

MINUTES
LEGISLATIVE ETHICS COMMITTEE
OCTOBER 11, 2012 MEETING
{Accepted and Entered by Consensus: March 12, 2013}

The Legislative Ethics Committee (RSA 14-B:2) met on Thursday, October 11, 2012, at 10:00 A.M. in Room 307 of the Legislative Office Building. The following members were present: Attorney Martin L. Gross, Chairman, Senator Amanda A. Merrill, Senator Fenton Groen, Representative Jordan G. Ulery, and Mr. John F. Quinlan. Vice Chairman Brian M. Quirk and Representative Janet G. Wall were unable to attend. Also present was the Committee's Executive Administrator, Richard M. Lambert. The Committee's meeting consisted of the following items:

ITEM #1

Consideration and Adoption of *Agenda*.

Following consideration, Senator Groen moved to adopt the proposed *Agenda*. Mr. Quinlan seconded the motion and the Committee voted 5 to 0 in favor.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on July 11, 2012.

Following review, Representative Ulery moved to approve the *Minutes* as drafted. Mr. Quinlan seconded the motion and the Committee voted 5 to 0 in favor.

ITEM #3

Initial Review of *Complaint #2012-2* and *Complaint #2012-3*.

Representative Ulery moved to enter nonpublic session {pursuant to RSA 14-B:3, I(d)}. Senator Merrill seconded the motion and the Committee voted as follows:

| | |
|----------------------|-----|
| Representative Ulery | Yea |
| Senator Groen | Yea |
| Senator Merrill | Yea |
| Chairman Gross | Yea |
| Mr. Quinlan | Yea |

{MOTION ADOPTED}

{NONPUBLIC SESSION}

Mr. Quinlan moved to exit nonpublic session. Senator Groen seconded the motion and the Committee voted as follows:

| | |
|----------------------|-----|
| Representative Ulery | Yea |
| Senator Groen | Yea |
| Senator Merrill | Yea |
| Chairman Gross | Yea |
| Mr. Quinlan | Yea |

{MOTION ADOPTED}

Chairman Gross made the following statement:

"We're now back in public session and I'd like to announce the results of our initial review of *Complaints #2012-2* and *#2012-3*. The Committee has voted to dismiss both of the complaints and there will be a written decision forthcoming which will be circulated to the parties and counsel."

ITEM #4

State agency “gifts” to legislators – Consideration whether further Committee action is appropriate.

Chairman Gross said that Representative Ulery suggested the addition of Item #4 to the *Agenda* so that the Committee could consider whether to do something more about 3 recent incidents. Distributed to the Committee were copies of: *Advisory Opinion 2011-4*, regarding whether it would be permissible for a legislator to accept complimentary ski tickets offered by Cannon Mountain Ski Area; an informal response to the House Speaker’s Office for a quick determination regarding whether there could be a potential violation of RSA 15-B or the Ethics Guidelines presented by a mailing from the New Hampshire Liquor Commission to certain House members offering discount coupons for purchases at a new Concord liquor store; and another informal response to a request from the Speaker’s Office asking whether there could be a potential violation of the ethics laws or guidelines with respect to the New Hampshire Department of Agriculture, Markets and Food’s tendering an offer of complimentary tickets to House members to attend the annual Eastern States Exposition (the Big-E).

Chairman Gross:

“We ruled on the matter of the ski passes, we got the Big-E tickets, and then we got the Liquor Commission coupons ... so now we have three in all, one of which we ruled on. It seems to me – talk about blissful ignorance – that nobody is telling these state agencies, ‘Look, this may have been tradition, but you’re not supposed to do it anymore, not at least to legislators.’”

Representative Ulery suggested the Committee consider issuing an interpretive ruling to legislators and staff suggesting that it may be inappropriate to accept a gift from a state agency with a value of \$25 or more, and he suggested mailing a copy of the ruling to every commissioner.

Chairman Gross:

“I don’t disagree that we need to something. I’m getting tired of having to deal with inquiries from the Speaker’s Office about the latest gimmes. We have issued an interpretive ruling already which contains the language which you suggested, that is, anything over \$25, if there’s no general exception for a state agency, and if there isn’t a special exception available in a particular case, then it’s an illegal gift. I don’t know how much more we could say in an interpretive ruling other than ‘and we meant it.’ So what I thought was – and I chit-chatted with Representative Ulery about this – is on behalf of the Committee, perhaps, you can authorize me to write a letter to the Attorney General, copy the Governor, copy the Executive Branch Ethics Committee, saying ‘I want to bring to your attention that we have made this ruling in connection with the ski passes and recently it’s come to our attention that 2 other agencies may have transgressed. We appreciate your cooperation in transmitting this information to all other agencies to sensitize them against making gifts to legislators which may get the agency and the legislator in trouble,’ and see what he says. If he says no, then I guess we can stamp our foot and do something else. My guess is he will do something.”

