal? – Yes. Pursuant to RSA 14-C:4-a, II, if the household member, "(a) Receives financial remuneration from an organization; (b) Holds a position to exercise substantial influence over the affairs of the organization; and (c) The organization has lobbied, testified, or otherwise attempted to influence the outcome of the official legislative activity," the legislator is required to recuse themselves from participation in any official legislative activity pertaining to the bill.

(The Committee voted 6 to 0 to exclude #3 from the ruling.)

(4) A legislator's household member owns and operates a service station. A bill repeals annual inspections and diagnostic tests, the fees from which provide a significant portion of the service station's profits.

Financial Disclosure Form's "Checklist"? – Yes. The ownership should be reported under "(r) Other."

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Yes. The legislator has a conflict of interest which requires the legislator's recusal from participating in legislative activities involving the bill. Although the interest in the subject may be no greater than other businesses which perform inspections and diagnostic tests, the legislator has a financial interest which is greater than the public at large. Given the legislator's household member's ownership of the service station, the legislator could reasonably be expected to incur a direct and substantial financial detriment as a result of the outcome of the bill.

(The Committee voted 4 to 2 to exclude #4 from the ruling.)

(5) A legislator serves on the governing board of nonprofit entity. The legislator receives no compensation for serving on the board. The nonprofit receives revenue from charitable gaming. There is a bill that caps charitable gaming grants to such entities at \$50,000 per year.

Financial Disclosure Form's "Checklist"? – No. Only "financial interests" are required to be reported on the Financial Disclosure Form. In this example, the legislator is not compensated for serving on the board and therefore has no financial interest. However, the legislator presumably has a **fiduciary** responsibility for the welfare of the nonprofit entity. This creates a **non-financial personal interest** in the outcome of the legislation. The legislator could disclose this non-financial personal interest on the **General Disclosure of Non-Financial Personal Interests Form** or file a **Declaration of Intent Form** prior to participating in official activities related to the bill.

Verbal disclosure? – Yes. When a legislator becomes aware of ~~[a financial interest or]~~ a non-financial personal interest in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? -Yes, if the legislator had not reported the non-financial personal interest on the General Disclosure of Non-Financial Personal Interests Form.

Recusal? – No. Recusal is not required for non-financial personal interests.

(The Committee voted 6 to 0 to include #5 in the ruling, with minor wording changes.)

(6) A legislator serves in an uncompensated capacity on the board of a for-profit nursing home. A bill increases Medicaid rates for long term care.

Financial Disclosure Form's "Checklist"? – No, because the legislator is not compensated for serving on the board. The legislator does not have a financial interest but may have a non-financial personal interest that could be reported on the General Disclosure of Non-Financial Personal Interests Form.

Verbal disclosure? – Yes. When a legislator becomes aware of ~~[a financial interest or]~~ a non-financial personal interest in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? Yes, if the legislator had not reported the non-financial personal interest on the General Disclosure of Non-Financial Personal Interests Form.

Recusal? - No. Recusal is not required for non-financial personal interests.

(The Committee voted 6 to 0 to include #6 in the ruling, with a minor wording change.)

(7) A legislator's household member is employed at a community health center. A bill increases Medicaid payments to such facilities.

Financial Disclosure Form's "Checklist"? – Yes. The employment should be reported under "(b) Health care."

Verbal disclosure? – ~~Maybe.~~ Yes, unless the legislator is required to recuse, the legislator would be required to make a verbal disclosure prior to participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal if required [7]. ~~[or yes to choose "will participate" or "will not participate"]~~ If recusal is not required but the bill has a greater financial impact on the legislator's household member than would accrue to other members of the health care industry, the legislator would be required to file a Declaration of Intent Form and choose 'will participate' or 'will not participate.'

Recusal? – This would depend on the household member's position at the community health center. If the household member's compensation or status at the community health center could be affected by the increased Medicaid payments, the household member could reasonably be expected to incur a direct and substantial financial benefit or detriment as a result of the outcome of the legislation and the legislator should recuse. If the household member's compensation or position at the community health center would not be affected by the bill, recusal would not be required. In addition, if the household member, "(a) Receives financial remuneration from an organization; (b) Holds a position to exercise substantial influence over the affairs of the organization; and (c) The organization has lobbied, testified, or otherwise attempted to influence the outcome of the official legislative activity," the legislator is required to recuse themselves from participation in any official legislative activity pertaining to the bill.

(The Committee voted 6 to 0 to exclude #7 from the ruling.)

(8) A legislator owns rental properties in NH. A bill would require landlords to give at-will tenants a 60-day notice of intent to evict.

Financial Disclosure Form's "Checklist"? – Yes. The ownership should be reported under "(d) Real estate, including brokers, agents, developers, and landlords."

Verbal disclosure? – Yes. When a legislator becomes aware of a financial interest ~~[or a non-financial personal interest]~~ in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? – ~~Yes.~~ No. A declaration of intent form is not required if no benefit or detriment could reasonably be expected to accrue to the legislator, or the legislator's household 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 household member's membership is made in the Financial Disclosure Form.

Recusal? – No. In this scenario, although the legislator-landlord might incur a financial detriment if prevented from executing immediate eviction of a tenant, the potential financial detriment cannot be "reasonably expected" as is required for making recusal mandatory pursuant to RSA 14-C: 4-a, I.

(The Committee voted 5 to 1 to include #8 in the ruling.)

~~[(9)]~~ (9) A legislator lives in rented apartment in NH. A bill would limit annual rent increases to the rate of inflation, as calculated by the US Bureau of Labor Statistics.

Financial Disclosure Form's "Checklist"? – ~~[Yes. A legislator who is a tenant should report their status as a tenant under "(r) Other."]~~ No.

