

MINUTES  
LEGISLATIVE ETHICS COMMITTEE  
MAY 16, 2025, MEETING  
{Approved: June 23, 2025}

The Legislative Ethics Committee (RSA 14-B:2) met on Friday, May 16, 2025, at 1:00 P.M. in Room 104 of the Legislative Office Building.

The following members were present: the Honorable Edward M. Gordon, Chairman, the Honorable Donna Sytek, Vice Chairman, Senator Ruth Ward, Representative Bob Lynn, Representative Catherine Rombeau, and the Honorable David H. Hess. Senator Cindy Rosenwald was unable to attend, and Senator Rebecca Perkins Kwoka was appointed to replace her for the meeting. Also participating were Richard M. Lambert, Executive Administrator, Representative Gregory Hill 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 April 7, 2025.

Following review, Vice Chairman Sytek moved to adopt the *Minutes* as presented. Representative Lynn seconded the motion, and the Committee voted 5 to 0 in favor of the motion, with 1 abstention.

ITEM #2

Consideration of a request for an Interpretive Ruling from Representative Gregory G. Hill (Merr.02).

Chairman Gordon summarized the request, saying that Representative Hill [who is the chairman of the House Committee on Legislative Administration and was deeply involved in the 3-year legislative effort that led to House Bill 1388] was looking for the Committee to address the definitions of what constitutes a "budget bill," as used in RSA 14-C:4-b and in other statutes. He noted that Representative Hill was present and invited him to address the Committee.

[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.)]

Representative Hill said that there had been a newspaper article questioning whether the House-passed version of House Bill 2 might not have complied with NH Constitution Part II, Article 18-a, prompting him to review the constitutional article and RSA 9:2 and RSA 9:2-a. He said he found that the latter states that House Bill 2 should not be considered a budget bill. He pointed out that House Bill 1388 exempts budget bills from recusal for conflicts of interest and wanted to know whether the Committee would determine whether any of the amendments to HB2 that come before the House would qualify for the exemption or whether legislators would need to recuse from participating on amendments when they have a conflict.

Chairman Gordon asked, "So, the question is for interpreting the provisions of what was (HB)1388 and whether or not the trailer bill, HB2... would qualify as a 'budget bill'?"

Representative Hill indicated it was and added, "I specifically point to the fact that RSA 9:2-a seems to specifically say that HB2 is not a budget bill."

Mr. Hess said, "I think that Representative Hill's question...also invites a broader definition by this Committee, if it is possible, as to what constitutes a 'general revenue bill' and, therefore, falls within this exception to the recusal statute."

Senator Perkins Kwoka said, "I think HB1 and HB2 are generally considered to be the budget package, so in my mind, if we're talking about the 'state budget' it would include both bills, and I agree with the representative that having a definition for 'general revenue bills' would be helpful to sort of broadly define that."

Vice Chairman Sytek asked, "Isn't this the case of where the legislator's intent is one thing, but the plain language of the law is another thing? You (Representative Hill) intended 'the budget' to mean HB1 and HB2, is my recollection."

Representative Hill responded, "I don't think we did. I know we had a discussion along those lines. My feeling was always that HB2 was not a budget bill. It was the 'trailer bill.' But RSA 9:2-a was not in my skill set at that point..."

Vice Chairman Sytek said, "The plain language of the law says the trailer bill is not the budget and the ethics statute says it doesn't apply to the budget. So, if you want to observe the law, half the House wouldn't vote on the trailer bill..."

Representative Hill said, "I would like to make a distinction, too. My question as I'm sitting in Reps Hall listening to the endless number of floor amendments that came through, and I knew those dealt with specific issues, and I knew that there were reps within Reps Hall who had conflicts with those specific amendments, so I'm not sure if there is some way we could split the baby somewhere in here, and say the individual amendments that come through would be a recusal item, but not HB2 in total. I don't think that's possible, but I also think that HB2 is divisible. So, maybe that's the way to stay in touch with this idea of making sure that some of the items that come up in HB2 would be subject to conflict of interest."

