

The meeting was called to order by Chairman Dreyer at 5:10 P.M.

MEMBERS PRESENT: Mr. Bennett
Mrs. Brookman
Mr. Mello
Mr. Jacobsen
Mr. Sena
Mrs. Wagner
Mr. Chairman

MEMBERS ABSENT: None

SPEAKING GUESTS: Father Larry Dunphey, Common Cause
Orville A. Walrenbrock, Dept. of Human Resources
Assemblyman Dini
Peg Ward, freelance writer
Assemblyman Ford
Assemblyman Murphy - submitted written statement

The purpose of this meeting was to hear testimony on the following bills:

AR 9	AR 14	AB 263	AJR 18
AR 11	ACR 13	AB 267	ACR 27
AR 12	ACR 14	ACR 10	ACR 28
AR 13	ACR 15	AR 15	ACR 33

Mr. Jacobsen moved for the approval of the minutes of the previous meeting. This was seconded by Mr. Sena and carried the committee unanimously.

Father Larry Dunphey was the first speaker testifying with regard to the above bills. He addressed himself to AR 11, Subsection 8 regarding open meetings. He wondered if dealing with it by statute would cause any constitutional problems. He thought perhaps it was best that this was being handled by Resolution. He thought it was phrased well in the Resolution and agreed for the allowance of judicial decision of the committee for situations handled better with a closed meeting. He said Common Cause does recommend allowance for certain exceptions such as meetings dealing with personnel, criminal matters or strategy and investigative sessions. He said this was not intended as any criticism of any legislators only that they feel this provision should be bound in the law for the good of the citizen. Knowing what is going on is absolutely essential to the democratic process. He went on to say they agreed with Subsection 9 of this bill dealing with minutes. In Subsection 12, they feel the substance of the hearings should be in the minutes. He felt this could be interpreted as a listing and they did not feel that would be sufficient. He thought the measure could perhaps read "the substance of the hearings should be a part of the minutes".

He then spoke to AR 12. Common Cause feels this is a very important aspect. If people do not know ahead of time what is to be considered in a meeting, it is equivalent to a closed meeting. Common Cause recommends 72 hour notice be given on all meetings. He said they

are not concerned with technical matters but legislation going in new directions or that will change or take away from present law. These should have at least 72 hours notice considering the size of the State. He said they have not experienced this problem so much with the Assembly but added that they have had some problems in this regard with the Senate. He said for matters of major public concern that Common Cause would like to see five days notice.

Father Dunphey then spoke of AB 263. He felt this a very needed supplementation to the program. As long as the Legislature is only meeting every two years, there needs to be a provision for an on-going program. He added that this could not be done without financial support and Common Cause certainly supports that kind of aspect. This is a good direction and good legislative reform. He expressed the same feelings for ACR 10.

Mr. Orville Walrenbrock then spoke. He said the Department of Human Resources has no objections to AB 267 as long as the money committees will give them the funds to handle this. He said he felt the Department has done whatever it can to cooperate with regard to submitted proposed legislation and added that they would appreciate any recommendations from the Legislature to improve on this process. He said they had no idea how to budget for this.

Mr. Mello then commented that the reason for this piece of legislation is because the Legislature has been criticized for the amount of money spent during the Session; however, most of this money is being used to take care of drafting bills that do not relate to the Legislature at all. He said it would be just as easy for each agency to pay for its own bill drafting rather than the Legislature doing it and misleading the public. He also felt with this bill that the agencies would be more careful of what they present to the bill drafter since they would have to pay for it. Mr. Walrenbrock said his agency had submitted 78 bills this Session and agreed if the agency were paying for it, they would perhaps be more diligent and perhaps fewer bills would be presented but he did comment that they have a problem in that all their requests must be in prior to September 1 which is before the Governor's State of the State and things do change from September 1 to the beginning of the Session.

Mr. Dini commented that he concurred with Mr. Mello's statements and felt it was not fair for the public to think the Session was costing \$10,000 per day when actually other State agencies are incurring these costs.

ACR 33 was then discussed regarding a proposed study of nursing homes. Peg Ward, a freelance writer, spoke in favor of the proposal. She said she had visited some of these nursing homes to do some research. She said she has become so involved that she has overcome the emotional stage. She said something must be done. She did not speak specifically of mistreatment of those in these homes but emphasized that something must be done. She concluded her remarks by stating she would rather die right now than go into one of these homes and she said she spoke from personal experience. She said something should be done to upgrade pay, employees, and morale in these homes.