Verbal disclosure? – No. ~~[The legislator will recuse and will not be participating in verbal advocacy.]~~

Declaration of Intent? – ~~[Yes, to report recusal.]~~ No.

Recusal? – ~~[Yes. As the legislator's future rent would almost certainly be lower than it would be absent the legislation, the legislator could reasonably be expected to incur a direct and substantial financial benefit. Recusal would be required by RSA 14-C:4 a, I, and the legislator would be required to refrain from participating in any legislative activities involving the bill.]~~ No.]

(The Committee voted 6 to 0 to exclude former #9 from the ruling.)

~~[(10)]~~ (9) A legislator owns a small number of rental properties in NH. A bill would limit annual rent increases to the rate of inflation, as calculated by the US Bureau of Labor Statistics.

Financial Disclosure Form's "Checklist"? – Yes. The ownership should be reported under "(d) Real estate, including brokers, agents, developers, and landlords."

Verbal disclosure? – ~~[No. The legislator will recuse and will not be participating in verbal advocacy.]~~ Yes.

Declaration of Intent? – ~~[Yes, to report recusal.]~~ No.

Recusal? – ~~[Yes. As the legislator's rental income would almost certainly be lower than it would be absent the legislation, the legislator could reasonably be expected to incur a direct and substantial financial detriment. Recusal would be required by RSA 14-C:4 a, I, and the legislator would be required to refrain from participating in any legislative activities involving~~

~~the bill.]~~ No. The legislator could not reasonably be expected to incur a direct and substantial financial detriment from the outcome of the legislation.

(The Committee voted 6 to 0 to exclude #9 from the ruling.)

(9A) A legislator owns a substantial number of rental properties in NH. A bill would limit annual rent increases to the rate of inflation, as calculated by the US Bureau of Labor Statistics.

Financial Disclosure Form's "Checklist"? – Yes. The ownership should be reported under “(d) Real estate, including brokers, agents, developers, and landlords.”

Verbal disclosure? –Yes.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Holding several units of rental units in the state would likely result in a direct and substantial benefit or detriment and recusal would be required.

(The Committee voted 6 to 0 to include #9A in the ruling, with minor wording changes and redesignated as #9.)

(10) A legislator holds title to property subject to current use taxation. There is a bill that would change the formula for taxation, decreasing the amount of taxes to be paid.

Financial Disclosure Form's "Checklist"? – Yes. The ownership should be reported under “(h) The current use land assessment program.”

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Yes. The Committee has previously held that the current use tax system constitutes a financial interest, and therefore a potential conflict of interest, with respect to any official activity pertaining to the tax. The bill can be expected to have a “direct and substantial” financial impact on the legislator, making recusal mandatory.

However, not all current use bills would necessarily require recusal. For example, a change in property classifications, type of vegetation, or method for filing current use liens would probably not have a direct or substantial financial impact. Recusal might not be required in those circumstances, although the legislator would still have a duty to disclose.

(The Committee voted 6 to 0 to include #10 in the ruling.)

Chairman Gordon said that the ruling would be revised to reflect the Committee’s changes and distributed to the Committee members for their approval.

ITEM #5

Discussion of initiating a review of Advisory Opinions and Interpretive Rulings in relation to HB 1388.

The Committee voted to instruct Mr. Lambert to review all prior advisory opinions and interpretive rulings and provide the Committee with a report recommending which opinions and rulings should be withdrawn, amended or retained as a result of changes to the ethics laws and *Ethics Guidelines* from the enactment of 2024 HB 1388 requiring recusal.

ITEM #6

New/Other Business.

a) Discussion of an inquiry from Representative Tom Cormen (Graf./15).

Representative Cormen’s email inquiry to the Committee dated April 7, 2025, stated,

“Many of us do not have time to read the entire consent calendar and are willing to trust the judgement of the committees that placed their bills on it. If a legislator does not read the entire consent calendar and the associated bills, then they would have no way of knowing whether they have a conflict of interest regarding a bill on consent. The ruling in the House calendar (*Interpretive Ruling 2025-2*) suggests two courses of action when there is a conflict with a bill on consent: remove the bill from consent and recuse from voting on that bill or recuse from voting on the entire consent calendar. It would seem that for those of us who do not read the entire consent calendar, the only safe course of action would be to recuse from voting on the entire consent calendar. I do not know how many of us do not read the entire consent calendar, but I’d guess it’s quite a few of us. That could lead to relatively few of us being able to vote on the consent calendar. This seems like an unintended consequence. I wonder whether you have any thoughts on how we might deal with this conundrum, other than the obvious ‘everyone should read every bill on the consent calendar.’”

Vice Chairman Sytek said, “They should read the Consent Calendar. ... You could just read the blurbs and get an idea of whether you have a conflict.”

Chairman Gordon said, “I think we could certainly say there is an expectation that you would read the Consent Calendar, not necessarily the bills themselves, but at least the titles and the blurbs to understand what you might be voting on.”

Senator Ward said, “It seems to me that during caucus they discuss the bills, and you know what they’re all about and you should be able to figure out whether you have a conflict with any of the bills. I don’t see this as a problem.”

After further brief discussion, Chairman Gordon said he would draft a response and send it to the Committee for their approval.

b) Consideration of choosing a cover color for the 2025 edition of the *Ethics Booklet*.
The Committee voted 6 to 0 in favor of selecting “Vulcan Green” for the cover of the 2025 edition of the *Ethics Booklet*.

ITEM #7

Scheduling of the next meeting.

The Committee next meeting will be at the call of the chair.

The Committee’s meeting adjourned at approximately 3:00 P.M.

{Prepared by Richard M. Lambert, Executive Administrator}