Chairman Gordon said, "Well, it seems for practical purposes, as the senator said, that HB2 is an integral part of HB1. It makes HB1 work. And for practical purposes, you would have to include both of them in the definition of 'budget bill.' ... I think that there would be circumstances where there would be amendments on the floor where people would find themselves in circumstances where they might have to recuse themselves because it might have some direct effect on them. But the bill itself, it seems to me that people ought to be able, as far as HB2 is concerned, they ought to be able to vote on it as a budget bill. In terms of revenue bills... bills that just make a general appropriation for a specific purpose aren't 'general revenue bills.'... The only ones that would apply would be circumstances where you were voting on a tax status, for example, increasing or decreasing a tax, or raising in some other way, raising money for the general fund."

Mr. Hess said, "So, are you suggesting, for example, that a bill to reinstate the Interests & Dividends Tax would fall within the definition of a 'general revenue bill' because it would contribute toward the overall revenue of the general budget?"

Chairman Gordon said, "I do. As opposed to raising or appropriating money for some specific purpose. But raising taxes, reducing taxes, seems like a general revenue bill to me."

Mr. Hess said, “And...to increase the registration fees for automobiles or for boats or for hunting licenses...they would (not) be exceptions (to the recusal requirement) because they don’t flow into the general fund...”

Vice Chairman Sytek said, “We talked about dividing the question on HB2, but when it comes to the end when you have to vote on the committee of conference report you can’t divide the question, it’s up or down. So, if anybody who had a potential conflict with anything that’s in the ‘Christmas Tree,’ do they have to recuse themselves?”

Representative Rombeau asked Representative Hill, “That is one of my questions, too.... I see that at the end of your request, referencing ‘Do you have to recuse from a particular amendment?’ But ultimately you get to the point where you can’t do that anymore...And so, you were asking for clarification?” Representative Hill indicated he was.

Representative Lynn said, “I see the point that you’re making. And I suppose if it were workable, the rule could be that if there’s gonna be an addition to HB2 that deals with a specific item that you would have the basis to recuse on, then you can’t participate in the debate, or you can’t introduce that bill, you can’t do any of that, and you can’t vote on that. But then, once it either passes or fails, and let’s say it passes and it’s now in HB2, then you could cast a vote ultimately on HB2. And the only question I would have is – that might sound okay in theory – but is it really workable? Would it really be workable to do that? And I don’t know the answer to that.”

Senator Perkins Kwoka said, “It seems to me like the budget is sort of this central exercise that we do want the whole legislature engaged in. And so, I do think it’s important to raise those questions, but that ultimately, we should also be making policy that affects groups and people in the state in a strategic, high level way, that I would think that we sort of want as many voices represented in as possible. The Honorable Sytek made a point about legislative intent. If the intent was to include the budget, I think we should use the intent to interpret the words that are in front of us ...and so, if this just said, ‘the state budget’ without a lot more nuance? My general feeling is to use that intent to kind of reflect a broad definition here, but I hear the conversation.”

Chairman Gordon said, “And it seems to me, part of what we’re looking at here is this balance that we have because, sitting as a legislator I’m there saying ‘Hey, I was elected to be here. It’s my responsibility to vote on things and take responsibility. My constituents would expect me to vote on the budget, to have a say in how the state is gonna spend its money and makes its priorities.’ And so, that sort of balances against this idea that you might potentially have some conflict. But the budget is so overwhelming and inclusive of so many things, it just seems impractical to exclude a legislator from being able to participate in that budget process.”

Representative Rombeau said, “I would think that’s at least in part why the exception was created, in recognition of the unique role of the budget process and prioritizing the participation different than we’re treating other individual bills.”

Mr. Hess said, “Another corollary argument is that in interpreting statutory language, the courts will not apply an interpretation which leads to absurd results, and to provide for an exclusion to run on HB2 would, in effect, lead to an absurd result.”

Representative Lynn said, “My inclination would be, based on what everybody has said, is to say that ‘the state budget or general revenue bills’ includes HB1 and HB2.”

Senator Perkins Kwoka and Senator Ward agreed with that.

