

## Legislative Ethics Committee

### INTERPRETIVE RULING 2013- 1

RSA 14-C:2, III, IV(b)(10), IV(b)(11), V; RSA 14-C:4, 5, and 6

Issued: August 20, 2013

Revised: October 3, 2016

**Please Note: For clarity, references to and excerpts from provisions of statutes or the Ethics Guidelines have been updated to conform to subsequent changes in numbering and language, where the changes have not affected the substance of the Opinion.**

#### **Payments to Legislators for Sponsored Travel and Services— What’s Allowed and What Isn’t**

Questions have arisen about what payments or other items of value legislators may lawfully accept in connection with their participation in travel paid for by third persons. This Ruling interprets RSA 14-C:2, III, IV(b)(10), IV(b)(11), V; RSA 14-C:4, 5, and 6, to address and explain the circumstances in which legislators are allowed to accept:

(a) Payment or reimbursement from third persons, for attendance at events by legislators in their capacity as such. It does not address circumstances where attendance at the event is fully paid for solely by the legislator, or where attendance at the event is purely personal and unrelated to the legislator’s status as such; and

(b) Payment from third persons for certain services performed by legislators, associated with legislative activity. It does not address payments for services unrelated to legislative activity.

I. Prohibition. Under RSA 14-C:3, “Gifts” to legislators are generally prohibited, unless specifically exempted by law. Unless specifically exempted, money payments to legislators by third persons are prohibited. Also prohibited are transfers by third persons to legislators of items of value other than money, unless the item is worth \$50 or less, or otherwise qualifies for a specific statutory exemption from the definition of “gift.”

II. Available Exemptions. Legislators may accept payment for travel to and attendance at an event if the payment qualifies as an “expense reimbursement.” Legislators may also accept payment as an “honorarium” for certain services, as defined by law. These two categories have differing characteristics.

A. *Expense Reimbursement*. This exemption allows legislators to accept payment for the costs of travel to and attendance at an event, for example, fares, meals, accommodation, registration or attendance fees. The exemption applies only where the event is a *bona fide* conference, meeting, seminar, or educational or informational program that relates to the legislator’s duties. In this context, a “bona fide” event is taken to mean an event that is primarily focused on communicating information relating to matters of legislative concern to New Hampshire legislators, rather than directed at providing opportunity for tourism, entertainment, or recreation. Reimbursement for “junkets” or “see the sights” trips as part of a legislative group doesn’t qualify for the exemption—the event must offer, as a genuine and central element,

organized learning about subjects that are or may become the focus of legislative activity in New Hampshire.

Also, this exemption does not require payment directly to the legislator, or that the expenses be prepaid by the legislator. The exemption is also available for costs that are waived, forgiven, reduced, or prepaid by a third party.

B. *Honorariums*. This exemption is not directed at costs of attending an event, but rather at allowing legislators to accept payment from third parties for performance of certain services related to the legislator's duties or position as such. It allows legislators to receive payment for an appearance, speech, written article or other document, service as a consultant or advisor, or participation in a discussion group or similar activities related to legislative matters. A qualifying service must actually be performed, but need not be performed at an event, and a trip need not be made to perform them.

III. *Reporting Requirement*. Subject to limited exceptions, to qualify for exemption, both Expense Reimbursements and Honorariums must be reported in writing on a form provided by and filed with the Secretary of State no later than the last day of the month following the month in which the honorarium or expense reimbursement was received. The name of the recipient must be identified, as well as the name, address and other information identifying the donor. However, there are some differences in the information that must be reported.

A. *Reporting Expense Reimbursements*. Reports must include:

- 1) The value of the reimbursement;
- 2) The name and address of the source of the reimbursement;
- 3) A brief description of the event that gave rise to the reimbursement; and
- 4) A copy of the agenda or an equivalent document which addresses the subjects addressed and the time schedule of all activities at the event.

B. *Reporting Honorariums*. Reports are not required where payment has been made by the state, a county, or the United States of America. For other honorariums, reports must include:

- 1) The value of the honorarium;
- 2) The name and address of the source of the honorarium;
- 3) A brief description of the service that gave rise to the honorarium; and
- 4) A copy of the agenda or an equivalent document which addresses the subjects addressed and the time schedule of all activities at the event.

IV. Acceptance of items of value other than a permitted expense reimbursement or honorarium. Items of value received other than as permitted reimbursement for event expenses or permitted payment for services, are exempt only if they qualify for some other specific exemption. For example, if legislators attending an event are offered souvenirs or other items to mark their attendance, such items with a value of \$50 or less would be permitted, but items worth more than \$50 would be prohibited gifts, unless qualifying for some specific exemption under RSA 14-C:2, IV(b) or other statute.

The same rule applies to acceptance of meals and entertainment paid for by third persons (for example, lobbyists) which are not an official part of an event that qualifies for expense reimbursement. Unless qualifying for a specific exemption under RSA 14-C:2, IV(b) or other statute, such meals or entertainment would be prohibited gifts if worth more than \$50.

This Ruling also applies to payments to legislative officers and employees. In specific cases, if there is doubt about whether a proposed payment qualifies as a permissible expense reimbursement or an honorarium, a legislator, legislative officer, or employee should request an Advisory Opinion from the Committee. RSA 14-B:3, I (c).

Martin L. Gross, Chairman  
Representative Janet G. Wall, Vice Chairman  
Representative Jordan G. Ulery  
Senator Jim Rausch  
Senator Martha Fuller Clark  
Attorney Wilfred L. Sanders, Jr.  
Mr. David A. Welch

For the Committee,  
Martin L. Gross  
Chairman

[Vote 7-0]