

MINUTES  
LEGISLATIVE ETHICS COMMITTEE  
OCTOBER 6, 2011 MEETING  
{Approved: November 3, 2011}

The Legislative Ethics Committee (RSA 14-B:2) met on Thursday, October 6, 2011, at 2:15 P.M. in Room 208 of the Legislative Office Building. The following members were present: Attorney Martin L. Gross, Chairman, Attorney Brian M. Quirk, Vice Chairman, Senator Amanda A. Merrill, Senator Fenton Groen, Representative Janet G. Wall, Representative Jordan G. Ulery, and Mr. John F. Quinlan. Also present were: Richard M. Lambert, the Committee's Executive Administrator, and through Item #4, Robert D. Mead, House Chief of Staff, and Attorney Edward C. Mosca, House Legal Counsel. The Committee's meeting consisted of the following items:

ITEM #1

Consideration and Adoption of *Agenda*.

Chairman Gross asked the Committee to consider a revised proposed *Agenda* containing 2 new items under "New/other business." The revised *Agenda* was distributed and, following review, Senator Merrill moved to adopt the revised proposed *Agenda*. Representative Wall seconded the motion and the Committee voted 7 to 0 to adopt the *Agenda*.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on June 3, 2011.

Following review, Representative Ulery moved to adopt the *Minutes* as drafted. Senator Groen seconded the motion and the Committee voted 7 to 0 to adopt the *Minutes*.

Chairman Gross then asked about the reference on page 2 of the June 3 *Minutes* under Item #4 and said: "We were discussing the status of the request regarding posting Declaration of Intent filings on the Committee's website, and we had run into some systems jams there during the session, but at the end of our discussion I think we resolved to proceed with it and the last item: 'Chairman Gross asked Senators Groen and Merrill to let him know what happens' with the discussion about speaking with [Senate Chief of Staff] Jay [Flanders] about moving this thing along.'" Chairman Gross asked Senators Groen and Merrill "were you ever able to deal with that?" Both Senators said that they had spoken with Jay Flanders, but had not had a chance to follow up. Chairman Gross asked the Committee: "Do you think it would mean anything if I bugged the President of the Senate about this? If I wrote him a letter and said: 'This is a suggestion one of your parishioners has made, we think it's a good one, and we'd like to proceed with it, but we can't get anyone to listen to us' or words to that effect?" After further discussion, there was consensus that Chairman Gross should write such a letter to Senate President Peter Bragdon.

Chairman Gross also said that he wanted the Committee to know that Mrs. Dorothy Peterson, widow of former Governor Walter Peterson, had responded with "a very nice acknowledgement" to his letter of condolence he sent to her on behalf of the Committee.

### ITEM #3

Ratification of the adoption of Interpretive Ruling 2011-#1, Advisory Opinion 2011-1 and Advisory Opinion 2011-2.

Chairman Gross explained that the interpretive ruling and advisory opinions had been adopted through telephone polls and that when that happens the Committee votes to ratify them in its next open meeting.

Representative Wall moved to ratify Interpretive Ruling 2011-#1, Advisory Opinion 2011-1 and Advisory Opinion 2011-2. Representative Ulery seconded the motion and the Committee voted 7 to 0 in favor of the motion.

### ITEM #4

Consideration of a request for an Interpretive Ruling from Robert D. Mead, House Chief of Staff.

Chairman Gross:

“We have Robert Mead’s letter to us of September 20, 2011, requesting an interpretive ruling and you all have copies... Let me simply say that the issue presented by this letter is whether a payment in excess of \$25 to a House member by a presidential campaign for transportation, food, or lodging related to a member’s attendance or participation in campaign activities would be a gift governed by RSA 15-B:2, and there’s one variation: whatever our result is with the first issue, would the result be different if the payments were or were not reported to the IRS in Form 1099.

“I think that there are some things that we could simplify at the outset. Remember that all payments of money in excess of \$25 are a gift regardless of source. That’s just the way the statute is structured. And they are prohibited unless a specific statutory exemption would apply. So the issue here would seem to be whether we can identify an available exemption under the statute that would take these payments out of the category of gift. Also, Attorney Quirk in his e-mail message asking that we hold the meeting has raised the broader question about whether in this instance we should issue an interpretive ruling at all. So, since that’s a threshold issue, why don’t I ask you [Attorney Quirk] to describe what you mean.”

