

**JOINT RULES REVISORS RESOLUTION**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Susan J. Koehn**

A JOINT RESOLUTION OF THE LEGISLATURE REVISING JOINT RULES; MAKING TECHNICAL REVISIONS TO JOINT RULES; AND PROVIDING AN EFFECTIVE DATE.

This resolution affects legislative rules as follows:

AMENDS:

**JR-4.06**

**JR-4.12**

**JR-4.22**

**JR-4.27**

**JR-4.40**

**JR-6.01**

**JR-6.03**

**JR-7.05**

**JR-10.01**

**JR-16.04**

**JR-19.03**

*Be it resolved by the Legislature of the state of Utah:*

Section 1. **JR-4.06** is amended to read:

**JR-4.06. Form of Resolutions.**

Every resolution shall contain:

- (1) a designation;
- (2) a short title;
- (3) the year and type of legislative session in which the resolution is to be introduced;
- (4) the phrase "State of Utah";
- (5) the sponsor's name;
- (6) a long title;

(7) a list of legislative rules or constitutional sections affected, if applicable;

~~[(7)]~~ (8) a resolving clause;

~~[(8)]~~ (9) preamble or statement of purpose or policy;

~~[(9)]~~ (10) basic provisions; and

~~[(10)]~~ (11) special clauses including, if necessary, an effective date.

Section 2. **JR-4.12** is amended to read:

**JR-4.12. Enacting Clause.**

The ~~[legal description]~~ long title of a bill is followed by an enacting clause in the following form:

Be it enacted by the Legislature of the state of Utah:

Section 3. **JR-4.22** is amended to read:

**JR-4.22. Bills; Requests; Drafting; Copies; Notes.**

(1) (a) A member desiring to introduce a bill shall file a Request for Legislation with the Office of Legislative Research and General Counsel.

(b) The request shall designate the chief sponsor.

(c) A bill may have two types of sponsors:

(i) a chief sponsor who is knowledgeable about and responsible for providing pertinent information as the bill is processed; and

(ii) supporting legislators who wish to cosponsor the bill.

(2) (a) When a member files a Request for Legislation, the Office of Legislative Research and General Counsel shall:

(i) review the request and any accompanying bill; and

(ii) with the approval of the sponsor, prepare the legislation for introduction by making any changes necessary to:

(A) insure that it is in proper legal form;

(B) remove any ambiguities;

(C) avoid constitutional or statutory conflicts;

(D) insure a uniform system of punctuation, capitalization, numbering, and wording;

(E) eliminate duplication and repeal of laws directly or by implication;

(F) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of existing statutes;

(G) eliminate all obsolete and redundant words; and

(H) correct obvious errors and inconsistencies in punctuation, capitalization, numbering, and wording.

(b) Legislative General Counsel shall indicate on the first page of the bill the drafting attorney's approval of the bill.

(3) The Office of Legislative Research and General Counsel shall reproduce ten copies of the approved bill and deliver:

(a) seven of them to the Chief Clerk or the Secretary; and

(b) three of them to the Legislative Fiscal Analyst for fiscal notes.

(4) (a) The Director of the Office of Legislative Research and General Counsel shall note on any bill reviewed by an interim committee that the committee recommends the bill or has voted the bill out without recommendation.

(b) This interim committee [or] note shall be printed with the bill.

(5) (a) Any Request for Legislation filed directly with the Office of Legislative Research and General Counsel, with an accompanying bill, shall be reviewed and approved by it within three legislative days.

(b) A legislative review note shall be attached to the bill, together with any interim committee note.

(c) This three day deadline may be extended if the Director of the Office of Legislative Research and General Counsel requests it and states the reasons for the delay.

(6) (a) (i) When the Legislative Fiscal Analyst receives the approved bill, that office has three legislative days to review the bill and provide a fiscal note to the sponsor of the legislation.

(ii) The fiscal note may be printed 24 hours after the sponsor receives it unless the sponsor receives the fiscal note on a Friday, in which case the 24-hour period does not expire until the following Monday.

(iii) The sponsor may direct an earlier release of the fiscal note for printing.

(iv) If the Legislative Fiscal Analyst determines the bill has no fiscal impact, it may be ordered printed immediately after the sponsor has received a copy of the fiscal note, without a 24-hour delay.

(b) The three day deadline for the preparation of the fiscal note may be extended if the Legislative Fiscal Analyst requests it and states the reasons for the delay.

(c) The fiscal note shall be printed with the bill.

(7) (a) The reports of the Legislative Fiscal Analyst and the Office of Legislative Research and General Counsel shall be attached to the original copy of the bill.

(b) The report is not an official part of the bill.