Vice Chairman Sytek said, “I was there at the conception in 1984 when we did this constitutional amendment, because it used to be that all of the stuff that is now in House Bill 2 were footnotes to House Bill 1 and the voters said, ‘No, we don’t footnotes in the budget,’ so that’s the reason that this law says House Bill 1 is the numbers and all the statutory changes to words are in House Bill 2. And the law says House Bill 2 is not a budget. So, you’re asking us as the ethics committee to violate the law.”

Mr. Hess said, “I think the rule of statutory interpretation as I just cited, precludes the assumption by the Speaker (Sytek) that I think recognizes HB2 as included in the exception to recusal that it is not violating the law. It is simply preventing as absurd result in interpreting the language consistent with practicality because if HB2 is subject to recusal, there’s a very real chance both in the House and even more so in the Senate that you may not get a quorum to vote on the budget or the trailer bill, and that is an absurd result. In addition...your constituents expect you to vote on the budget and to vote on revenue bills. That might be the most important issue for them in voting for or against you.”

After further discussion, Senator Ward said that she thinks of HB2 as the underpinning of what you’re basing the budget on and that you can’t have a budget without it. She said that HB1 and HB2 belong together.

Mr. Hess suggested interpreting the language ‘or general revenue bills’ to include HB2 saying, “Then you don’t have the paradox of seeming to violate or ignore the plain language and the plain meaning of the word ‘budget.’ Perhaps you could construe the inclusion of that language to be the legislative intent to include HB2.”

Chairman Gordon said, “And that’s true because in virtually any case that I’ve known, HB2 has some language in it in regard to taxation, general funds.”

Attorney Lehmann said, “It makes the statutory changes that make HB1 run, really.”

Chairman Gordon said, “But in terms of revenue, the idea of generating revenue or general revenue bills, it seems to me that we could classify HB2 as a ‘general revenue bill.’”

Attorney Lehmann said, “I did have a thought about that, and I think you could. And I think you probably should. And I think that the expression ‘general revenue bill’ probably should be considered next to a ‘money bill,’ which has a much narrower definition. It has to originate in the House. It’s generally limited to direct taxes on polls and estates. That’s what the court’s interpretation was in a decision in a case on it in 2005 involving the City of Manchester.... But a ‘general revenue bill’ is broader than a ‘money bill.’”

Chairman Gordon said, “But if we were to classify HB2 as a ‘general revenue bill,’ we wouldn’t run into the constitutional problem that former Speaker Sytek has brought. ... And Representative Lynn, do you think that having proposed another way of proceeding, what if we were to proceed that way and say that HB2 generally has items with regard to general taxation, funding the general fund... and should be considered a ‘general revenue bill’?”

Representative Lynn replied, “I think that’s a reasonable way to go. I don’t have a problem with that.”

After further brief discussion. Mr. Hess moved to issue an interpretive ruling stating that HB2 is a 'general revenue bill,' as provided in RSA 14-C:4-b. Representative Lynn seconded the motion, and the Committee voted 7 to 0 in favor of the motion.

### ITEM#3

Discussion of a Senate amendment making substantial changes to the recusal law.

Chairman Gordon opened the discussion by observing, "It's up to the legislature to decide what they want to have for a recusal law, not for us to decide that, really. Ours is to interpret and administer what they've done. But, I guess, we can have some thoughts about what they propose."

Senator Perkins Kwoka stated, "I think that what we were trying to do with this amendment in the Senate is to try to make sure we were observing some real life attempts to alter the balance of how the ethics laws work in the legislature and insure that we can preserve the heart of the Citizen Legislature, allow people to feel like they can participate in their jobs of legislators, that we can insure that their professional expertise and lived experience can be part of the legislature, and also make sure that we are also having high standards about direct financial benefits. And so, really the intent of these clarifications was simply to tighten up some definitions. And I can speak to them in part, but obviously it was a bipartisan product in the Senate in conjunction with the Senate Counsel..."

Attorney Lehmann said, "The amendment addresses the 3 main questions that I think you all have found to be pretty sticky wickets in terms of your interpretations..." He then went through the amendment section by section, and the Committee members asked questions and made comments about each of section of the amendment, which reads as follows:

#### Amendment to HB248

AN ACT relative to notice requirements regarding state employee investigations and relative to legislative ethics requirements.