Attorney Quirk:

“Thank you, Mr. Chairman. The way I read this request, it was not separate from the issue of the IRS Form 1099. It seemed to me that when I read this, the question was two-fold: whether receiving reimbursement for transportation, food, and/or lodging relative to attendance and the payment of that reimbursement was not reported. I viewed that as being coupled with one another and due to that fact it gets into some IRS issues that I’m not sure we necessarily want to get involved in. That said, if we want to take just the first part of the request and issue a ruling, I can see where that would come within our role. But the latter part is what concerned me to some degree and that’s why I thought it would be best to get together to talk about it.”

Representative Ulery agreed and said that “the 1099 issue does not apply; the primary issue is whether or not this is a gift as defined by our statutes.”

After further discussion, Chairman Gross said the question is: “Should the 1099 issue mean anything to us where it is really not mentioned in the statute?” There was consensus that it should not. Chairman Gross said: “The Committee’s job then is to try to identify an available exception under our statute that would take these payments out of the category of gift.” He reminded the Committee that “its job is to apply the law as written and interpretation is appropriate only when the language in the statute is unclear or ambiguous or subject to interpretation.”

Chairman Gross reviewed the first 6 exceptions to the definition of 'gift' in RSA 15-B:2(b) and said that he felt they would not apply. [The other Committee members appeared to agree.] He then read RSA 15-B:2, V(b)(7):

(7)Wages, salary, benefits, mileage, or payment for expenses received by the person in his or her regular course of employment or business which is unrelated to the government position held.

He said that when he had read the subparagraph previously, "I said to myself, if I knew more about the potential recipients here and if one of them were, for example, in his or her day job a political consultant, then I would say that this exception could apply. If a presidential campaign is hiring a person who happens to be a legislator to do what the legislator does ordinarily for a living, I think that's what this exemption is all about. But I don't know enough about who we're talking about here to say that.

"The next thing that caught my eye was the exemption under (11), 'expense reimbursement or an honorarium.' ... Now honorarium is defined in VI ... I think that we can clean out the matter of expense reimbursement because that is only supposed to apply when it relates to the office held and that was the purpose of that section to allow a legislator to report on expenses received in connection with events or travel in an official capacity..." He read RSA 15-B:2, VI.

[RSA 15-B:2, VI reads: "Honorarium" means a payment in any form to an elected official, public official, public employee, constitutional official, or legislative employee for an appearance, speech, written article or other document, service as a consultant or advisor, or participation in a discussion group or similar activities. Honorarium does not include a payment for such activities for which the person is being compensated by the state, a county, the United States of America, or by any other employer or client, where the activity giving rise to the honorarium is not related to or associated with any public office or government employment.]

"What caught my eye in that definition is 'service as a consultant or advisor' and I thought that possibly if the other criteria are met under the exemption, then this exception might apply. And if it does, then of course, it is reportable, mandatorily reportable, under 15-B:6 where that report has to be filed with the Secretary of State... the fact that a legislator would have to report this to the Secretary of State as an honorarium would fulfill the functions of open disclosure. So that was the chain of thinking and I just share that with you for whatever you think it's worth. If there's anyone here who thinks some other exception might apply, then please speak up. I realize that the services of folks in the legislature may be in high demand given the size of the primary field, but I think in order to qualify as an honorarium one would have to be designated as a consultant or advisor to the campaign and the reimbursement would have to be given in connection with that position, and I just don't know enough about what they expect of the people doing it."

Senator Merrill:

"At least from what's presented in the letter from Mr. Mead, I wasn't sure that in fact we're talking about as much involvement as you're suggesting – as a consultant. As I read it, on the face, it could mean just going to a fundraising dinner with a free ticket ... it's hard to tell exactly what's going on, what the activity was."

Chairman Gross called on Mr. Mead and Attorney Mosca to tell the Committee what functions the potential recipients would have in any presidential campaign. He asked Attorney Mosca: "What are these people going to be doing for the money?"

Attorney Mosca:

"A range of activities such as, I believe it is called the 'spin room' or the 'green room' after a debate, talking with the press. Another example would be travelling to different states and giving a speech for a particular candidate, and another example would be simply attending a presidential debate and not doing anything beyond being in attendance at the debate among the presidential candidate's seats..."