Section 4. **JR-4.27** is amended to read:

**JR-4.27. Prefiling of Bills.**

(1) Any legislator may prefile a bill commencing 60 days after each annual general session during any year when no election is pending for that legislator.

(2) An incumbent legislator who is undefeated in his primary election may prefile bills, after the primary election results are final.

(3) A legislator-elect may prefile a bill commencing on November 15 of each even-numbered year.

(4) To prefile a bill, a legislator or legislator-elect shall deliver to the Office of Legislative Research and General Counsel a copy of the bill in the form required by these rules for introduction during the session. The bill shall be given a number which it shall retain throughout the following annual general session.

(5) If an incumbent legislator is defeated in the general election, that legislator is ineligible to prefile any bills as of that date. Any bills prefiled by the legislator prior to that time shall be [~~withdrawn~~] abandoned unless within 30 days after the general election another member of the Legislature assumes sponsorship of that bill.

(6) If, for any reason, the sponsor of a prefiled bill is unavailable to serve in the next annual general session, the bill shall be [~~withdrawn~~] abandoned unless within 30 days another member of the Legislature assumes sponsorship of that bill.

Section 5. **JR-4.40** is amended to read:

**JR-4.40. Reservation of Bill Numbers.**

(1) In annual general legislative sessions occurring in odd-numbered years, House Bill 1 is reserved for the Annual Appropriations bill, Senate Bill 1 is reserved for a Supplemental Appropriations bill, House Bill 2 is reserved for the Revenue Bond bill, Senate Bill 2 is reserved for the General Obligation Bond bill, House Bill 3 is reserved for the School Finance bill, and Senate Bill 3 is reserved for the second Supplemental Appropriations bill[, ~~and House Bill 4 is reserved for the Appropriations Coordination Act~~].

(2) In annual general legislative sessions occurring in even-numbered years, House Bill 1 is reserved for a Supplemental Appropriations bill, Senate Bill 1 is reserved for the Annual Appropriations bill, House Bill 2 is reserved for the General Obligation Bond bill, Senate Bill 2 is reserved for the Revenue Bond bill, House Bill 3 is reserved for the second Supplemental Appropriations bill, and Senate Bill 3 is reserved for the School Finance Bill[, ~~and House Bill 4 is reserved for the Appropriations Coordination Act~~].

Section 6. **JR-6.01** is amended to read:

**JR-6.01. Transmittal Letter Accompany Bill.**

Every bill which is being transmitted between the two houses shall be accompanied by a [message] transmittal letter signed by the Secretary of the Senate or the Chief Clerk of the House of Representatives, as the case may be.

Section 7. **JR-6.03** is amended to read:

**JR-6.03. Transmittal Letter; By Whom Sent; Form.**

Any bill with its accompanying [message] transmittal letter shall be sent to the other house by an officer or employee designated by the Secretary of the Senate, if it is a Senate [message] transmittal letter, or by the Chief Clerk, if it is a House [message] transmittal letter. All such [messages] transmittal letters shall be in writing, signed by the Secretary of the Senate or by the Chief Clerk of the House of Representatives, respectively.

Section 8. **JR-7.05** is amended to read:

**JR-7.05. Presentation of Conference Report.**

If it is a House bill, the conferees of the Senate shall present the report of the committee first to the Senate. If it is a Senate bill, the conferees of the House shall present the report of the committee first to the House. After adopting the conference committee report, the bill shall be put at the top of the third reading calendar in that house for its consideration. When that house has acted on the bill, it shall transmit the bill and the report to the other house, with a ~~[message]~~ transmittal letter, certifying its action. Every report of a conference committee shall be read in each house, before a vote is taken on the report.

Section 9. **JR-10.01** is amended to read:

**JR-10.01. Journal.**

Each house shall keep a journal of its proceedings which shall be published daily. The journal shall be based upon the record of the proceedings taken by the ~~[Minute]~~ Reading or Docket Clerk and the electronic recording of those proceedings. The Secretary of the Senate and the Chief Clerk of the House of Representatives are responsible for the daily certification and the final certification of the journal for their respective house.

The vote on final passage of all bills shall be by yeas and nays and entered upon the journal. The yeas and nays on any other question shall be similarly entered on the journal of the respective house at the request of five members of that house.

Section 10. **JR-16.04** is amended to read:

**JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.**

In hearing and processing all complaints, these rules govern the procedures to be followed by the Senate and House Ethics Committees:

(1) (a) No information received by the committees concerning any alleged violation shall be disclosed to the public until the member of the Senate or House charged in the violation has received the Statement of Alleged Violations provided for under Subsection (4).

