

CHAPTER 15-B

GIFTS, HONORARIUMS, AND EXPENSE REIMBURSEMENTS

15-B:1 Purpose. The purpose of this chapter is to ensure that the performance of official duties does not give rise to a conflict of interest, by prohibiting certain gifts and by requiring certain persons to file with the secretary of state a report of any honorariums or expense reimbursements received. This chapter shall be liberally construed to effect this purpose.

15-B:2 Definitions. For the purposes of this chapter:

I. "Agency" means the executive branch and any department, division, board, commission, or equivalent entity of the executive branch.

II. "Constitutional official" means the secretary of state, the state treasurer, their deputies, assistants, and all employees of their departments.

III. "Elected official" means the governor, members of the executive council, members of the general court, county commissioners, county sheriffs, county treasurers, county attorneys, registers of deeds, and registers of probate.

IV. "Expense reimbursement" shall mean any price, charge, fee, expense, or other cost which is waived, forgiven, reduced, prepaid, or reimbursed in any form for the reasonable expenses of attendance, registration, travel, meals, or lodging related to a bona fide conference, meeting, seminar or educational or informational program, when the source of such reimbursement is other than the state, a county, or the United States of America.

V. (a) "Gift" means:

(1) Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money.

(2) Any other tangible thing, intangible thing, service, or the use thereof having more than insignificant economic value. Any such item with a value of less than \$25 is presumed to be of insignificant economic value.

(b) **Notwithstanding subparagraph (a), "gift" shall not include:**

(1) A political contribution as defined in RSA 664.

(2) A commercially reasonable loan, made in the ordinary course of business.

(3) Repayment to an elected official, public official, public employee, constitutional official, or legislative employee of a bona fide loan made by such a person.

(4) A ceremonial plaque, award, or other commemorative object, which is personally inscribed to the recipient and which has inconsequential economic value. A ceremonial object or award with a value of \$50 or less is presumed to be of inconsequential economic value.

(5) Objects or services which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.

(6) Money in any form, an object, or any tangible or intangible thing or service of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or tangible or intangible thing or service of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.

(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.

(8) Wages, salary, benefits, mileage, or payment for expenses paid to the person by the state, a county, or the United States of America related to performance of official duties.

(9) Tickets or free admission to a charitable, ceremonial, or political event provided that:

(A) The proceeds of the event are subject to the political contributions and expenditure reporting law, RSA 664; or

(B) The event is sponsored by a charitable organization that is registered with the division of charitable trusts, department of justice, or which is a charitable organization pursuant to section 501(c)(3) of the federal tax code; or

(C) The event is published as an event open for attendance by any member of the general court in the calendar of the senate or the house.

(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.

(11) Expense reimbursement or an honorarium.

(12) Meals and beverages consumed at a meeting or event, the purpose of which is to discuss official business.

VI. "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, were the activity giving rise to the honorarium is not related to or associated with any public office or government employment.

VII. "Family member" shall mean any person related to and living in the same domicile as the elected official, public official, public employee, constitutional official, or legislative employee, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

VIII. "Legislative employee" means any person employed by the legislative branch.

VIII-a. "Official business" means, for elected members of the general court and legislative employees, the discussion or transaction of legislative business, namely, any official action or non-action with regard to any potential pending or existing bill, resolution, amendment, report, or study, any other matter pending or proposed in a committee or in either house of the general court, or an issue of public policy which is or may be the subject of legislative attention, or any other matter which is within the official jurisdiction or cognizance of the general court.

IX. "Public employee" means any person, including but not limited to a classified or non-classified employee or volunteer, who conducts state business on behalf of the governor, any executive branch official, agency, or the general court.

X. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

XI. "Value" means the amount at which property or services would change hands between a willing buyer and a willing seller when neither is under any compulsion to buy or sell and both have reasonable knowledge of the relevant facts.

15-B:3 Prohibition on Gifts.

I. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any elected official, public official, public employee, constitutional official, or legislative employee.

II. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any family member, as defined in this chapter, of any elected official, public official, public employee, constitutional official, or legislative employee, with a purpose of influencing or affecting the official conduct of such official or employee.