Chairman Gross:

"Have you had several different requests, or is it one person?"

Mr. Mead:

"That was the reason for the letter. I've had a number of legislators – being a presidential campaign year – who've signed on with different candidates. The question was, 'gee, if I were to travel to Kentucky to endorse or give a speech, or maybe to attend one of the panels, is that reimbursable, is that designated as a gift, or does it happen to be work? ..."

Chairman Gross:

"I'd like to observe, in my own view, that one of the things this statute is meant to prohibit was the infamous no-show job, where somebody gets some intermediary to put somebody on the payroll and pay them money ostensibly as an employee who winds up doing nothing and what you've got is a form of payola or corruption, and I know in my heart, and in my mind, that that was on the mind of the committee that put the statute together. So that's why I asked the question about what would this person be doing. And it may vary depending on whether this person has an actual function that justifies the payment or is not really doing anything."

Senator Groen said that it "doesn't sound like this would be in the category of the no-show because if this person is attending an event, then he is showing up."

Attorney Quirk:

"The honorarium means 'a payment in any form' so just as a preliminary matter... let me ask, does the Committee agree that that would encompass the payment for transportation, food and or lodging? It would appear that the answer is yes."

Chairman Gross:

"Well, I wouldn't argue with that." [Other Committee members indicated their agreement.]

Attorney Quirk:

"Okay, then the question becomes: is there any type of cap on that? I mean, does that mean that as there's no cap set forth in the written words, so I assume there's no cap."

Chairman Gross:

"That's right. That's what the function of the reporting is."

After further discussion, Chairman Gross asked if it was the consensus of the Committee that the payments described in the letter payments would qualify as an honorarium as defined in RSA 15-B:2, VI. [There appeared to be consensus.]

Representative Wall moved to respond to Mr. Mead's request for an interpretive ruling with a ruling holding that "the payments described in the letter would qualify as a reportable honorarium if the person receiving the payments were carrying out any of the services listed in RSA 15-B:2, VI, that is: an appearance, speech, written article or other document, service as a consultant or advisor, or participation in a discussion group or similar activities." Attorney Quirk seconded the motion and the Committee voted as follows:

Mr. Quinlan	Yea
Representative Ulery	Yea
Senator Groen	Yea
Attorney Quirk	Yea
Chairman Gross	Yea
Representative Wall	Yea
Senator Merrill	Yea

{Motion Adopted: 7 to 0}

ITEM #5

New/Other business.

a) Consideration of a request for an Advisory Opinion from Senate President Peter Bragdon.

Chairman Gross noted that the letter from Senator Bragdon had recently been distributed to the Committee. He then stated: "The issue here is: 'Does a free ticket to the BIA [New Hampshire Business and Industry Association] Annual Dinner with a value of \$110 qualify for exemption from the definition of a gift under RSA 15-B:2, V(b)(10)?' So let's look at (10)." He read RSA 15-B:2, V(b)(10):

(10) Meals, beverages, lodging, or transportation associated with attendance at:

(A) Any event for which the primary significance is ceremonial or celebratory, provided the event is public or, if by invitation only, is planned to have an attendance greater than 50 people; or

(B) Any event where the person is attending in an official capacity representing the state and/or the senate, house, or the agency of which the person is a member.

"So you've got 2 parts to (10) and they have different qualifications in them, but they also have some stuff in common. The issues that I perceive: the first is dealing with bringing 'ticket' under the aegis of (10) ... Does this deal with tickets at all? I think we need to decide if a ticket to an event like this is synonymous with 'meals, beverages, lodging, or transportation'? The people who wrote this statute presumably knew the difference because they have (9) which talks about 'tickets or free admission' and down here we have 'meals, beverages, lodging, or transportation.' Frankly, I don't know what the answer to that is, but I think it is an answer that we have to give. To treat tickets to an event as synonymous with 'meals, beverages, lodging, or transportation,' what are the implications? Do we now broaden this exception to the point where it's interchangeable with the exception for tickets under (9)? ... So I don't think this is a small issue. I think we ought to pay attention because it may have a bearing on our future deliberations. Do we want to treat event tickets as governed by (10)?

