

SENATE COMMITTEE ON  
SPECIAL COMMITTEE ON CONDUCT

Hearing Room  
Tapes -2

MEMBERS PRESENT: Sen. Shirley Stull, Chair  
Sen. Ron Cease, Vice-Chair  
Sen. Gene Derfler  
Sen. Tom Hartung  
Sen. Randy Leonard  
Sen. Peter Sorenson

STAFF PRESENT: Kristina McNitt, Committee Administrator  
Tom Clifford, Committee Counsel  
Gretchen Haber, Committee Assistant

MEASURES HEARD: Organizational meeting  
Approval of intermediary training

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE , SIDE A

003 CHAIR STULL: Calls the meeting to order at 7:00 a.m. Reviews agenda.

010 KRISTINA MCNITT, COMMITTEE ADMINISTRATOR: Reviews complaint procedures  
(EXHIBIT A). Provides letter from Senate President listing intermediaries  
(EXHIBIT B).

035 SEN. SORENSON: May informal approach be used for issues not directly  
considered under the jurisdiction of the Conduct Committee, such as  
campaign law violations?

040 MCNITT: Jurisdiction of committee is fairly broad, but there may be  
more appropriate places for those complaints.

- The goal of the intermediary is to provide a safe and nonhostile work  
environment, and the intermediary may ask for assistance from the Secretary

of the Senate or the Senate President's office. It is a complaint driven  
process, the goal to resolve the issue as quickly and discretely.

068 SEN. CEASE: May a person choose their intermediary?

070 MCNITT: Yes.

072 SEN. CEASE: How would the procedures operate during the interim?

075 MCNITT: The intermediaries would remain the same people. This committee dissolves upon sine die, but the President has the option of renewing it as an interim committee.

- Continues review of steps complainant takes. Complaint goes to intermediary, then, if not resolved, the intermediary notifies the supervisor of the person provoking the complaint and the Majority and Minority leader. The Majority and Minority leaders have available to them a scope of action that may be taken against the person, following an investigation process of their own, if the person provoking the complaint is not in a leadership position. If the subject of the investigation is in leadership, the Chair and Vice Chair of this committee would determine the informal disciplinary action.

103 SEN. CEASE: If there were a complaint against the leadership, could the committee make-up could be changed to the benefit of the person being investigated?

110 MCNITT: There is nothing in the rules that would prevent this, although it might not be feasible.

120 SEN. SORENSON: Does the informal procedure remain regardless of whether there is a Senate Special Committee on Conduct?

132 MCNITT: I believe so.

133 SEN. SORENSON: Does this committee survive until adjournment of the legislature?

127 MCNITT: This committee lasts until sine die; the President may decide to appoint one for interim.

145 SEN. SORENSON: There should be a committee appointed for the remainder of the interim because the Senate Rules make reference to it. It might be better to have an interim committee even if it never meets.

167 SEN. HARTUNG: Concurs with Sen. Sorenson. Having a committee in place would avoid the decision of naming one during interim, should an incident occur.

174 CHAIR STULL: Will raise the issue with the President's office. Notes the intention of the leadership.

180 TOM CLIFFORD: Typically the Senate adopts rules during interim, and this could be done then.

182 SEN. CEASE: Complaints may require months to review, and often stretch from the interim into a legislative session. A change in membership on the committee during such a time would be counterproductive.

206 MCNITT: Describes the formal process (EXHIBIT A).

210 SEN. CEASE: Discusses need for clear opportunities to follow up, should initial resolutions fail.

258 SEN. SORENSON: Asks for explanation regarding the last sentence of 18.01(2) of the Senate Rules: "The procedures do not apply to employees who are subject to Legislative Administration Committee policies and procedures" (EXHIBIT C).

260 MCNITT: The Legislative Administration office has policies in place for its staff.

277 SEN. CEASE: Do the rules clearly establish which rules apply to each group of staff?

278 MCNITT: Yes; legislators, their staff, and the lobby.

280 MCNITT: Continues presentation of formal complaint process.  
- Discusses appointment and role of investigators.  
- Committee would conduct a hearing.  
- Notes requirements for hearing.  
- Discusses potential outcomes.

315 SEN. SORENSON: What is "termination" for a lobbyist?

320 MCNITT: Legislative Administration Committee has the ability to bar a lobbyist from appearing before a Senate committee. Not all lobbyists belong to the Capitol Club, but those members could be terminated by the Capitol Club for rule violations.