(b) No meetings of the committees shall be open to the public except a disciplinary hearing under Subsection (6).

(2) (a) All complaints submitted to the committees shall be in writing. Each complaint shall contain the following information:

(i) the name and address of the three Senators, if the respondent is a Senate member, or three Representatives, if the respondent is a House member, who are filing the complaint, who are the complainants;

(ii) the name and position or title of the person alleged to be in violation, who is the respondent;

(iii) the nature of the alleged violation;

(iv) any facts alleged to support the complaint, and when facts are based upon the information and belief of the complainants, the complaint shall state that and give the basis for the information and belief; and

(v) all documents which support the complaint as an attachment to it.

(b) All complaints shall be filed directly with the President of the Senate, if the respondent is a Senator, the Speaker of the House of Representatives, if the respondent is a Representative, and with the appropriate ethics committee chairman.

(3) (a) Within five days after receipt of the complaint, the staff of the committees shall examine each complaint to determine if it is in compliance with Subsection (2). If the complaint is not in compliance, it shall be returned to the complainants with a copy of the legislative rules on ethics. The complainants may resubmit the complaint. If the complaint is in compliance with the rules, it shall be filed with the chairman and the co-chairman of the committee.

Every member of the committee shall be notified of the filing of the complaint and its availability for inspection.

(b) Within 30 days after the complaint is filed, the chairman and co-chairman shall place the complaint on the agenda for consideration at the next committee meeting with the recommendation:

(i) that the complaint be considered; or

(ii) that the complaint be dismissed because it fails to allege facts which constitute a violation.

(4) (a) At the next meeting of the committee, the committee shall determine whether the alleged violation in the complaint is within the jurisdiction of the committee and whether the complaint merits further inquiry. The complainants and respondent shall be notified, in writing, of the action taken by the committee.

(b) If the committee determines that further investigation into the matter is merited, the committee meeting shall become a preliminary inquiry to determine whether the violation occurred. This preliminary inquiry is not open to the public.

(c) The chairman and the Director of the Office of Legislative Research and General Counsel may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of any materials the committee considers necessary to the inquiry.

(d) In the preliminary inquiry, the following rules apply:

(i) **Scope of Preliminary Inquiry.** The scope of the preliminary inquiry is limited to the alleged violations stated in the complaint.

(ii) **Attendance of Respondent or Others.**

(A) During the testimony and evidentiary stage of the preliminary inquiry, the respondent and his counsel may be present.

(B) Only (Senate, House, or Joint) Ethics Committee members and its staff shall be present during the other portions of the preliminary inquiry.

(iii) **Evidence.** Only relevant or material evidence is admissible in the hearing. The chairman's determination of admissibility is final and may only be overruled by a majority vote of the committee.

(iv) **Record.** A record shall be made which includes rulings of the chair, questions of the committee and its staff, the testimony and responses of witnesses, sworn statements submitted to the committee, relevant documents, and such other matters as the committee or its chairman may direct.

Except for the official record, no camera or recording device may be brought in or used in the preliminary inquiry.

(v) **Committee Chairman.**

(A) The committee chairman is vested with the power to direct the committee in the preliminary inquiry.

(B) If a committee member objects to a decision of the chair, that member may appeal the decision to the committee by stating: "I appeal the decision of the chair." This motion is nondebtable. The chairman shall direct a roll call vote to determine if the committee membership supports the decision of the chair. A majority vote of the committee is necessary to overrule the



decision of the chairman.

(C) The chairman may set time limitations on any part of the preliminary inquiry.

(vi) Testimony.

(A) At the direction of the committee chairman and co-chairman the committee may hear the testimony of the complainants, the respondent, and witnesses.

(B) If a witness desires, the witness shall be permitted to make a brief opening statement.

(C) Examination of a witness shall be under the direction of the committee chairman. After the witness's presentation, committee members shall question the witness, after which the respondent shall be given an opportunity to question the witness. Further examination by the committee, committee staff, or the respondent shall be as directed by the committee chairman.

(D) The witness's disobedience to the chairman's direction to answer a question constitutes contempt. The chairman's direction may only be overruled by a vote of the majority of the committee members present.

The object of the Fifth Amendment privilege not to incriminate oneself is so no criminal action will be prosecuted. If a witness cannot be prosecuted for the crime to which his testimony relates, it is improper for the witness to invoke the privilege.

(E) The committee chairman shall direct each witness to furnish any relevant book, paper, affidavit, or other written evidence for the committee's consideration, which material the witness has chosen to bring or the production of which has been required by subpoena duces tecum. Unless overruled by a majority vote of the committee members present, disobedience to the chairman's direction to produce such documents in response to a subpoena duces tecum constitutes a contempt.