Senator Merrill:

"We've run into this issue before ... which is, I think, a problem with the language in that (9) and (10) I don't think are mutually exclusive and can kind of go to whichever exception. I would think that if the question is 'Is this a gift?' you can go to either of these, really. I think that this bears clarifying in the statute itself. But I do think that the event to which you might be getting a free ticket is likely to be one with a meal. In fact, many of the things we're invited to are banquets or are like this BIA event.... So I think there's a problem in this language." Senator Merrill asked if the BIA is a non-profit organization.

Chairman Gross:

"It's not a (c)(3), it's a (c)(4) trade organization, so it doesn't qualify for any of these exceptions in (9)."

Mr. Lambert:

"And I looked at the Attorney General's list of registered charitable organizations and they're not listed there."

Representative Wall:

"Didn't we handle this with the Governor's Ball at one point?"

Chairman Gross:

"That goes to the next portion here. I just wanted to get on the surface that we should be thinking about whether we want to interpret (10) as synonymous with the category of things of value described under (9)...I could get lawyerly on this and say 'oh well, you know, nobody is ever going to pay \$110 for a meal in Manchester at the armory, so there's something else in there on top of a meal,' but that is getting lawyerly ... but I'd like you to bear it in mind as we go further. Does (10) apply at all to this category of gift, because [the subparagraph] doesn't talk about tickets?"

“Let’s proceed with the next requirement: ‘ceremonial or celebratory.’ How does that fit when applied to an annual function of an organization which has a prominent lobbying presence? And even if it didn’t, what is ‘ceremonial or celebratory’? Is it giving awards to non-members, which is apparently what they do at this dinner, or giving awards to members only? Would that make a difference? ... I had thought that the exception was intended to apply to such functions as gubernatorial celebrations, inaugurations, Governor’s Balls, Mayor’s Prayer Breakfast, or Welcome Home to the Troops. Those to me are ‘ceremonial or celebratory’ and I just have to wonder whether an annual dinner by an organization, particularly one with a major legislative presence, is ‘ceremonial or celebratory,’ and if it is, my concern is if this exception is interpreted to apply to the BIA-type event, would this swallow up the exception for tickets under (9)? ... How would we draw the line if other major trade groups decided to invite legislators to a dinner with a ticket price of over \$25? Those are some of the concerns I have.”

Senator Groen:

“I think that in this case, yes, BIA is a lobby group as is the New Hampshire Home Builders and Remodelers Association, of which I am a member as a businessman. But their function goes well beyond lobbying. I was a member of the Home Builders and Remodelers Association long before I was a legislator and went to their meetings, and a lot of networking was accomplished at those meetings, and there were, in our case, we would honor association members. We would have an ‘Associate Member of the Year’ and we would have a ‘Member of the Year’ and different things like that based on their contribution to the association, not necessarily associated at all with political lobbying or anything like that. And I’ve gone to both as a candidate and as a businessman. I’ve gone to the annual events and participated in them and they were celebratory.”

Chairman Gross:

“What were they celebrating?”

Senator Groen:

“Celebrating events. In those cases also the political part is not absent, it’s always present, but they were celebratory. And there were awards.”

Chairman Gross:

“And did the awards ever go to non-members or were they in-house...?”

Senator Groen:

“My recollection is that the awards were in-house, they went to members.”

Chairman Gross:

“And does that, in your mind, make the event ‘ceremonial or celebratory’?”

Senator Groen:

“In my mind it would because the purpose of the organization is to assist and promote, and in my case with the New Hampshire Home Builders and Remodelers Association, it is to promote our business and trade, and people who were involved in and helped with that we celebrated their contribution. And so, I would think that would ... apply.”

Chairman Gross:

“What if – and I don’t mean to tease you with this but you’re helping my thinking – what if the celebration was to celebrate the defeat of a candidate or a bill which had been really objectionable to the group you’re talking about? ... What I’m pushing for is what have you got to be celebrating? This is not a good phrase we’ve got here because we don’t know what the content is.”

Senator Groen:

“Going back to the intent, we are a citizen legislature and we elect individuals with essentially no compensation. Now, if I were invited to this event – working in the construction industry which has been very tight for the last few years – I would turn them down if they didn’t

offer me a free ticket. I would like to go, I think I have something to offer, I know a number of the people in the organization and even though I'm not a member of that organization, I'd like to go. ...If a month later I were invited to the Home Builders event, there I would go because I'm a member and I would pay for that. ... Is it the intent of our legislature to prevent the attendance at such events when these do not enrich me – in no way enrich me –I'm not getting money, you could argue that I don't have to buy a meal, you know, hot dogs at home, but in any way other than that, it does not enrich me. Now, the question then is if it doesn't enrich me, does it influence me to pass legislation in favor of, in this case, the BIA? That's probably where the valid question comes in, and I don't think that attending an event with a free ticket is going to influence you to promote, favor, or support legislation for the organization..."