350 SEN. SORENSON: Can the committee devise a different remedy than no action, reprimand, censure, expulsion?

355 MCNITT: That would be a modification of the Senate Rules, and cannot be done by this committee alone.

359 SEN. CEASE: Suggests "other action."  
- What happens with the recommendations for non-members?

350 MCNITT: The supervisor of that employee would be notified, and if the recommendation is not followed, they would be liable.

380 SEN. CEASE: Is there any requirement that the person follow the committee requirements? This seems to be a hole in the rules.

371 CLIFFORD: The rules put the responsibility, and the liability, with the supervisor. The Senate Committee on Conduct would investigate the disciplinary process.

Tape 2, Side A

003 SEN. SORENSON: Suggests that there be a provision in either the committee rules or Senate Rules, that once the committee makes a recommendation on a non-member that the recommendation go to the Senate Floor.

011 SEN. CEASE: Disagrees. Is troubled by a legislative aide being judged by someone other than the member employer; whole Senate needn't be involved.

015 CHAIR STULL: Notes that the formal or informal procedures adopted by committee do not preclude a complainant from pursuing additional legal action outside the Senate process.

020 SEN. SORENSON: Prefers to turn recommendation over to the full Senate for consideration, because of governmental liability.

038 CLIFFORD: Reads Senate rule 18.09(1b), which specifies what actions may be taken against personal staff. Notes the term "may" gives flexibility and additional options for supervising member.

048 CHAIR STULL: Suggests adding an "unsubstantiated" category.

057 MCNITT: Continues explanation of formal complaint procedures.

064 SEN. SORENSON: How much of the process is open to the public?

065 MCNITT: The formal proceedings are open to the public.

070 SEN. SORENSON: What is the lapse of time is between the time the complaint is received by the committee and a decision?

078 MCNITT: Sixty days. Outlines the 60-day process. Complaint is filed with Majority and Minority leaders; there are seven days to resolve it at that level; if not resolved, they file complaint with Legislative Council; then Majority and Minority leaders have ten days to agree on investigator, then they file this with Legislative Council who has five days to appoint an investigator. An investigator has fifteen days to conduct the investigation and report back. The hearing by the Senate Special Committee

on Conduct will take place not sooner than 14 days of receipt of that report.

101 SEN. SORENSON: Asks clarifying question. McNitt responds that committee has the time left to it, within the 60-day period to resolve issue.

110 CLIFFORD: Clarifies that 60-day period begins when Legislative Council is in receipt of complaint.

110 SEN. CEASE: Notes that "improper conduct" is a broader term than sexual harassment. Asks where the process is in that regard.

126 SEN. HARTUNG: Notes that he wants complaints to be heard without inappropriate media attention. Is concerned with frivolous lawsuits and frivolous claims which could develop.

136 CHAIR STULL: Responds that the Senate Rules deal directly with frivolous complaints.

140 SUE WILSON, COMMITTEE ADMINISTRATION COMMITTEE ADMINISTRATOR: Outlines proposed Intermediary Training program. Presents training outline (EXHIBIT D).

223 SEN. HARTUNG: Refers to flow chart (EXHIBIT A.) Notes the informal process is "confidential and exempt from public disclosure." How is public

meetings law avoided?

244 CHAIR STULL: Clarifies that committee is not involved in the informal process.

246 WILSON: Rule provides that an intermediary may go to the Secretary of the Senate or the Senate President if they require their assistance.

255 SEN. SORENSON: Is there a statute on limitations on the conduct or any limit on the jurisdiction of the committee regarding staff?

265 CLIFFORD: Refers to Senate Rule 18.04 which specifies time limits on committee jurisdiction.

280 SEN. SORENSON: Recommends an amendment to Senate Rule 18.04 to establish the committee on a permanent basis.

312 CHAIR STULL: Would like to adopt the intermediary training for now, and will look into Sen. Sorenson's request.

MOTION: Sen. Hartung moves adoption of the intermediary training and function as presented by Sue Wilson.

VOTE: The motion passes unanimously, Sen. Cease excused.

341 CHAIR STULL: Announces meeting for the following day.

#### EXHIBIT SUMMARY

- A - Complaint procedure flow chart, staff, 1 pg.
- B - letter, staff, 2 pgs.
- C - Senate Rules, staff, 4 pgs.
- D - Intermediary training memo, Sue Wilson, 20 pgs.