When asked, Mrs. Ward said she would be very interested to serve on such a study and that her findings would be made available to said study.

Assemblyman Ford then spoke. She first directed her comments to AR 11 saying she supported the new language but on Page 2, Subsection 5, the measure does not tell you how a bill is to be killed or any other action taken except how to pass it. She thought the bill should read "definite action" as it does in the present rule. Mr. Jacobsen thought this was "nit-picking" to go to the extent of saying how a committee should function. He said each committee finds itself in different situations and he felt they should be given leeway to get full expression. Mrs. Ford felt the key section was that one dealing with what it takes to take action on a measure--the majority of entire committee or majority of committee members present. What it takes for definite action should be uniform throughout all committees.

Mr. Mello questioned Subsection 10 of AR 11 commenting that it seemed to be in conflict with another measure as this section provides for 1 day notice and another measure provides 5-day notice. Mrs. Ford said perhaps it was in conflict but said to keep in mind the difference between a committee meeting and a public hearing. For housekeeping bills or bills that have been heard and the committee is now taking action on them, 24-hour notice is adequate. She said the subcommittee did not have time to review any of the bills prior to the time the report came out so she thought perhaps there would be some conflicts amongst the bills.

Mr. Mello said this matter of committee meetings and public hearings was in conflict with the operation of the Ways and Means Committee because they consider every meeting every day a public hearing. Anyone who wants to speak is allowed to speak at every meeting. Mrs. Ford said this was probably how most committees were run but she said a real public hearing in one on a matter of high public interest where it has been posted, people have been invited to speak and time limits are set, etc. When this same issue is brought up again in committee, it is not then a public hearing and it should not then require five-day notice. Mrs. Ford added that she felt there should be some flexibility in the way committees operate and commented that she was not being critical of the present procedures. She then went on the AR 13 suggesting that it be amended or include "or at the option of the Chief Clerk". In this way, if there had been some unusual action on a bill, the Chief Clerk would be able to read the history at her discretion.

She felt AR 14 was already being implemented this Session and that these matters were being handled differently this time than in the past. She thought the present procedure takes up too much time and unnecessary printing costs. She commented that in Wisconsin this is handled very simply. These things are mimeographed and placed on each desk and is passed by just a regular motion. It does not have to go on second or third reading. The person congratulated receives it in certificate form. She added that perhaps this resolution was not necessary in that this has been done during this Session. It is much quicker and less expensive.

Mrs. Ford then submitted forms to the Committee from Ohio and Pennsylvania regarding the role of Legislature in what they call "oversight capacity", i.e., what has happened to what the Legislature has enacted in the past--have they done what was intended. Other states are evaluating what they have done in the past and a study in that area in Nevada would be useful. Mr. Oliver has a great amount of material concerning this matter.

With regard to AB 263, Mrs. Ford suggested the addition on Page 2 providing for election of alternates for this committee. She said substantial changes were not being made. They were just changing the name and mandating that leadership be on this committee. She said presently it seems different groups of people are leading at different times and with different types of authority. She felt these groups come into some conflict at times and she felt this created staff problems among those people answerable to these groups. AB 263 places all this under one group. They would be the leaders and would be accountable for the leadership function. She felt this was the major intent of this bill. It also provides that this continue throughout the two years--not as a full time job, but whenever there are duties to perform. She said this committee would function in two ways. They would function just as the Legislative Functions Committees do now and they would also function jointly to make decisions which are now made by the Commission. Mr. Jacobsen was concerned about the effectiveness of the leadership working together. He likes the Commission as it is now because it is bipartisan. He was afraid if the proposed changes were made that it would not function well because of lack of cooperation. Mrs. Ford said the provisions call for a bipartisan makeup and she felt it would not be any different than the Commission presently is but would be more efficient. Mr. Jacobsen felt that the leadership would emanate from the South and this would make it difficult to cater to the staff in the interim as he said hardly a day goes by that you are not required to be here. Mrs. Ford said she did not feel the leadership would emanate from the South. She also added that she supported more pay for the leadership and more per diem for their added responsibility. Mr. Jacobsen commented that he was concerned about the leadership being in power that long (2 years) and could see no advantage to it. Mrs. Ford said it would be comprised of leadership and interim committees so it would not be a small group in power. Mr. Jacobsen said the Commission recognizes talent available in the Legislature while caucus doesn't necessarily see it. He said it is difficult to get people to serve on minor studies in the interim so he was afraid once everyone goes home that the same intent and interest would not be there.