Chairman Gross:

"So, if I understand what you are saying, you do think this fits into the category of 'ceremonial or celebratory'."

Senator Groen:

"Yes I do."

Chairman Gross:

"And you don't think that our approving this under one or the other, (A) or (B), would fly in the face of the intent of the legislation?"

Senator Groen:

"I do not."

Chairman Gross:

"Okay, let me ask you a further question then just to see how far this goes. What if the ticket hasn't come from the BIA? What if a lobbyist buys a table, or a law firm or whatever, and comes to you and says: 'Senator, would you like to be our guest at the BIA dinner?' Then all of a sudden this becomes currency in a situation where the intent of the legislation was to stop a gifting culture. I can remember [the late Representative] Mike Whalley saying that that was his objective in doing this, that something had to be done about a culture that had grown up in this building under which legislators were expecting to be given free stuff, lobbyists expected to give free stuff, and these legislators said we don't want that, which is why the structure is what it is. It defined gift, and if it's over \$25, it's not allowed unless it meets one of the specific exceptions, which is why I'm concerned that if we go too broadly into this we are in a situation where we are unwittingly creating an opportunity to advance the gifting culture when it was supposed to be vanquished.

"Now, let me just simply say that we have solved that problem earlier with respect to tickets given to charitable events under (9)(B) by saying that in approving that we interpret (9)(B) to require that the ticket be given by the organization itself, not some intermediary, and we could do the same here..."

Attorney Quirk:

"The question as I understand it is whether 'tickets' fall in (10), and it seems to me strictly construing that question, it does not because (10) says 'meal, beverages, lodging or transportation,' (9) refers to tickets. So I wonder if that ends our inquiry."

Chairman Gross:

"That takes us back to what I call the threshold issue. But I think it's worthwhile for us to parse these other issues we've got. ... I'm not putting down your point. I think it's a very good point, but I think it's something we need to decide along with the other issues.

"Now that we've pounded on 'ceremonial and celebratory' for a while, let's go to the individual (A) and (B). [He read part of (A): "provided the event is public or, if by invitation only, is planned to have an attendance greater than 50 people."]. Now I don't know what 'public' means. Does that mean, 'all comers, no tickets are required, doors open, come have a good time'? The BIA letter that was sent to us says [the event] is open to the public. Well I guess it's open to the public if

you've got \$110. But I don't think we have to be troubled by that because the 'invitation only' language covers it, 'planned to have an attendance greater than 50 people,' this definition goes. I don't need any proof of that. I've been to enough of these BIA dinners and they have a big crowd there...

"Let's go to (B), there is no requirement of 'ceremonial or celebratory' in (B) as long as the person is attending in an official capacity representing the state and/or the senate, house, etc. If we were to treat this as the situation, where Senator Bragdon was invited in his capacity as President of the Senate, and were for example, introduced ...as 'our honored guest, Peter Bragdon, President of the Senate,' he stands up and takes a bow ... (B) is a whole lot easier than (A) because (A) has this requirement for, 'ceremonial or celebratory' and I don't know what the answer to that is. It's up to the Committee to say what that is. But Brian has also pointed out the threshold issue, whether 'meals, beverages, lodging, or transportation' are synonymous with tickets and whether we should apply (10) to a situation where what we've got at hand is a free ticket."

Representative Ulery:

"Well what is the ticket for? Is the ticket an admission such as the Ringling Brothers circus which was \$22 ... or is the ticket for the meal? In that instance, the BIA dinner ticket and meal are synonymous. The primary thing at a BIA dinner is the dinner – and the boring speeches."

Chairman Gross:

"Are you paying the \$110 for the dinner or the boring speeches?"

Representative Ulery:

"Actually you are paying the \$110 to finance certain individuals' jobs."

Chairman Gross:

"That's a very important point that you've just made, I think. That's why I asked the question earlier, 'Would anybody pay \$110 for a meal to be consumed at the armory, particularly if it wasn't an open bar?' ... So there's something else involved in the ticket and as we've learned from the materials supplied to us, it helps support the general operations of the BIA ..."

