

SENATE LEGISLATIVE FUNCTIONS COMMITTEE
MARCH 22, 1977 - 2:00 P.M.

The Eighth meeting of the Senate Legislative Functions Committee was called to order at 2:07 p.m.

Chairman Gene Echols was in the Chair.

PRESENT: Vice Chairwoman Gojack
Senator Close
Senator Gibson
Senator Wilson
Senator Schofield
Senator Raggio

TESTIMONY FROM: Frank Daykin, Legislative Counsel
Earl Oliver, Legislative Auditor
John Crossley, Chief Deputy Legislative Auditor
Pat Gothberg, Common Cause

Chairman Echols explained that he had previously discussed with Vice Chairwoman Gojack his turning the meeting over for her to conduct, and then excused himself from the meeting.

SR 13 Adding Senate Standing Rule 23 to create a Committee on Ethics, and amending Rule 44.

Senator Gibson explained that the bill was not complete as drawn, and that he had Mr. Daykin's redraft of the rule.

Pat Gothberg stated that Common Cause supports the establishment of a Senate Committee on Ethics, and offered suggestions that they felt should be included in a rule mandating an ethics committee. (Please see EXHIBIT A)

The Committee discussed various aspects of ethics legislation, including having a list of availability to draw names from for service on the committee; the possibility of members being picked from the Legislative Functions Committees; and the possibility of the committee being evenly divided, politically. They also discussed the idea that present and former members of the legislature, state employees and lobbyists should be excluded from serving as lay members; that the rule should clearly define what does not constitute a conflict; and that decisions should be in writing to provide guidance for future opinions.

It was noted that Nevada differs from many states, in that our Legislature is composed of nonprofessional Legislators. Each has a private interest or endeavor of some kind, and some (in their professional capacity) deal with many people with varied interests, who in someway are touched by whatever is done.

When you break each Legislator down, relative to interest, everyone would have at least one conflict. The legislative body, unlike the judicial body, has never had as a qualification that it be an impartial body.

Frank Daykin explained the language in the bill, and cited examples of conflict of interest. He noted that the more specific you attempt to be in the wording of the rule, the more likely you are to leave some area uncovered. He also mentioned that Nevada might be pioneering, as most of the language of the rule was original, because no clear statements could be found during research of other states' ethics laws. He stated he didn't think a person has a conflict merely because legislation affects an occupation of which a legislator belongs, or a kind of enterprise in which he belongs; if it did, every member of the legislature would have a conflict on a large number of measures. He noted that what it comes down to is whether or not your independence of judgment would be affected by your committment. He agreed to furnish the members of the Committee with a copy of last session's ethics bill.

ACTION WAS TAKEN ON THE FOLLOWING BILLS:

SB 341 Alters qualifications, powers and duties of Legislative Auditor.

After Earl Oliver gave an overview of the bill, and answered several questions,

Senator Raggio moved "DO PASS"
Senator Gibson seconded
Motion carried unanimously.

SB 363 An act relating to the Legislature; providing that certain agencies submit reports to certain standing committees; providing for the contents and disposition of the reports; and providing other matters properly relating thereto.

Senator Wilson explained that his bill was not actually authorized for Committee introduction, but was erroneously introduced. He explained his intent, and noted that the bill should be a rule. After thorough consideration,

Senator Wilson moved "INDEFINITELY POSTPONE"
Senator Gibson seconded
Motion carried unanimously.

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AB 39 Provides for collection of information
concerning district attorneys and public
defenders.

Vice Chairwoman Gojack read an explanation of AB 39, prepared by Jan Wilson.

After discussion, it was agreed to wait for more information.

There being no further business, Vice Chairwoman Gojack adjourned the meeting at 3:21 p.m.

Respectfully submitted,

Beth Quillici
Beth Quillici, Secretary

APPROVED BY:

Mary Gojack
SENATOR MARY GOJACK, VICE CHAIRWOMAN



NEVADA

March 22, 1977

Testimony before the Senate Legislative Functions Committee

Re: SR 13

By: Pat Gothberg, CC / Nevada

Common Cause supports the establishment of a Senate Committee on Ethics. There are some basic ingredients which we would suggest should be included in a rule establishing an Ethics Committee.

1. Not only should the number of committee members and the political party they represent be mentioned, but the rule should provide for a means of appointment. There are a number of possibilities here - we have always supported citizen involvement in the governmental process, and therefore we support the makeup of committee members as is outlined in SR 13. We suggest an amendment in which the appointment process is more clearly outlined. How are the legislator members of the committee selected? Does the majority leader appoint the members of his party and the minority leader appoint the members of his party? Who appoints the citizen members of the committee?

One practical point worth considering is what might happen if the need were to arise for a committee recommendation for a legislator who needed an answer quickly. Things move quickly around the legislature, especially as the session progresses. From what source would it be possible to draw upon citizen input and be sure those citizens could meet quickly? Might it be wise to have a number of citizens on a rotating list, a reserve or back-up list, so to speak, so that there would be a better chance of finding two who could arrange their schedules to meet as quickly as possible with the legislator members of the committee? Might it also be wise to have a list of alternate legislative members in the event one of the regular legislative members needed a committee hearing?

2. The rule should state what, exactly, are the responsibilities of the committee. The wording seems clear enough and rightly provides that all proceedings by the committee be confidential. We would suggest that there should be a provision, at the request of the legislator who asked for the hearing, for the committee ruling to be made public or for the hearing to be public. This same kind of provision is recommended by Common Cause in open meeting laws when specific conditions are listed for closing meetings. If the person who is being reviewed in a personnel session, for instance, requests it, that meeting could be open.



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3. It is wise to provide, as SR 13 does, the criterion which the committee should use in making recommendations. As a suggestion, you might double check the code of ethical standards as is suggested in AB 450, page 3, section 9, or in SB 351, page 3 section 14, to make sure that you have included everything you want in this rule. You may well decide that the wording in #3 of SR 13 will suffice nicely.

Yesterday, the Assembly Legislative Functions Committee had a hearing on AR 20, the companion bill to SB 13. There was some concern about lines 22, 23, and 24. The following wording might help correct the problem which might be of concern to you, too:

A legislator shall not vote upon, advocate or oppose any measure as to which he has a conflict of interest. On the floor of the Senate or in committee, he may answer questions within the legislator's personal area of expertise.

In closing, let me say that the establishment of a Senate Committee of Ethics seems to be a good idea, you seem to be approaching the subject responsibly, and we heartily endorse your efforts. For it is only natural, in our free enterprise system, that we all have conflicting interests of one sort or another. The establishment of this committee does not suggest that those conflicts are wrong but rather that they are inevitable.