Amend the bill by replacing all after the enacting clause with the following: \*\*\*\*\*

2 New Paragraph; Legislative Ethics Committee; Definition of Public at Large. Amend RSA 14-B:1 by inserting after paragraph III-b the following new paragraph:

III-c. "Public at large" means any reasonably large group of individuals or organizations that is similarly situated and likely to incur similar benefits or detriments as a result of legislation, including but not limited to, professions or occupations, owners of widely held forms of property, or participants in a commercial marketplace.

Attorney Lehmann said that Section 2 has to do with the definition of the "public at large" and "would propose to go back to the understanding of recusal for conflict arising in a circumstance in which a person is part of a small group, but not when a person is part of a large group, that's affected by legislation."

Representative Rombeau asked Attorney Lehmann to talk about what "participants in a commercial marketplace" means.

Attorney Lehmann said, "The idea behind the language having to do with a participant in a commercial marketplace means that if a regulation loosens or restricts or tightens the degree to which a person is free to operate within the marketplace, but it changes the environment for the entire marketplace,

then the legislator shouldn't have a conflict. And for me, the paradigmatic example was Senator Fenton, whose family owns a couple of auto dealerships and does state inspections. We talked about it. It's not a large part of what his family business does. We didn't get into what percentage of revenues is derived from it or whether it would be different if he was a small repair shop as opposed to a big car dealership, or a series of dealerships. And as I told you at that time, my view on it was that it wouldn't have a direct and substantial impact on a business of that nature. [See *Advisory Opinion 2025-1* and Item #4 of the March 24, 2025, Minutes.] But rather than changing the meaning of direct and substantial, this also incorporates the idea that a broad regulation that doesn't affect the legislator more than other similarly situated people shouldn't be the kind of thing that would require recusal in a Citizen Legislature."

Mr. Hess said he liked the use of the term "similarly situated," but also said, "I share the misunderstanding of what 'a commercial marketplace' means and wonder if the word 'marketplace' should be replaced by something like 'activity' or something like that."

Representative Lynn said, "I understand the argument, but at least my understanding was that one of the things that was behind the whole idea of (HB)1388 is the question of public perception. And it does seem to me that, to use the Senator Fenton situation [addressed in *Advisory Opinion 2025-1*], a member of the public would say, 'Oh, so Senator Fenton decided to vote to keep vehicle inspections. Let's see, he owns a car dealership. Does he benefit from that?' And you can make this argument, 'Oh, so all the other car dealerships benefit, too.' I'm not sure that that satisfies the member of the public that that's a good reason for him to participate."

Attorney Lehmann responded, "The counterweight to that, Representative Lynn, is that ... (Senator Fenton's) constituents expect him to vote on bills. ... When a member of the House or Senate doesn't vote on a bill and they're recused, their constituents won't have representation on that bill for that period of time. And also, their constituents are going to be the ones to decide whether they think that a Senator or Representative who votes on a bill that does benefit them is someone they want to reelect. So, it may be, and I would suggest that it is, part of the political process to solve this problem as much as it is part of the Ethics Committee."

[The Committee's discussion used a hypothetical example based on Senator Fenton's circumstances. In fact, Senator Fenton recused from participation in official legislative activities relating to House Bill 649, "AN ACT removing the requirement for physical safety inspections and on-board diagnostic tests for passenger vehicles and eliminating funding for the motor vehicle air pollution abatement fund."]

After further discussion, Senator Perkins Kwoka said, "I think there's also a bigger point here, too, which is that there's professional expertise that comes with us as legislators. And so, if someone is in the business of auto dealers, they know a lot about car inspections, as well. And so, the subject matter expertise that a legislator can bring to the table is the whole point of having a Citizen Legislature..."

Chairman Gordon expressed concerns about the language "any reasonably large group of individuals or organizations." He said, "That's an ambiguity. I can just see that opening up another issue for us trying to define what constitutes 'a reasonably large group of individuals or organizations.'" He also questioned the meaning of 'owners of widely held forms of property,' and asked Attorney Lehmann if the language was put in specifically with regard to current use property.