Representative Ulery:

"And by being given a free ticket you're not supporting a lobbying agency directly, but you become part of the draw to get other people to support it..."

Senator Groen:

"It doesn't say he's going to be a speaker."

Chairman Gross:

"We've got to go by what we're told here. He's got an invitation to take a ticket to this event which he says [in his letter to the Committee] 'is a public event that has planned to have greater than 50 people,' and he says 'in my position as an elected official I have been offered a free ticket.' And so I don't assume from that that he's going to be speaking."

Representative Ulery:

"I'm looking at the letter to Senator Bragdon ... saying that the proceeds are used to support the BIA general expenses ... now that I know that it's going to operational expenses, it complicates it for me a little bit more and I'm not quite sure. Anybody have any thoughts on that?"

Senator Groen:

"But it's not going to the operational expenses because they are giving him a free ticket. I hear your point. If it was a lobbyist buying a table and inviting Senator Bragdon to be at their table, I would have an objection and probably we would need to – we probably do need to revise this (10) and say that that type of thing is excluded. But in this case, it is a free ticket. If anything it is taking money away from their operations..."

Attorney Quirk:

“But on that point, then it falls squarely under (9), ‘free admission,’ under that logic right there. That’s a free admission and it doesn’t fall under (10).”

Chairman Gross:

“And this one doesn’t fall under any of these [exceptions] in (9). This is a structural problem with our legislation. Is (10) supposed to be in addition to (9) where the gift is a ticket rather than some sort of reimbursement for meals and the like?”

After further discussion, Chairman Gross asked for a non-binding vote on the threshold issue: would a ticket qualify under (10)?

Senator Merrill said that she would vote yes, and stated again that the statutory language could use some improvement.

Attorney Quirk said that he was on the fence because of the wording in (9).

Senator Groen:

“In this case it’s a \$110 ticket, it’s in Manchester, and it’s the armory. If the BIA event were in the Bahamas and the ticket for Senator Bragdon included a flight and 3 nights at a hotel and all the meals, and even if it was all straight, legitimate costs, I would at the very least want it reported. So I see the slippery slope on this that can come from it. On this particular thing, I would agree with Senator Merrill, I have no problem with this specific application. I don’t think it represents undue influence or enrichment ... and I know where you’re coming from, Mr. Chairman, that we set precedent when we issue an opinion and I could see where this could go much further and I’d be concerned with that.”

Chairman Gross asked for a show of hands on the question: “Do you think that (10) covers tickets that include a meal?” Five members raised their hand indicating “yes,” and 1 member raised his hand indicating “no.”

Chairman Gross:

“Ok ...now the question becomes – and let’s take this backhanded because it’s a whole lot easier if we decide this under (10)(B) rather than (10)(A), ‘Any event where the person is attending in an official capacity representing the state and/or Senate...’ [Senator Bragdon said in his letter to the Committee], ‘In my position as an elected official, I have been offered a free ticket.’ Rich, do we have any information about whether he thinks he’s appearing as, well attending, in an official capacity -- well he can’t shed that, I mean he’s been offered it as an elected official, so yah, it’s an official capacity – was there information about whether he was going to be, quote, representing the Senate?”

Mr. Lambert:

Yes, I was told that he did not feel that he was representing the Senate.”

Senator Merrill:

“I think he’s been invited because he’s the President of the Senate ... I would say that he was invited because of his particular position.”

Chairman Gross:

“And I think that probably he would be introduced as such.”

Representative Ulery:

“Well, the letter was addressed to ‘Senator Peter Bragdon, President of the Senate.’”

Senator Merrill:

“Right, presumably the Speaker was invited and not the other 399 Representatives.”

Chairman Gross:

“I need to ask the Senators a question: Is it normal, is it customary, under Senate procedure that when somebody is going to ‘represent the Senate’ that there’s some sort of vote or resolution?”

Senator Groen:

“No, and I don’t think somebody can presume to represent the Senate. By him going as Senate President in a sense he is representing the entity, the body...”

Chairman Gross:

“So, is it the sense of the group that if (10) applies at all that (10)(B) would apply to this?”

Senator Groen:

“Yes.”