With regard to ACR 10, she said we rarely go back to see what has happened to things we have passed. One of the most helpful functions these committees would perform would be to review what has been passed. She said the point is that as a Body we don't look back on things passed at all. She thought this the most valuable duty of these interim standing committees. She said they could also look at audits because she did not feel they were getting the attention they need. They could evaluate policy and be available to the public. She felt there would be much better.

continuity with this type of operation. She added that the Joint Legislative Functions Committee would have control over the budget of these committees just as they do now. Each Standing Committee could submit a request. She said right now there are eleven committees that meet whenever they want to. She felt it would not cost that much more to get all together in Carson City for two or three days. Mr. Jacobsen was afraid the Senate would dominate in this joint committee.

With regard to AR 15, Mrs. Ford thought it would be of value to establish jurisdictions of committee.

She said of AJR 18 that she did not support a strictly budget session in the off year. She said she was told an amendment would be submitted to change this. She did not think everyone should come to Carson City and sit around while only the money committees worked. She felt other issues should be taken up during that time.

She commented that she was in support of having a study done on the nursing homes in Nevada.

Assemblyman Dini then spoke in this reform package.

With regard to AR 9, he felt it was important to spell out and define duties of the Speaker in the rules. He felt AR 11 was one of the most important measures in this package. He said there could be different rules established for the money committees.

He said of AR 12 that there was a difference between a hearing and a "nuts and bolts" type meeting. He said they wanted to define the difference between a real public hearing versus the average meeting you have in committee with two or three people testifying and you may or may not take action on the bill. When postponing a bill for final action, 24 hours is enough notice.

Of AR 13, Mr. Dini said he considered the reading of the history a complete waste of time unless something unusual has happened to the bill. He felt the decision of reading it could be left up to the Chief Clerk.

He said he agreed with Mrs. Ford on AR 14. He felt this could be a simple typewritten resolution read into the Journal and a standard form could be made out and mailed to the people. The present method is costly and time consuming.

With regard to ACR 13, he felt there should be just one conference committee and Mrs. Brookman concurred.

He said with regard to ACR 14 that much of the power of the Legislature was given away when we gave certain authority to State agencies. He felt these should be catalogued in a book to see what these agencies have done. He said we have to make them responsible to the Legislature for the intent of legislation passed. This bill would be the start of that.

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Of AB 263 Mr. Dini said he liked the concept of the proposed Legislative Functions Committee because it puts leadership together during the interim. He felt the provisions in this bill was one of the better ways to have interim committees made up. He felt joint Legislative Functions Committee could keep continuity going. He said there are cases of domination by some members when the leadership comes together but he did not think this would happen under this bill because it provides that the minority party be included on the committee as well as the Minority Leader.

Mr. Dini then spoke of AB 267. He thought this to be a strong measure for the Legislature to exert itself with regard to the Executive Branch of Government. He also felt it would result in fewer bills proposed.

With regard to ACR 10, he felt joint interim committees have a lot of advantages. He felt there should be a limitation on the number of meetings they can have. He felt this would take care of problems to be ready for the next Session. Mr. Jacobsen wondered if he would have any objection to not have anyone serving on the Commission also be a committee chairman. He felt many people are overloaded while the newcomers are not loaded down at all. He didn't feel control should be given to just a few. Mr. Jacobson also suggested that the interim standing committees end prior to the next election so it would not get political and would be done in time to be put together. Mr. Dini agreed with him and said partisan politics should not be involved in these committees. Mrs. Ford said most states that have interim standing committees do not meet after the campaign starts.

Mr. Dini said AJR 18 was something decided on last Session because you don't want to be here when the money committees are the only ones working.

Mr. Mello commented on ACR 22 saying Nevada was not equipped to do this type of thing and moved "Indefinite Postponement" of this measure. This was seconded by Mr. Jacobsen and carried the committee unanimously.

Mr. Mello moved a "do pass" on ACR 24. This was seconded by Mrs. Brookman and carried the committee unanimously.

Mr. Mello moved a "do pass" of ACR 33. This was seconded by Mr. Sena and carried the committee unanimously.