Attorney Lehmann responded, “Yeah. There’s current use and we have tax vehicles and carbon sequestration, but also publicly traded instruments, stocks and bonds. It’s really an attempt to capture, basically, all kinds of property that a large chunk of the legislature is likely to own so you don’t have large segments of the legislature not participating in votes. If a lot of people own a certain kind of property, it means that owning that property is part of going through life for people. I don’t think there’s a form of property that’s especially unique to legislators.”

After further discussion, Mr. Hess said, “I feel the same way that (Chairman Gordon) and Representative Lynn feel in the sense that this amendment, to a certain extent, eviscerates, under certain circumstances, the perceived intent of the recusal statute to satisfy the public and avoid an impression of self-dealing. But I also note that that really goes to the essence of the legislation and whether it’s good legislation or bad legislation. And while we can all be concerned about that, that’s not our function. Our function is to interpret the legislation that the legislature passes. I think, however, that this discussion could very well be helpful to the House committee and the House at large when they’re considering this amendment and the current language.”

Chairman Gordon said, “I just have one other comment on this section, and that is it seems to me that rather than make the changes that you made in this particular section, that it can be dealt with just by your definition of ‘direct benefit’ or ‘direct detriment.’”

Attorney Lehmann said, “We’ve talked about what constitutes ‘direct’ and ‘substantial’ a fair amount. And I agree.”

3 Legislative Ethics Committee; Definition of Special Interest. Amend RSA 14-B:1, V(a) to read as follows:

- (a) A financial interest exists where a legislator or household member ***is an employee of, or receives compensation from, an individual or organization which*** could stand to gain or lose anything of material value as a result of the official activity.

Attorney Lehmann said Section 3 was an attempt to deal with the question about lobbyists married to legislators.

Representative Lynn said, “If that was the purpose, I am wondering how that fits in with Section 5 of the bill...and so, I guess the thing that I wasn’t clear on with Section 3 is, I’m not clear exactly what the intent of the changed language was, that emboldened language. ... So, does that mean that if, outside of being an employee or receiving compensation, you could stand to gain or lose anything of value, that wouldn’t count? And I’m not sure why that should be the case.”

Mr. Lambert said, “So, that amends the wrong section. It’s the section as it was prior to House Bill 1388....See the currently effective definition of ‘financial interest’ in RSA 14-B.”

Chairman Gordon said, “This amends the statute which existed prior to House Bill 1388. ... I think that in 1388, if you read it, if you take out the new language, ‘A financial interest exists where a legislator or household member could stand to gain or lose anything of material value as a result of the official activity,’ so it applies to an individual regardless of whether they are employed. When you look at the new language you put in, the only time it applies is if they are employed or are receiving compensation from an individual or an organization.”

Mr. Lambert: “And so, Mr. Chairman, this affects more than just the recusal provisions, obviously, it effects the whole conflict of interest disclosure provisions. For example, I think if you’re in the (NH) Retirement System and you’re a legislator, this wouldn’t apply. You’re not employed by the Retirement System so it wouldn’t be a conflict of interest.”

Chairman Gordon asked Attorney Lehmann if that was the intent.

Attorney Lehmann replied, “I don’t know that that was the intent. I think the intent really was to clarify the existing rule because the existing rule does deal with employment in (HB)1388...”

Chairman Gordon said, “If I read the new language literally, ‘A financial interest exists where a legislator or household member *is an employee of, or receives compensation from, an individual or organization which* could stand to gain or lose anything of material value as a result of the official activity,’ the only time a financial interest applies is if someone else is receiving something of value, not the individual legislator.”

Attorney Lehmann said, “I think it deals in employment. If the legislator is an employee, I think it’s still regulated by this.”

Chairman Gordon responded, “Yes. But what you’re doing is saying that only when somebody else other than the legislator is getting the value. Sometimes the legislator is the one who is getting the value.”

Attorney Lehman: “Directly himself? Rather than through employment? I see what you’re saying.”

Chairman Gordon: “And so, that changes entirely what a financial interest is because we’re not concerned about the organization’s financial interest. We’re concerned about the legislator’s financial interest.”

Mr. Hess: “And that could be the category of landowner, current use, or taxes. The Interest & Dividends Tax.”