After further brief discussion, Representative Ulery moved to authorize Chairman Gross to issue a letter as stated. Senator Merrill seconded the motion and the Committee voted 5 to 0 in favor.

ITEM #5

New business.

Senator Merrill said she wanted to bring to the Committee’s attention the recent invitations sent to all Senators from the Business and Industry Association (BIA) inviting them to attend the BIA’s 2012 Annual Dinner.

Chairman Gross then summarized the history of that issue before the Committee:

“Last year we were presented with a request for an advisory opinion from Senator {Peter} Bragdon, who received an invitation in his capacity as President of the Senate, to attend the BIA Dinner, and we issued an advisory opinion to him that said that ordinarily this would be an impermissible gift, but since you have been invited to attend in your capacity as representing the Senate, then there’s an exception for that. And at the time, I can remember that we had a substantial and rigorous discussion about whether this was a celebratory – what a celebratory event was. And we particularly said in our advisory opinion ‘we’re not ruling on anything else other than the invitation to Senator Bragdon.’ What happened after that was really upsetting to me. They sent around invitations to Senators saying this is in compliance with the Committee’s ruling. And I sent a letter to every Senator saying that’s not correct, we did not approve the general issuance of invitations, we approved Senator Bragdon in his capacity as President of the Senate....So along comes this year and he {Mr.

Lambert} sends me the message ‘BIA Dinner Again,’ and so I said to him, ‘Are they misstating anything in the invitation? Are they saying this has been vetted or that it’s in compliance with the rules?’ So he got Senator Merrill’s invitation...but it just says, ‘please come.’”

Mr. Lambert:

“The key was that they added the word ‘celebration.’”

Chairman Gross:

“Yes, celebratory. Yes, they’re celebrating themselves, I guess ... So my reaction to it was: If somebody wants to give us a request for an advisory opinion, we can deal with it in the ordinary course, and if we think this is the situation in which this could be a prohibited gift because none of the exceptions apply – it’s \$110 – then it could be a prohibited gift unless there’s an exception. And I’m not going to go through the process of trying to figure out whether there is an exception or not without the Committee being involved and without there being something deliverable at the other end. But no one has seen fit to ask for an advisory opinion.”

Senator Merrill said that it was her understanding that the Senators she knows will not be going. She then asked about the Committee’s prior rulings concerning 3rd party ticket to such events, mentioning the New Hampshire Institute of Politics event.

Mr. Lambert:

“The charitable exception.”

Chairman Gross:

“Yes, the charitable exception, it had to come direct from the charitable organization, of which the BIA is not. The BIA has got to find an exception under something else.”

Senator Groen:

“I think you’re right. We made it very clear that they’re celebrating members’ achievements, past and present members’ achievements, and so I think their argument by our ethics rules would be that it’s a celebratory event.”

Chairman Gross:

“And if that’s the case, then let’s deal with it in an orderly fashion. I’m just not interested in writing letters off the cuff when I don’t have the Committee’s authorization. So I said to Rich, ‘If somebody wants to bring a request for an advisory opinion, we’ll deal with it, but other than that I’m not going to be forward about it....the event is October 26 – it’s getting awfully close – and apparently nobody wants to. Those who don’t want to go aren’t going; and those who want to go aren’t asking.’”

After further discussion, Chairman Gross stated:

“So there we are. I think we’re done. And I’d like to suggest that we adjourn to the call of the chair.... If we don’t meet again, I have to say that it’s been a pleasure serving with you. I’ve served on a lot of good committees and counseled them, and this has been a very good one. Everything we’ve had to take up, we’ve taken seriously. We’ve had great conversations. Nobody monopolized the situation. And I think that our outcomes have been productive. It would be interesting to me to see what others think of us.”

Representative Ulery mentioned that there was some negative reaction to the Committee’s advisory opinion on ski passes {AO 2011-4}.

Senator Groen:

“I was just about to suggest as we talked about the amount {the \$25 limit on gifts} that \$25 is pretty low. I do think that it unnecessarily restricts us – and I’m not coming back, I’m not running – but I think that if a legislator can be bought for \$50, they’re running pretty cheap. So I think it would make it easier {if the limit were raised to \$50}, there’s less hassle because \$25 is nothing.”

Chairman Gross:

“It’s always open to them if they want to amend the law. They’re the lawmakers. All we do is administer it.”

Representative Ulery:

“Well, it’s like Medicare, the 3rd rail, no one wants to touch it.”

Senator Merrill and Senator Groen expressed agreement with Representative Ulery’s observation.

The Committee’s meeting adjourned at approximately 11:25 a.m.