Mr. Jacobsen moved a "do pass" of AB 281. This was seconded by Mr. Mello and carried the committee unanimously.

Mr. Sena reported all monies have been collected for the Legislative Gift Fund.

The meeting was adjourned at 7:10 P.M.

Respectfully submitted,

Joan Anderson, Secretary

COMMITTEE ON LEGISLATIVE FUNCTIONS

Date APRIL 3, 1975 Time 5:00 P.M. Room 222

Bill or Resolution to be considered

Subject

- AR 9 ✓ Adds Assembly Standing Rule 1 for the 58th Session of the Legislature.
- AR 11 ✓ Amends Assembly Standing Rule 42 and repeals Assembly Standing Rules 43, 44, 46, 47, and 48 for the 58th Regular Session of the Legislature.
- AR 12 ✓ Amends Assembly Standing Rule 49 and adds Assembly Standing Rule 92 for the 58th Regular Session of the Legislature.
- AR 13 ✓ Amends Assembly Standing Rule 109 for the 58th Regular Session of the Legislature.
- AR 14 ✓ Amends Assembly Standing Rules 118, and 119 for the 58th Regular Session of the Legislature.
- ACR 13 ✓ Amends Joint Rule 1 for the 58th Regular Session of Legislature.
- ACR 14 ✓ Directs Legislative Commission to cause Director of Legislative Counsel Bureau to review regulations of agencies of executive branch of state government.
- ACR 15 Directs Legislative Commission to study the feasibility of conducting performance audits.
- AB 263 ✓ Establishes Joint Legislative Functions Committee to replace Legislative Commission and provides for parallel standing committees and joint interim committees of Legislature.
- ACR 24 ✓
- AB 267 ✓ Allows Legislative Counsel Bureau to charge for preparation of legislative measures.
- ACR 10 ✓ Adds Joint Rule 11 for the 58th Regular Session of the Legislature.
- AR 15 ✓ Amends Assembly Standing Rule 40 for the 58th Regular Session of the Legislature.
- AJR 18 ✓ Proposes to amend Nevada constitution by requiring annual legislative session, limiting subject matter of sessions in even-numbered years and increasing length of periods during which compensation may be paid to members of legislature.
- AB 281
- ACR 27 Directs legislative commission to conduct study of hospital charges in state and anticipated effects of enactment of national health insurance act on health care.
- ACR 22 ✓
- ACR 28 Directs legislative commission to review compensation plans of classified and unclassified state employees
- ACR 33 ✓ Directs the legislative commission to study skilled nursing facilities.

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE April 3, 1975

SUBJECT ACR 22 - Directs legislative commission to conduct study of feasibility of establishing dental schools with clinics in Washoe and Clark counties as a part of University of Nevada System.

MOTION:

Do Pass _____ Amend _____ Indefinitely Postpone X Reconsider _____

Moved By Mr. Mello Seconded By Mr. Jacobsen

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Mr. Bennett	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Brookman	<u>X</u>	_____	_____	_____	_____	_____
Mr. Jacobsen	<u>X</u>	_____	_____	_____	_____	_____
Mr. Mello	<u>X</u>	_____	_____	_____	_____	_____
Mr. Sena	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Wagner	<u>X</u>	_____	_____	_____	_____	_____
Mr. Chairman	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes April 3, 1975

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE April 3, 1975

SUBJECT ACR 24 - Directs the legislative commission to study the state election laws and to make a report of the results of the study with recommendations for proposed legislation to the next regular session of the legislature.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Mello Seconded By Mrs. Brookman

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

MOTION

AMEND

AMEND

VOTE:

Yes

No

Yes

No

Yes

No

Mr. Bennett
Mrs. Brookman
Mr. Jacobsen
Mr. Mello
Mr. Sena
Mrs. Wagner
Mr. Chairman

X
X
X
X
X
X
X

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes April 3, 1975

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE April 3, 1975

SUBJECT ACR 33 - Directs the legislative commission to study skilled nursing facilities.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Mello Seconded By Mr. Sena

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Mr. Bennett	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Brookman	<u>X</u>	_____	_____	_____	_____	_____
Mr. Jacobsen	<u>X</u>	_____	_____	_____	_____	_____
Mr. Mello	<u>X</u>	_____	_____	_____	_____	_____
Mr. Sena	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Wagner	<u>X</u>	_____	_____	_____	_____	_____
Mr. Chairman	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes April 3, 1975

