

1 JOINT RESOLUTION ON ETHICS

2 COMPLAINT PROCEDURES

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: John L. Valentine

6 House Sponsor: David Litvack

7	Cosponsors:	David P. Hinkins	Ralph Okerlund
8	J. Stuart Adams	Scott K. Jenkins	Luz Robles
9	Curtis S. Bramble	Patricia W. Jones	Ross I. Romero
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13	Margaret Dayton	Karen Mayne	Stephen H. Urquhart
14	Brent H. Goodfellow	Benjamin M. McAdams	Kevin T. Van Tassell
15	Jon J. Greiner	Karen W. Morgan	Michael G. Waddoups
16	Lyle W. Hillyard	Wayne L. Niederhauser	



18 LONG TITLE

19 General Description:

20 This bill modifies the joint legislative rules that govern the receipt and review of an
21 ethics complaint against a legislator.

22 Highlighted Provisions:

23 This resolution:

- 24 ▶ establishes an Independent Legislative Ethics Commission;
- 25 ▶ establishes membership for the commission;
- 26 ▶ provides qualifications for membership;
- 27 ▶ provides term periods and replacement procedures for a member of the
28 commission;
- 29 ▶ provides for the resignation, removal, or recusal of a member of the commission;
- 30 ▶ provides per diem for commission members;
- 31 ▶ provides procedures for calling a meeting of the commission;
- 32 ▶ requires the commission to prepare a public summary data report on an annual

- 33 basis and requires that the report be submitted to a committee of the Legislature;
- 34 ▶ provides for an independent staff to assist the commission;
- 35 ▶ specifies the grounds upon which an ethics complaint may be filed against a
- 36 legislator;
- 37 ▶ provides certain time and jurisdiction limitations on filing an ethics complaint;
- 38 ▶ establishes a general outline of hearing procedures for reviewing an ethics
- 39 complaint;
- 40 ▶ provides the chair of the commission or an ethics committee with the authority to
- 41 direct proceedings and make rulings;
- 42 ▶ permits a majority of the commission or committee to overrule certain decisions of
- 43 the chair;
- 44 ▶ provides subpoena powers to the commission and committees;
- 45 ▶ provides procedures for issuing a subpoena;
- 46 ▶ defines actions that constitute contempt of the Legislature in relation to procedures
- 47 established under these rules;
- 48 ▶ provides procedures for enforcing findings of contempt of the Legislature;
- 49 ▶ provides general procedures for the examination of a witness;
- 50 ▶ establishes permitted and restricted communications by commission and committee
- 51 members during the period that an ethics complaint is under review;
- 52 ▶ establishes rules that govern the payment of attorney fees and costs;
- 53 ▶ establishes conduct requirements for an attorney appearing before the commission
- 54 or a committee;
- 55 ▶ provides procedures for filing an ethics complaint, including:
- 56 • who may file a complaint;
- 57 • restrictions on dates for filing a complaint;
- 58 • the form of the complaint; and
- 59 • information required to be included in the complaint;
- 60 ▶ prohibits any person from disclosing the existence or contents of an ethics