Chairman Gross:

“Is that the general view of everybody?” [Several members indicated ‘yes.’] Then if we say that, I guess we won’t have to decide whether this is ‘ceremonial or celebratory’ and, very candidly, I would like to avoid that if I could because I don’t know what the answer to that is, and Representative Ulery, your suggestion that this statute needs some work, I would very definitely ask someone to please define that for us. I’m willing to work with whatever you guys want to give us, but it’s hard when you don’t give us what we need to have to do our job.

“And I just assume, if we could, if the Committee is agreeable, write him a letter back [that would say:] ‘go under (10)(B), we express no opinion under (10)(A), and also by the way, we’re not endorsing accepting tickets from intermediaries.’...”

Senator Groen suggested some possible changes to RSA 15-B:

“There are 2 things that could sort of cap this and I wouldn’t see a problem with a free ticket to an event up to a value – I’ll just pick a number – say \$250. It’s not enriching ... but if we put some cap on it that and said ‘if the value is over such, either we could say that then it is a gift, or has to be reported. I would prefer to say that if the value is over such, it has to be reported. And the other thing we could say is it can’t come from a secondary source, it can’t come from a lobbyist, that type of thing. And if we added those 2 things to (10), I think we would safeguard the intent of the law to make sure that we weren’t back into a gifts thing ... [we could] make those statutory changes to (10) and that would provide some reasonable limits so it doesn’t become the Bahamas trip.”

Senator Merrill:

“I would be interested in further discussions with Senator Groen and others about potential legislation.”

Senator Groen then moved that:

“The Committee advise Senator Bragdon that he can accept the ticket under (10)(B) as long as the ticket comes directly from the organization and not from any intermediary, and that we’re not expressing any opinion about ‘ceremonial or celebratory’.”

Mr. Quinlan seconded the motion and the Committee voted as follows:

Mr. Quinlan	Yea	
Representative Ulery	Yea	
Senator Groen	Yea	
Attorney Quirk		Nay *
Chairman Gross	Yea	
Representative Wall	Yea	
Senator Merrill	Yea	

{Motion Adopted: 6 to 1}

\* Attorney Quirk stated that he vote was: “based upon the language in (9) and (10).”

[Senator Merrill and Mr. Quinlan left the meeting.]

b) Consideration of an inquiry from Jasen Stock, Executive Director of the New Hampshire Timberland Owners Association.

Chairman Gross:

“The last item is the Timberland Owners Association, and I think that one is an easy one because by inviting everybody their bringing themselves under (9)(C). So we don’t have to decide ‘ceremonial or celebratory.’ All we have to do is decide that if these free tickets are offered to legislators as an ‘open event for attendance by any member of the General Court in the calendars of the senate or the House,’ then he qualifies. Do we have to decide anything else? I know he may have asked us.

Representative Ulery:

“The rest doesn’t apply.”

Chairman Gross:

“So it’s RSA 15-B:2, V(b)(9)(C).”

Representative Ulery moved to respond to Mr. Stock that the event described in his letter would satisfy the exception under RSA 15-B:2, V(b)(9)(C). Representative Wall seconded the motion.

Chairman Gross said: “The problem is [Mr. Stock] doesn’t have any right to ask us for an advisory opinion. I suppose he could ask us for an interpretive ruling. But this can’t take the form of an advisory opinion because only legislators or legislative [officers or employees] can ask for one. And also, I think we have to tell him that he doesn’t have the protection of an advisory opinion which says ‘you get an advisory opinion, you’re 100% safe and nobody can argue with you.’ ... Have we done this sort of thing by interpretive ruling before, Rich ... where you have an outside organization that’s asked?”

Mr. Lambert:

“It seems to me as though before RSA 15-B’s reforms that Ski NH and the NH Automobile Dealers Association asked for an advisory opinion, and the chairman [of the Legislative Ethics Committee] at that time was [former Senator] Ned Gordon and he said ‘you can’t have [an advisory opinion]’ but the Committee did issue a letter of guidance.”

Chairman Gross asked the Committee if responding with a letter of guidance was acceptable to them and the Committee members indicated it was. The Committee then voted 5 to 0 in favor of the motion.

The Committee's meeting adjourned at approximately 4:05 P.M. The Committee's next meeting will be at the call of the Chair.

{Prepared by: Richard M. Lambert, Executive Administrator}