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE April 3, 1975

157

SUBJECT AB 281 - Relieves legislative auditor of function of auditing certain groups which contract with bureau of alcohol and drug abuse.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Jacobsen Seconded By Mr. Mello

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Mr. Bennett	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Brookman	<u>X</u>	_____	_____	_____	_____	_____
Mr. Jacobsen	<u>X</u>	_____	_____	_____	_____	_____
Mr. Mello	<u>X</u>	_____	_____	_____	_____	_____
Mr. Sena	<u>X</u>	_____	_____	_____	_____	_____
Mrs. Wagner	<u>X</u>	_____	_____	_____	_____	_____
Mr. Chairman	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes April 3, 1975

ACT 583

1 "AN ACT TO PROVIDE FOR LEGISLATIVE REVIEW OF RULES AND REGULATIONS
2 PROMULGATED BY STATE AGENCIES, BOARDS, AND COMMISSIONS, FOR THE
3 PURPOSE OF ADVISING THE GENERAL ASSEMBLY AS TO WHETHER THE SAME
4 ARE IN ACCORDANCE WITH LEGISLATIVE INTENT; AND FOR OTHER PURPOSES."

5
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

7
8 SECTION 1. LEGISLATIVE INTENT. In the passage of this Act, the
9 General Assembly is aware of the significant number of laws which have been
10 enacted granting to boards, commissions, departments, and administrative
11 agencies of State government the authority to promulgate and enforce rules
12 and regulations. The General Assembly is further aware that ample safe-
13 guards have not been established whereby the General Assembly may be in-
14 formed of circumstances in which such administrative rules and regulations
15 do not conform to legislative intent, and it is the purpose of this Act to
16 establish a method for continuing legislative review of such rules and regu-
17 lations whereby the General Assembly may, at each legislative session, take
18 remedial steps to correct abuses of rule-making authority or clarify legis-
19 lative intent with respect to the rule-making authority granted such admini-
20 strative boards, commissions, departments, or agencies.

21
22 SECTION 2. For the purposes of this Act, the term "State agency" shall
23 mean any office, board, commission, department, council, bureau, or other
24 agency of State government having authority by statute enacted by the Gener-
25 al Assembly to promulgate and/or enforce administrative rules and regula-
26 tions.

27
28 SECTION 3. Within ninety (90) days after the effective date of this
29 Act, each State agency with rule-making authority shall file with the
30 Arkansas Legislative Council a copy of their rules and regulations currently
31 in effect which were promulgated by that agency.
32

[Handwritten Signature]
SPEAKER OF THE HOUSE

1 SECTION 4. From and after the effective date of this Act, before any
 2 rule or regulation of any agency of the State may be revised, promulgated,
 3 amended or changed, a copy of the rule or amendment to existing rules shall
 4 be filed with the Arkansas Legislative Council at least ten (10) days before
 5 hearings are held on the rule pursuant to the Administrative Procedures Act
 6 (Act 434 of 1967, as amended) or other acts pertaining to the rule-making
 7 authority of that agency. The Bureau of Legislative Research of the Legis-
 8 lative Council shall review the proposed revised or amended rule or regu-
 9 lation and shall, if it is believed that the rule or regulation is contrary
 10 to legislative intent, file a statement thereof with the Legislative Coun-
 11 cil. In either event, the proposed rule or regulation and any comment
 12 thereon prepared by the Bureau of Legislative Research shall be submitted to
 13 the Legislative Council at its next regular meeting following its filing
 14 with the Legislative Council. If, at such meeting, the Legislative Council
 15 shall, after having considered the proposed rule or regulation, or the pro-
 16 posed change of an existing rule or regulation of the agency, determine
 17 that the same is, in the opinion of the Legislative Council, contrary to
 18 legislative intent, the Chairman of the Legislative Council shall file a
 19 statement in writing with the State agency proposing to promulgate said
 20 rule or regulation, setting forth the Legislative Council's conclusions in
 21 regard to the proposed rule or regulation. Said statement shall be filed
 22 with the State agency on or before the date the hearings are to be held on
 23 the rule pursuant to the Administrative Procedures Act, as noted above.

24
 25 SECTION 5. A copy of all rules, amendments, or revisions of rules
 26 adopted by each State agency shall be filed with the Legislative Council
 27 within thirty (30) days after its final adoption. A State agency shall
 28 notify the Legislative Council of its intention to repeal any rule or regu-
 29 lation which is on file with the Legislative Council.