- 61 complaint while the commission is reviewing the complaint with certain exceptions;
- 62 ▶ requires a complaint to be filed with the Senate or House Ethics Committee;
- 63 ▶ changes the title of an ethics committee cochair to vice chair;
- 64 ▶ modifies provisions for the recusal of an ethics committee member;
- 65 ▶ requires the chair and vice chair of the committee to review the complaint for
- 66 technical compliance with filing rules;
- 67 ▶ requires a new complaint to be filed if the original complaint fails to meet filing
- 68 requirements;
- 69 ▶ requires the chair and vice chair of an ethics committee to forward a complaint that
- 70 meets the filing requirements to the Independent Legislative Ethics Commission;
- 71 ▶ provides that the commission shall conduct the original review of each ethics
- 72 complaint;
- 73 ▶ provides that commission meetings and hearings shall be closed to the public;
- 74 ▶ permits the commission or an ethics committee to dismiss allegations that have
- 75 previously been heard by the commission or an ethics committee;
- 76 ▶ provides procedures for the commission to schedule a meeting to review an ethics
- 77 complaint;
- 78 ▶ permits the accused legislator, referred to as the respondent, to file a response to the
- 79 complaint;
- 80 ▶ establishes procedures and requirements for filing a response;
- 81 ▶ permits the commission to hold meetings on preliminary matters in relation to a
- 82 complaint before holding the formal review of the complaint;
- 83 ▶ provides that the scope of the committee's authority is limited to review of those
- 84 allegations contained in the complaint;
- 85 ▶ provides procedures for the commission's review of the complaint;
- 86 ▶ permits the commission to consult on certain issues with commission staff outside
- 87 of the presence of parties and their counsel;
- 88 ▶ prohibits third party recording of commission meetings, except under limited

89 circumstances;

90 ▶ requires that all portions of the commission's meetings be recorded;

91 ▶ provides procedures for storing a record of commission meetings;

92 ▶ provides that recordings and records of commission meetings are to be classified as

93 private records under the Government Records Access and Management Act;

94 ▶ provides procedures for the commission's deliberations when reviewing an ethics

95 complaint;

96 ▶ provides standards of evidence and voting procedures to be used by the

97 commission in determining whether each allegation in a complaint is proved or not

98 proved;

99 ▶ requires the commission to dismiss allegations that are not found to be proved;

100 ▶ if one or more allegation is found to be proved, requires the commission to:

101 • refer the proved allegations to the Senate Ethics Committee or the House Ethics

102 Committee; and

103 • prepare a recommendation, a modified complaint, and a modified response for

104 public release and submission to the ethics committee for review;

105 ▶ provides procedures for the ethics committee's review of allegations submitted by

106 the commission;

107 ▶ provides that committee meetings for review of the allegations submitted by the

108 commission are subject to the Open and Public Meetings Act;

109 ▶ permits the committee to close the meeting for discussion of certain matters;

110 ▶ prohibits third party recording of committee meetings, except under limited

111 circumstances;

112 ▶ requires that all portions of the committee's meetings be recorded;

113 ▶ provides procedures for storing a record of committee meetings;

114 ▶ provides procedures for the committee's deliberations;

115 ▶ provides standards of evidence and voting procedures to be used by a committee in

116 determining whether each allegation referred to the committee by the commission

117 is proved or not proved;

- 118 ▶ requires a committee to dismiss allegations that are not found to be proved;
- 119 ▶ requires a committee to publicly issue a finding and order on the allegations;
- 120 ▶ if one or more allegation is found to be proved, requires the committee to:
 - 121 • vote on a recommended consequence for the violation, including censure,
 - 122 expulsion, or denial of any of the respondent's rights or privileges; and
 - 123 • refer the finding and order to the membership of the House or Senate; and
 - 124 ▶ makes technical changes.

125 **Special Clauses:**

126 This resolution provides an immediate effective date.

127 **Legislative Rules Affected:**

128 AMENDS:

- 129 **JR6-2-101**
- 130 **JR6-2-102**
- 131 **JR6-2-201**
- 132 **JR6-3-101**
- 133 **JR6-4-101**
- 134 **JR6-4-102**
- 135 **JR6-4-201**

136 ENACTS:

- 137 **JR6-2-103**
- 138 **JR6-2-104**
- 139 **JR6-2-301**
- 140 **JR6-2-302**
- 141 **JR6-2-303**
- 142 **JR6-2-304**
- 143 **JR6-2-305**
- 144 **JR6-2-306**