4 New Paragraph; Gifts, Honorariums, and Expense Reimbursement Requirements for Legislators and Legislative Employees; Definition of Direct Benefit. Amend RSA 14-C:2 by inserting after paragraph II the following new paragraph:

II-a. “Direct benefit” or “direct detriment” means a financial benefit that flows to the legislator or household member without any intervening action by an independent actor, consumer, or other instrumentality or action that is not under the control of the legislator or household member. A “direct benefit” or “direct detriment” does not include a benefit or detriment that affects a marketplace or program in which the legislator or household member participates as a member of the public at large.

Attorney Lehmann said that Section 4 of the bill defines ‘direct benefit’ and ‘direct detriment’ and said, “and that’s been discussed previously related to the example of the (NH) Retirement System. My recollection from the Committee is that there was a pretty strong feeling that legislators shouldn’t vote themselves retirement increases. But also, sort of akin to the idea of being part of a large group, that a benefit would be direct only if the effect of the statute would cause money to flow to the legislator without there being any intervening action taken. And that was the Retirement System example because nothing has to be done other than voting on the bill for money to accrue to the benefit of the legislator.”

Mr. Hess said, “It sounds like you’re trying to paraphrase the concept of ‘independent intervening cause’ in tort law. And by analogy, what I think this language does is, in the example again of Senator Fenton – and I don’t mean to cast any aspersions on him—but in that example what we talked about was, ‘Well, Senator Fenton doesn’t derive a direct benefit from this because other people have to go to him as consumers and, therefore, he’s excluded from having a direct financial benefit because of the independent intervening action,’ and is that the intent of this amendment?”

Attorney Lehmann said it was.

Mr. Hess continued, “And if so, that’s very broad in its effect.”

Chairman Gordon said he had a couple of concerns about the language in Section 4. He said that one was it doesn’t define “direct detriment” and the second was “without any intervening action.” He said, “There’s that ambiguity, again. In most cases, people have to write a check. Is that an intervening independent action? So, I think that creates an ambiguity. And the other thing that I want to say is -- and I think this is the key – the one thing that I really like is the idea of defining ‘direct benefit’ and ‘direct detriment.’ I think that’s what it really needs to do. And I think that most of these other things that you are trying to do could be done just by doing that, frankly, but if you’re going to have a direct benefit or detriment, it should be something that the person is entitled to if the legislation is passed, it constitutes an entitlement... it vests once the legislation is passed. And I think if you were to define it in those terms, I’d feel more comfortable.”

After further discussion, Mr. Hess said, “Another observation. I applaud the attempt to clarify some of the ambiguities in (HB) 1388, but my initial impression in reading this was that it creates more ambiguities than it addresses for many of the reasons, Mr. Chairman, that you’ve pointed out.”

5 New Paragraph; Recusal for Conflicts of Interest; Definition of Organization. Amend RSA 14-C:4-a by inserting after paragraph II the following new paragraph:

III. For the purposes of this section:

(a) The "organization" is the client and not the person, partnership, firm, or corporation acting as lobbyist.

(b) A person who registers as a lobbyist pursuant to RSA 15:1 does not exercise substantial influence over the affairs of the organization unless he or she also satisfies the test set forth in RSA 14-C:4-c through 14-C:4-e.

Attorney Lehmann said, “The last section is clarifying the way I interpret the lobbying question. When I read that I always think of the ‘organization’ as the lobbying client, not the lobbying firm...”

Representative Lynn said, “I don’t disagree that there is a legitimate dispute under the existing language about what is intended to be captured, but this is the part that I have the most problem with in the Senate amendment because what it says is, ‘I can be a legislator and my spouse can be a lobbyist and I can vote on the things that my spouse lobbies about,’ and to me that’s beyond the pale, it really seems to me, because if that’s true, then why can’t the lobbyist be the legislator? Instead of my spouse gets paid, I get paid. ... It just seems to me that if this is the law, does the lobbyist get to advertise, ‘I am really a great lobbyist, I know all about this industry. I can do this and that. And, by the way, I’ve got 1/400<sup>th</sup> or 1/24<sup>th</sup>, at least that vote’s all set’? Can they lobby like that? I don’t know.”