(F) A witness may be allowed to insert in the record sworn written statements of reasonable length relevant to the purpose, subject matter, and scope of the investigation.

(G) Unless otherwise directed by committee, all witnesses shall testify under oath.

(H) Legislative General Counsel shall administer the oath to each witness.

(vii) Response of Respondent. The respondent shall be given an opportunity to respond, orally or in writing, to the allegations stated in the complaint.

(viii) Advice of Counsel.

(A) Any witness testifying before the committee may have his counsel present.

(B) When the committee seeks factual testimony within the personal knowledge of the witness, such testimony and answers should be given by the witness himself and not suggested to the witness by counsel. Counsel for a witness should not advise the witness during the witness's testimony, except when specifically requested by the witness.

(C) The participation of counsel at a hearing and while a witness is testifying is limited to advising the witness of his legal rights. Counsel shall not be permitted to address the committee, ask questions of any witness, or engage in oral arguments with the committee, but must confine his activity exclusively to private conversations of legal advice to his client. Counsel's failure to abide by these rules is grounds for counsel's exclusion from the preliminary inquiry.

(ix) Contempt. A majority of the members of the committee may compel obedience to the requirements of the committee by way of contempt proceedings begun by application to a state district court as to any person who:

(A) fails to comply with a subpoena or a subpoena duces tecum;

(B) refuses to answer a question relevant to the investigation which does not infringe on his constitutional rights; or

(C) is guilty of contempt on any other grounds specified in statute or recognized at common law.

(x) Interested Persons. Upon consent of a majority of its members, the (Senate, House, or Joint) Ethics Committee may permit any person, not compelled or invited, to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record.

(xi) Subpoena Power. At the direction of a majority of the committee, the committee chairman may direct staff to issue subpoenas to direct the attendance of witnesses and to issue subpoena duces tecum to direct the production of documents.

(xii) Release of Testimony. The release of any testimony or other evidence presented at a closed hearing and the form and manner of such release shall be by a majority vote of all members of the committee. Committee members and its staff shall not publicly disclose any other part of the

preliminary inquiry.

(xiii) Continuance of Preliminary Inquiry. If a majority of the committee determines that further evidence and testimony are necessary, they may adjourn and continue the preliminary inquiry hearing to a future date, which date shall be established by a majority of the committee.

(xiv) Burden of Proof. If, at the conclusion of the preliminary inquiry, the committee determines, by a preponderance of the evidence, that there is reason to believe the alleged violation of the Code of Official Conduct did occur, the committee shall direct staff to prepare a summary of the preliminary inquiry.

(xv) Special Prosecutor. If an ethics probe goes beyond the preliminary inquiry stage, the Senate or House Ethics Committee shall direct the chairman to appoint a special prosecutor. This special prosecutor shall be paid by the Senate if it is a Senate Ethics Committee or the House if it is a House Ethics Committee. The special prosecutor shall prepare the Statement of Alleged Violation from the summary prepared by the committee staff. The special prosecutor is also responsible for prosecuting the respondent in the disciplinary hearing.

(xvi) Voting. If the committee is unable to achieve a majority vote directing further proceedings against the respondent, this constitutes a dismissal of the complaint.

(xvii) Announcement of Committee's Decision. At the conclusion of the committee's deliberations, when a decision has been reached, the respondent and his counsel shall be invited into the committee room to hear the committee's decision.

(e) At the completion of the preliminary inquiry, the staff of the committee shall keep a file containing a comprehensive summary of the inquiry.

(f) If the committee determines that there is reason to believe the alleged violation did occur, the committee shall direct the special prosecutor to transmit to the respondent and to the complainants a copy of the Statement of Alleged Violation. The statement shall be divided into counts. Each count shall allege a separate violation, and the facts which support each count.

(5) (a) The respondent has 30 days from receipt of the Statement of Alleged Violation to respond. The response shall be in writing and shall be signed by the respondent or the respondent's counsel. The response shall be limited to the following:

(i) an admission or denial of each count, under oath, with any supportive evidence or relevant information;

(ii) an objection to any or all counts on the grounds that the count fails to state facts which constitute a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to a member of the Senate or House in the performance of legislative responsibilities;

(iii) an objection to the jurisdiction of the committee considering the allegations contained in the statement;

(iv) a motion for a more detailed statement regarding the cause of action stated in the complaint; or

(v) an objection to the participation of any member of the committee, the committee's staff, or the special prosecutor on the grounds that that person would be unable to render a fair and impartial judgment or investigation. The committee, by majority vote, shall judge the qualifications of the person against whom the objection is raised.