145 **JR6-2-307**

146 **JR6-3-102**

147 **JR6-4-103**

148 REPEALS AND REENACTS:

149 **JR6-2-202**

150 **JR6-4-202**

151 **JR6-4-203**

152 **JR6-4-204**

153 **JR6-4-301**

154 **JR6-4-302**

155 **JR6-4-303**

156 **JR6-4-304**

157 **JR6-4-305**

158 **JR6-4-306**

159 REPEALS:

160 **JR6-4-205**

161 **JR6-4-206**

162 **JR6-4-207**

163 **JR6-4-307**

164 **JR6-4-308**

165 **JR6-4-309**

166 **JR6-4-310**

167

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

169 Section 1. **JR6-2-101** is amended to read:

170 **CHAPTER 2. HOUSE AND SENATE ETHICS COMMITTEES**

171 **AND INDEPENDENT LEGISLATIVE ETHICS COMMISSION**

172 **Part 1. Membership, Meetings, and Staff**

173 **JR6-2-101. Ethics Committees -- Membership.**

174 (1) There is established a Senate Ethics Committee and a House Ethics Committee.

175 (2) The Senate Ethics Committee shall be composed of:

176 (a) the chair and three additional [~~members~~] Senators appointed by the President of
177 the Senate; and

178 (b) the [~~cochair~~] vice chair and three additional [~~members~~] Senators appointed by the
179 Senate minority leader.

180 (3) The House Ethics Committee shall be composed of:

181 (a) the chair and three additional [~~members~~] Representatives appointed by the Speaker
182 of the House of Representatives; and

183 (b) the [~~cochair~~] vice chair and three additional [~~members~~] Representatives appointed
184 by the House minority leader.

185 (4) [~~Members of the committees~~] A committee member shall serve a two-year [~~terms~~]
186 term.

187 (5) (a) ~~If a [complaint is filed against any member of the respective ethics~~
188 ~~committees, the President of the Senate or the Speaker of the House shall appoint another]~~
189 member of an ethics committee is accused of wrongdoing in a complaint to be reviewed by the
190 committee, or if a member of an ethics committee determines that he or she has a conflict of
191 interest in relation to a complaint to be reviewed by the ethics committee, a member of the
192 Senate or House [to] shall be appointed to temporarily serve in that member's place while the
193 complaint is under review[:] as follows:

194 (i) except as provided in Subsection (5)(a)(ii), the member shall be appointed by the
195 person who appointed the member who is being temporarily replaced, consistent with
196 Subsection (2), for a member of the Senate Ethics Committee, or Subsection (3), for the House
197 Ethics Committee; or

198 (ii) if the person designated to make the appointment under Subsection (5)(a)(i) is
199 accused of wrongdoing in the complaint or determines that he or she has a conflict of interest
200 in relation to the complaint, the appointment shall be made by:

- 201 (A) the Senate majority leader, if the person designated is the President of the Senate;
- 202 (B) the Senate minority whip, if the person designated is the Senate minority leader;
- 203 (C) the House majority leader, if the person designated is the Speaker of the House; or
- 204 (D) the House minority whip, if the person designated is the House minority leader.
- 205 (b) The temporary committee member's term ends when the committee has concluded
- 206 its review of the complaint.

207 Section 2. **JR6-2-102** is amended to read:

208 **JR6-2-102. Ethics Committee -- Meetings and Staff.**

209 (1) The Senate and House Ethics Committees shall operate as both standing and

210 interim committees.

211 (2) The committees shall meet as necessary, either as called at:

212 (a) the discretion of the chair; or

213 (b) by a majority vote of the committee.

214 (3) A majority of the committee is a quorum.

215 (4) The staff of [~~the committees~~] each committee consists of:

216 (a) the director of the Office of Legislative Research and General Counsel;

217 (b) the Legislative General Counsel; and

218 (c) any other [~~members of the~~] staff [~~of that office~~] designated by the director or the

219 Legislative General Counsel.

220 Section 3. **JR6-2-103** is enacted to read:

221 **JR6-2-103. Independent Legislative Ethics Commission -- Membership.**

222 (1) There is established an Independent Legislative Ethics Commission.