III. No elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift, as defined in this chapter.

15-B:4 Limitation on Receipt of an Honorarium. No public official or public employee shall accept an honorarium from a person who is subject to or likely to become subject to or interested in any matter or action pending before, or contemplated by, the public official, public employee, or the governmental body with which that person is affiliated.

15-B:5 Expense Reimbursement. An elected official, public official, public employee, constitutional official, or legislative employee may accept expense reimbursement for the reasonable expenses for attendance, registration, travel, meals, and lodging for a bona fide conference, meeting, seminar, or educational or informational program which the person attends and that is related to the office, position, or employment held with the state or county, provided that the person attaches to the disclosure report a copy of the agenda or an equivalent document which discloses the subjects addressed and the time schedule of all activities at the event. This provision shall not be construed to require reporting of an expense reimbursement made by an organization to which the state or county pays dues, when the prepayment, underwriting or reimbursement is provided because of the dues paid.

15-B:6 Duty to Report. I. An elected official, public official, public employee, or legislative employee who receives an, honorarium or expense reimbursement shall file a report with the secretary of state no later than the last day of the month following the month during which the honorarium or expense reimbursement was received.

II. An elected member of the general court or legislative employee who consumes meals or beverages with a value greater than \$25 at a meeting or event pertaining to official business pursuant to RSA 15-B:2, V(b)(12) shall file a report with the secretary of state no later than 10 days following the meeting or event at which the meals or beverages were consumed, which report shall be established by the secretary of state, shall be public, and shall contain the same information and affirmations required under RSA 15-B:7.

15-B:7 Honorarium, or Expense Reimbursement Report. The secretary of state shall establish a uniform report of receipt of an honorarium or expense reimbursement, which may be in paper or electronic form.

I. The report shall include at a minimum the following information, which shall be public:

(a) The full name, work address, work phone number, the office, appointment, or employment held by person subject to the reporting requirement.

(b) The full name, post office address, occupation, and principal place of business, if any, of the source of any reportable honorarium or expense reimbursement. When the source is a corporation or other entity,

the name and work address of the person representing the corporation or entity in making the honorarium or expense reimbursement must be provided in addition to the name of the corporation or entity.

(c) The value of the honorarium or expense reimbursement. When the exact value is unknown, the person filing the report shall provide an estimate of the value of the gift or honorarium and identify the value as an estimate.

(d) A brief description of the service or event that gave rise to the honorarium or expense reimbursement. Reports of expense reimbursement must include a copy of the agenda or an equivalent document.

(e) The date on which the honorarium or expense reimbursement was received.

(f) The following statement followed by a line for the person filing the form to sign and date the form: "I have read RSA 15-B and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief."

II. The secretary of state may also require information such as home phone numbers, home addresses, and other information helpful to the administration and enforcement of laws relating to honorariums or expense reimbursements. This information shall be non-public and shall not be subject to the provisions of RSA 91-A.

15-B:8 Forms; Place of Filing. The secretary of state shall furnish all forms required under this chapter. All persons filing a report under this chapter shall file with the secretary of state. The reports shall be held in the original form for 6 years from the date of filing, after which time they may be destroyed. The public information on the forms shall be available to the public in the form of a photocopy or an electronic record. The secretary of state shall, as soon as is practical, implement an electronic record keeping system that makes the public information in the reports required by this chapter available to the public through the Internet.

15-B:9 Penalty. Any person who knowingly fails to comply with the provisions of this chapter or knowingly files a false report shall be guilty of a misdemeanor. It shall be an absolute defense in any prosecution under this chapter that the person acted in reliance upon an advisory opinion on the subject issued under RSA 14-B:3, I(c) or RSA 21-G:30, I(c).

15-B:10 Examination of Reports. It shall be the duty of the attorney general to examine the reports which are made under this chapter to the secretary of state and to compel such returns be made to comply with the law.

15-B:11 Limitations. This chapter shall not be construed to:

I. Prevent receptions, breakfasts, luncheons, dinners, dances, or picnics or like events from being held for the sole purpose of raising political contributions, provided such contributions comply with and are reported as required by RSA 664.

II. Prohibit gifts or expense reimbursements made to the state of New Hampshire and accepted in accordance with the law.

15-B:12 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

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