(b) The respondent's failure to submit a response to the Statement of Alleged Violation or any count contained in it constitutes an admission of the alleged violation.

(c) Within 30 days after receipt of the respondent's response, the committee shall determine, by majority vote, to:

(i) dismiss the complaint;

(ii) grant or deny the respondent's motion for a more detailed statement, and if this motion is granted, direct the special prosecutor to give a more detail in the Statement of Alleged Violation and give the respondent 30 days from receipt of this statement to respond as provided in Section (5);

(iii) hold a disciplinary hearing; or

(iv) defer action, if a judicial proceeding is pending.

(d) If the committee is unable to achieve a majority vote directing further proceedings against the respondent, this constitutes a dismissal of the statement. The respondent and complainants shall be notified, in writing, of the action taken by the committee.

(e) The chairman may extend any time limitation, if the extension would facilitate a fair and

complete inquiry. The chairman may shorten any time limitation, if special circumstances necessitate this being done.

(6) (a) Prior to any disciplinary hearing, the committee shall adopt a statement establishing the scope and purpose of the hearing. A copy of this statement shall be furnished to all witnesses. The scope and purpose may expand or contract during the hearing, depending upon evidence received. The respondent has the right to counsel during all stages of the disciplinary hearing.

(b) The disciplinary hearing is open to the public and consists of two phases. Phase I is to determine whether or not the counts in the statement have been proved. This phase shall be conducted as follows:

(i) The meeting shall be opened by the chairman. He shall give a statement of the committee's authority to conduct the hearing and the purpose and scope of the hearing.

(ii) Witnesses and evidence shall be received in the following order whenever possible:

(A) witnesses and evidence offered by the special prosecutor;

(B) witnesses and evidence offered by the respondent;

(C) rebuttal witnesses.

(iii) All witnesses shall testify under oath. Witnesses offered by the special prosecutor at a hearing shall be examined first by the special prosecutor. The respondent or respondent's counsel may then cross-examine the witnesses. The committee members and committee staff may then question the witnesses. Redirect and recross examination may be permitted in the chairman's discretion. Witnesses offered by the respondent shall be examined first by the respondent or respondent's counsel, and then may be cross-examined by the special prosecutor. Committee members and committee staff may then question the witness. Redirect and recross examination may be permitted in the chairman's discretion.

(iv) At a disciplinary hearing, the burden of proof rests upon the special prosecutor to establish the facts clearly and convincingly by the evidence they introduce.

(c) Phase II of a disciplinary hearing is to determine what recommendation should be made to the Senate or House with respect to any count which has been proved. The committee shall hear no further testimony during Phase II except by a majority vote of the committee.

(d) A count is not proved unless a majority of the committee so determine by vote. A count which is not proved shall be dismissed. If a majority of the committee does not vote that a count has been proved, a motion to reconsider that vote may only be made by a member of the committee who voted that the count was not proved.

(7) (a) The committee may, for any count that has been voted as proved, recommend one or more of the following actions:

(i) censure;

(ii) [~~exclusion~~] expulsion;

(iii) denial or limitation of any right, power, or privilege of the respondent, if under the Utah Constitution the Senate or House may impose such denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or privilege; or

(iv) any other action the committee determines appropriate.

(b) If a majority of the committee does not vote in favor of the recommendation for action, a motion to reconsider may only be made by a member of the committee who voted against the recommendation.

(c) The committee's recommendation to the Senate or House shall be submitted in writing and shall contain a brief but complete statement of the evidence which supports their recommendations.

(8) The Senate or House shall consider the recommendations of the committee and shall, by a majority vote of that house, either accept, dismiss, or alter these recommendations. If the committee's recommendations are for expulsion of a Senator or Representative, acceptance of this recommendation requires a two-thirds vote of all the members elected to the Senate or to the House.

Section 11. **JR-19.03** is amended to read:

**JR-19.03. Fiscal Note Threshold; Deadline for Passing Fiscal Note Bills.**

(1) (a) The House shall refer any Senate bill with a fiscal note of \$10,000 or more to the House Rules Committee before giving that bill a third reading.

(b) The Senate shall table on third reading each House bill with a fiscal note of \$10,000 or more.

(2) (a) Before adjourning on the 33rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding according to the process established by leadership.

(b) Before adjourning on the 40th day of the annual general session, the Legislature shall~~[-~~(~~†~~) either pass or defeat each bill with a fiscal note of \$10,000 or more except constitutional amendment resolutions~~[-and]~~.

~~[(ii) either pass or defeat any appropriation coordination act.]~~

Section 12. **Effective date.**

This resolution takes effect upon approval by a constitutional majority vote of all members of the Senate and House of Representatives.