223 (2) The commission is composed of five persons, each of whom is registered to vote in

224 this state, appointed as follows:

225 (a) two members, who have served, but no longer serve, as judges of a court of record

226 in this state, each of whom shall be nominated by the mutual consent of the President of the

227 Senate and the Speaker of the House, and appointed by a majority vote of the President of the

228 Senate, Speaker of the House, Senate minority leader, and House minority leader;

229 (b) one member, who has served, but no longer serves, as a judge of a court of record
230 in this state, nominated by the mutual consent of the Senate minority leader and the House
231 minority leader, and appointed by a majority vote of the President of the Senate, Speaker of
232 the House, Senate minority leader, and House minority leader;

233 (c) one member, who has served as a member of the Legislature in this state no more
234 recently than four years before the date of appointment, appointed by the mutual consent of
235 the President of the Senate and the Speaker of the House of Representatives; and

236 (d) one member, who has served as a member of the Legislature in this state no more
237 recently than four years before the date of appointment, appointed by the mutual consent of
238 the Senate minority leader and House minority leader.

239 (3) A member of the commission may not, during the member's term of office on the
240 commission, act or serve as:

241 (a) an officeholder as defined in Section 20A-11-101;

242 (b) an agency head as defined in Section 67-16-3;

243 (c) a lobbyist as defined in Section 36-11-102; or

244 (d) a principal as defined in Section 36-11-102.

245 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission
246 shall serve a four-year term.

247 (ii) When appointing the initial members upon formation of the commission, one
248 member nominated by the President of the Senate and the Speaker of the House of
249 Representatives and one member nominated by the Senate minority leader and House minority
250 leader shall be appointed to a two-year term so that approximately half of the commission is
251 appointed every two years.

252 (b) (i) When a vacancy occurs in the commission's membership for any reason, a
253 replacement member shall be appointed for the unexpired term of the vacating member using
254 the procedures and requirements of Subsection (2).

255 (ii) For the purposes of this rule, an appointment for an unexpired term of a vacating
256 member is not considered a full term.

257 (c) A member may not be appointed to serve for more than two full terms, whether
258 those terms are two or four years.

259 (d) A member of the commission may resign from the commission by giving one
260 month's written notice of the resignation to the President of the Senate, Speaker of the House,
261 Senate minority leader, and House minority leader.

262 (e) The chair of the Legislative Management Committee shall remove a member from
263 the commission if the member:

264 (i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

265 (ii) enters a plea of no contest or a plea in abeyance to a crime involving moral
266 turpitude; or

267 (iii) fails to meet the qualifications of office as provided in this rule.

268 (f) If a commission member is accused of wrongdoing in a complaint, or if a
269 commission member determines that he or she has a conflict of interest in relation to a
270 complaint, a temporary commission member shall be appointed to serve in that member's
271 place for the purposes of reviewing that complaint using the procedures and requirements of
272 Subsection (2).

273 (5) (a) A member of the commission may not receive compensation or benefits for the
274 member's service, but may receive per diem and expenses incurred in the performance of the
275 member's official duties at the rates established by the Division of Finance under Sections
276 63A-3-106 and 63A-3-107.

277 (b) A member may decline to receive per diem and expenses for the member's service.

278 (6) (a) The commission members shall convene a meeting annually each January and
279 elect, by a majority vote, a commission chair from among the commission members.

280 (b) A person may not serve as chair for more than two consecutive years.

281 Section 4. **JR6-2-104** is enacted to read:

282 **JR6-2-104. Independent Legislative Ethics Commission -- Meetings -- Staff.**

283 (1) The Independent Legislative Ethics Commission shall meet for the purpose of
284 reviewing an ethics complaint when:

285 (a) except otherwise expressly provided in this title, called to meet at the discretion of
286 the chair; or

287 (b) called to meet by a majority vote of the commission.

288 (2) A majority of the commission is a quorum.