Chairman Gordon said, “I think Representative Lynn and myself view this more from a judicial perspective, too. And that is, I don’t anticipate that I would be hearing a case with my wife arguing it. ... The question is what is a reasonable expectation of the public of their elected officials? And I think a more appropriate approach, rather than trying to manipulate the existing statute to accomplish what you want to accomplish, is just to, for that particular section, take out ‘household members’ and exclude ‘household members,’ and it seems to me that you’ve solved what might be your immediate problem because, the way it’s written right now, if I read this literally, a lobbyist could basically be in the legislature and not have to recuse themselves from voting on things his firm was advocating for.”

Senator Perkins Kwoka said, “To provide another perspective, it’s also important to remember that people are individuals. And that they have their own opinions and minds. And then also just to point out, I think what we’re trying to do here is make laws, help our state move forward and do the right thing. And so, in doing that, if you hire someone who has some sort of limited fee they obtain as part of their employment to help do that, that’s very different than having a stake in the outcome of a piece of legislation. So, I think we’re getting to the right place on the ‘direct benefit’ piece and maybe that will help solve this problem. But we’ve had other examples of the way that our Citizen Legislature is complicated. It’s messy to have one, and I think we have to remember that.”

After further brief discussion, Representative Hill said, “It might have been helpful if we had this conversation at the committee level, but no one showed up to testify on that amendment. So, it was just the one-sided, talking to an empty room. Maybe if a bill comes forward next year, we can have a more robust conversation.”

#### ITEM #4

Review of Advisory Opinions and Interpretive Rulings in relation to HB 1388.

Chairman Gordon noted that a report had been distributed to them by Mr. Lambert and asked him to address the Committee about it.

Mr. Lambert said, “Every time there’s been substantial amendments to the ethics provisions, the Committee has had to go back to review the opinions that are (on the Committee’s website), and there was a big review when Vice Chairman Sytek was chair following the commission that studied all of the ethics laws and Guidelines in 2014. This is not as complicated as that was. Most of the existing rulings don’t relate to or are not affected by either House Bill 1388 or the potential Senate amendment. So, those few that are, are included in this substantial document I sent you. And these are recommendations only, for purposes of discussion. The standards that we used in the past were that if there had to be very substantial changes made, it wouldn’t be worth doing so. ... But if there were minor ones, either just making changes to the statutory references or little bit beyond that, we would make some revisions.”

Chairman Gordon asked, “So, these are your suggestions?”

Mr. Lambert answered, “Yes. There are 34 advisory opinions. Most of those related to the gift law (RSA 14-C). Only 7 are affected by House Bill 1388, and 2 more would be affected by the Senate amendment as it currently exists. And 14 interpretive rulings. Two would be affected by (HB)1388. Five would be by the Senate amendment. And so, we don’t know until we see what happens to the Senate amendment, but I flagged those for review.”

In the Committee's discussion, Mr. Hess suggested that instead of removing any of the obsolete opinions or rulings from the website, they should be preserved on the website with a statement such as, "These advisory opinions and interpretive rulings are superseded by statutory changes and are no longer authoritative." Representative Rombeau agreed that it could be beneficial to keep the opinions and rulings on the website perhaps in a subsection stating that they are now superseded by statute. She said it would be good to keep them available for reference.

Chairman Gordon said, "So, I think we can all agree that Rich, having already gone through them, has recognized those that have been superseded. So, we could ask him to amend our website so that we can show those that have been superseded separately. Would everybody be in agreement with that?" The Committee members indicated they were in agreement.

After further brief discussion, Chairman Gordon noted that pending the outcome of the Senate amendment there were only 2 opinions that might be revised. He asked Vice Chairman Sytek if she would be willing to work with Mr. Lambert in reviewing those and suggesting what revisions should be made. Vice Chairman Sytek agreed to do so.

#### ITEM #6

New/Other Business.

Mr. Lambert noted that the Senate amendment as it existed would affect other parts of the ethics law and the Ethics Guidelines and said that because of all the possible changes that might be made, he was holding up the publication of a new Ethics Booklet until that issue was resolved. The Committee agreed he should do so.

#### 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 2:30 P.M.

{Prepared by Richard M. Lambert, Executive Administrator}