30
 31 SECTION 6. The research staff of the Bureau of Legislative Research of
 32 the Legislative Council shall study and review all current rules, or pro-
 33 posed rules, and all adopted amendments and revisions of rules by State
 34 agencies, and shall report to the Legislative Council in regard thereto.
 35 The Legislative Council shall act in an advisory capacity to the General
 36 Assembly with respect to administrative rules and procedures, and shall

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report to the General Assembly at each regular session of all administrative rules and regulations which the Legislative Council believes to be contrary to legislative intent or promulgated without legislative authority therefor. In addition, the Legislative Council shall submit appropriate legislation to the General Assembly to correct any such finding.

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PRESIDENT OF SENATE

APR - 3 1973
APPROVED BY Dale Bumpers
GOVERNOR

6. THE LEGISLATOR AS OVERSEER

Who shall guard the guardians?

Juvenal, 2nd Century Roman lawyer

The Commission believes the key word for the oversight function is responsibility. It is the legislature's job, individually and collectively, to keep the administration accountable to the goals, principles and objectives that have been publicly enunciated by political executives and the legislature. Because of the nature of the executive-administrative relationship one can not always be sure policy is being conscientiously carried out. "Who shall guard the guardians?" is a question as appropriate now as it was in Cicero's time. The answer is that the legislature shall guard the guardians in democratic society. The Commission then addressed itself to the task of helping the legislature in a responsible and sensitive exercise of its oversight duties.

The Commission believes that one of the most important and least understood functions of the legislature is the job of overseeing the operation of the executive departments. This particular legislative task is perhaps not immediately apparent. It is generally assumed in a democratic society that the governed could exercise a relatively high degree of control over those persons doing the governing. Control implies something more than formal election of men to office periodically; it suggests the need for continuous popular supervision over those persons charged with the making and execution of laws and regulations. Part of this need is satisfied, of course, by the popular election of the Governor and certain other State officials. On the other hand, the operation of present day state government makes it vitally important that the legislature also perform this function. Several reasons can be cited to support the need of legislative oversight.

In the first place, the oversight function of the legislature is really a continuation of the law-making function. The administration of any major statute typically involves the exercise of a considerable amount of discretion or choice among alternative lines of action. The executive is deeply involved in the settling down of rules. One of the great trends in twentieth century government has been the growth and the size and decision making powers of the executive branch as contrasted with the legislative branch. The root cause seems to be technical complexity. As our society becomes more interdependent and complicated to do the rules governing it. Moreover the rules must be continually adjusted to changing circumstances. Neither of these conditions augers well for the legislature. Its slow moving processes permit mainly the passage of general statutes, with increasing powers delegated to the executive to fill in the details. Legislative oversight of administrative activities then becomes essential if the legislature is to fully exercise its lawmaking function.

A second reason why oversight is a basic legislative job is that only the legislature may be in a position to evaluate from a public standpoint the activities of government. Government today is increasingly a government of specialists and technocrats. Specialists are valuable, indeed necessary, but excessive reliance on them may provoke unhealthy consequences in the formulation of public policy. Specialists are after all members of select groups drawn from limited segments of society and they frequently share assumptions and outlooks not necessarily adhered to by citizens over whom they make decisions. They may acquire vested interests in their programs and for that reason may fail to raise

basic questions about possible undesirable side effects of these programs and possible alternative courses of action. To keep specialists, as the saying goes "on tap and not on top," legislative oversight is essential.

A third and final reason why the Commission believes oversight to be a crucial function of the legislature is that it helps to maintain citizen support for the state government. Citizens are more likely to be affected in their daily lives by administrative rulings than by legislative acts, and some public knowledge of what is taking place in administrative agencies is essential if confidence in the government is to be maintained. A serious problem of state government is that many citizens have only a fuzzy understanding of its workings and its relevance to them. Legislative oversight in this respect provides a crucial and continuing link between the citizen and state administrative agencies, and helps in overcoming suspicion or overt hostility on the part of people affected by these agencies.

In recognizing the importance of the oversight function the Commission has sought only to equip the General Assembly with some tools necessary for this job.

In addressing itself to the oversight role the Commission is mindful that this function nationally and in state legislatures has been badly performed. It has been characterized by the extremes of narrow and technical post-audits on the one hand, and the sensationalism of kleig-lighted investigations on the other. Neither of these approaches has served the legislature or the executive or the public as a whole. The Commission in considering the oversight function is emphatically not considering it as the occasional legislative foray into the vast expanse of the executive domain. Oversight is not witch-hunting and fishing expeditions, nor is it sporadic attempts to harrass and embarrass the executive branch of government.

Although the oversight role has too often been unappreciated or even neglected, there are indications that the General Assembly is cognizant that they do have a responsibility in this area; they have taken some small, and in the Commission's judgment, halting steps to meet these responsibilities. By statute, the General Assembly has required the compilation and publishing of administrative rules and regulations. The legislature has created a special legislative budget and finance committee, commonly known as the watch-dog committee, whose job it is to scrutinize executive branch expenditures.

The Commission considered a special standing committee on government operations, and also considered special sub-committees in each substantive committee, especially for the oversight function. The Commission rejected these approaches; it was concerned that, if only a single agency or committee is charged with the oversight responsibility, the legislature's problem will be compounded in that legislators not actively involved in these groups will feel no sense of responsibility for executive oversight. The Commission strongly believes that the oversight role is one that every legislator should and can perform. The Commission believes that the preconditions for effective oversight include a combination of Commission suggestions: professional staff services for legislators and for legislative committees sufficient to provide them with sources of information and data independent of the executive; a legislative committee system in which the standing committees are roughly articulated with the various agencies in cabinet departments in order that individual committees may be

come extremely familiar with the work of departments and agencies; and a scheduling of legislators' time so that they have some opportunity to perform the job of oversight. Additionally, individual legislators in their home districts might be expected to serve at the same time their constituents and their legislative colleagues, by maintaining a constant surveillance of the fairness and efficiency of administrative services in their districts.

The possibilities for improving the oversight function seem nearly endless. This Commission strongly believes that unless the General Assembly treats oversight as one of its central functions it may gradually lose its effective powers to the executive branch, as the job of rule making in our society grows ever more demanding and complex.

In addition to the earlier recommendations for improving the legislature's ability to exercise its oversight function, the Commission makes two specific suggestions.

Recommendation 57. The function of legislative oversight over executive branch operations and programs be exercised generally through the standing committees.

Recommendation 57. That there be assigned to an existing joint study or service agency the function and responsibility of reviewing, classifying and analyzing rules and regulations issued by executive agencies which implement legislation, to evaluate the extent to which such rules and regulations carry out (or vitiate) the legislative intent, and to issue period reports thereon to the legislature.

V. Strengthening the Policymaking Capability of the General Assembly

Review and Evaluation of State Programs

It is the responsibility of the state legislature to exercise policy review of state government. In practice, the General Assembly performs this basic legislative function inadequately. Our goal is to assist the Ohio General Assembly in developing the capacity to analyze and evaluate state programs which it enacts.

In Ohio there is every indication that the General Assembly, and especially its elected leaders, recognize the importance of program review and are seeking ways to equip themselves for the task.

It is of primary importance that the General Assembly assume the responsibility of program review as an essential ingredient of making state policy.

Historically, state legislatures have tended to involve themselves in the administrative details of program implementation because these were regarded as the key to the exercise of legislative overview. The weakness in this "watchdog" approach has been pointed out succinctly by the Director of the Center for State Legislative Research and Service of the Eagleton Institute of Politics, who has served as a special consultant to this Committee:

The purposes of legislative oversight have been to check dishonesty and waste, to guard against harsh or mistaken administration, to invigorate entrenched bureaucratic routine, and to ensure compliance with legislative intent and as embodied in law. Review and evaluation covers the same ground, but it also covers more. It goes beyond administrative performance and operational efficiency. A program enacted by a legislature can be carried out faithfully, administered competently, and implemented efficiently. And yet it may not do the job. In order to make good public policy for the future, legislatures must have knowledge of the effects of policy they made in the past. They have a stake in learning what works and what does not work: whether a program's objectives are being achieved and at what costs; how effective a program is and whether it is more or less effective than some other program with the same or similar objectives; and what factors make for the success or failure of a program in accomplishing its objectives.*

Our Committee has attempted to determine how best to equip the General Assembly to review and

evaluate state programs most effectively. We have come to several conclusions as to how this can best be achieved.

First, it is necessary for the legislature to play a role in the establishment of program objectives. Ideally, the legislature should state the objectives for a program in quite specific terms. At the very least, the General Assembly should express program objectives and have the capacity to measure executive performance.

Second, to check state programs, the legislature should conduct audits on a selective basis. Performance audits are examinations of how well units of government translate resources available to them into previously established and clearly defined objectives. The intention of this type of auditing is to investigate not only the operational, managerial and administrative activities of an agency to determine how efficiently the agency has been using its resources, but also to examine the results of a program to determine how effectively it has been operating. The basic focus is on output measures instead of input measures.

The development of a performance audit capability and the requirement that agencies collect specified types of information will enable the legislature to conduct effective inquiries along the following lines:

What results did the specified program attain?

How are these results distributed among the population?

Are there unintended negative consequences of the program?

Are there unintended positive consequences of the program?

What are the full costs of the program?

The purpose of such information is to enable the legislature to draw conclusions on whether the results justify the costs.

Third, performance auditing in other states has often revealed that agencies do not gather the information necessary to analyze program effectiveness. Legislative interest often not only encourages them to initiate such analysis, but often stimulates them toward improved performance of their functions.

Fourth, performance auditing does not answer the question of how to redesign existing programs or develop alternate programs. However, the audit result does provide information which is essential to the consideration and development of alternatives by standing committees.

* Alan Rosenthal, *Legislative Review and Evaluation—The Task Ahead*. (A paper prepared for the Eastern State Legislative Leaders Seminar) July, 1971.

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HEALTH AND WELFARE
TAXATION

Nevada Legislature

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FIFTY-EIGHTH SESSION

April 3, 1975

TO THE MEMBERS OF THE LEGISLATIVE FUNCTIONS COMMITTEE

Chairman Dreyer and committee members:

I am writing in support of the Legislative Reform package of which a substantial portion is before you today. I will address myself first to A. B. 263, which creates a joint Legislative Functions committee and provides for parallel standing committees and joint interim committees. I support A. B. 263 as I believe parallel standing committees will help streamline the legislative process.

I also support Assembly Resolutions 9, 11, 12, 13 and 14 which provide for changes in the Assembly Standing Rules. I feel these resolutions and A. B. 263 merit your serious consideration.

In the interest of time I will not testify before the committee today but am submitting this letter as written testimony to you.

Respectfully,

A handwritten signature in cursive script that reads "Patrick M. Murphy".

Patrick M. Murphy

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Senate Probers Charge: Abuses in Nursing Homes

WASHINGTON (UPI) — Deliberate physical injury or personal abuse of patients and life-threatening conditions exist in more than half the nation's 23,000 nursing homes, a Senate subcommittee reported Monday.

"It would make your blood chill," the report said, citing testimony by a Maine state senator that a state attorney general's investigation of one nursing home showed "the

smothering to death of a patient who obviously was in a coma and taking too long to die."

Other reported abuses included negligence leading to death and injury; unsanitary conditions; poor food quality or preparation; hazards to life and limb; lack of dental, eye or foot care; theft from patients; inadequate control of drugs; reprisals against complainers; assaults on human dignity; profiteering and cheating.

The report said the Senate panel was forced to conclude, on the basis of 15 years of gathering evidence, "that over 50 per cent of the nursing homes in the United States are substandard. . . with one or more life-threatening conditions."

Monday's report was the second in a monthly series on the fast-growing U.S. nursing home business. The first one last month called nursing home health and safety inspections "a national farce" and said federal efforts to improve nursing home care generally had failed.

From its files, the subcommittee of the Senate Special Committee on Aging cited specific examples of abuses:

—A patient left unattended in a Chicago nursing home was allowed to drink and smoke. She fell asleep, spilling liquor in her lap, and then dropped a lighted cigarette. She became a human torch.

—In 1970, the Detroit Health Department reported that a body was allegedly kept for two days near a

nursing facility's food handling area; that fecal matter was found in a patient's bureau drawer; and that patients sat on mattresses that were soiled with their own urine and feces.

The report quoted the painful recollections by a woman from a Minneapolis suburb whose mother suffered a stroke and was taken to a nursing home. The woman returned the next morning to find her mother tied — without clothes — in a bed in the midst of her own wastes.

"It's seared into my memory, seeing her struggling to free herself, crying out for someone to help her," she said. "She clung to me and cried like a child over and over again: 'Thank God you've come, thank God you've come.'"

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