289 (3) (a) The commission shall prepare, on an annual basis, a summary data report that
290 contains:

291 (i) a general description of the activities of the commission during the past year;

292 (ii) the number of ethics complaints filed with the commission;

293 (iii) the number of ethics complaints reviewed by the commission;

294 (iv) the number of complaints filed against a member of the House of Representatives;

295 (v) the number of complaints filed against a member of the Senate;

296 (vi) a summary description of any ethics complaints that were recommended by the
297 commission for review by a Legislative ethics committee; and

298 (vii) an accounting of the commission's budget and expenditures.

299 (b) The summary data report shall be submitted to an appropriate committee of the
300 Legislature on an annual basis.

301 (c) The summary data report shall be a public record.

302 (4) (a) The Senate and the House of Representatives shall employ staff for the
303 commission at a level that is reasonable to assist the commission in performing its duties as
304 established in this chapter.

305 (b) The Legislative Management Committee shall:

306 (i) authorize each staff position for the commission; and

307 (ii) approve the employment of each staff member for the commission.

308 (c) Staff for the commission shall work only for the commission and may not perform
309 services for the Senate, House of Representatives, or other legislative offices.

310 Section 5. **JR6-2-201** is amended to read:

311 **Part 2. General Powers and Procedures**

312 **JR6-2-201. Authority to Review Complaints -- Grounds for Complaint --**

313 **Limitations on Filings.**

314 ~~[The] (1) Subject to the requirements of this chapter, the Senate Ethics Committee~~
315 ~~[and], the House Ethics Committee [shall review and adjudicate any charges brought against a~~
316 ~~member of the Senate or House for acts that violate: (1) the Code of Official Conduct; or (2)~~
317 ~~any law, rule, regulation, or other standard of conduct applicable to the conduct of a member~~
318 ~~of the Senate or House in the performance of legislative responsibilities, if the conduct would~~
319 ~~reflect discredit upon the Senate or House as a whole.], and the Independent Legislative Ethics~~
320 Commission are authorized to review an ethics complaint against a legislator if the complaint
321 alleges:

322 (a) a violation of the Code of Official Conduct as provided in JR6-1-102;

323 (b) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or

324 (c) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.

325 (2) (a) For an alleged violation under Subsection (1)(a), the complaint must be filed
326 within two years of the date that the action or omission that forms the basis of the alleged
327 violation occurred or within two years of the date that the action or omission would have been
328 discovered by a reasonable person.

329 (b) For an alleged violation under Subsection (1)(b) or (1)(c), the complaint shall be
330 filed within two years of the date that the plea or conviction that forms the basis of the
331 allegation was entered.

332 (3) (a) A complaint may not contain an allegation if that allegation and the general
333 facts and circumstances supporting that allegation have been previously reviewed by the
334 commission or an ethics committee unless:

335 (i) the allegation was previously reviewed by the commission and dismissed without
336 being referred to an ethics committee for review;

337 (ii) the allegation is accompanied by material facts or circumstances supporting the
338 allegation that were not raised or pled to the commission when the allegation was previously
339 reviewed; and

340 (iii) the allegation and the general facts and circumstances supporting that allegation

341 have only been reviewed by the commission on one previous occasion.

342 (b) If an allegation in the complaint does not comply with the requirements of
343 Subsection (3)(a), the committee chairs, when reviewing the complaint under JR6-4-101, or
344 the commission, shall summarily dismiss that allegation with prejudice.

345 Section 6. **JR6-2-202** is repealed and reenacted to read:

346 **JR6-2-202. General Powers -- Jurisdiction.**

347 (1) The commission and the committees have jurisdiction only over an individual who
348 is currently serving in the Legislature.

349 (2) The commission and the committees shall dismiss an ethics complaint if the
350 respondent legislator resigns from the Legislature.

351 Section 7. **JR6-2-301** is enacted to read:

352 **Part 3. General Provisions Governing Hearings on Ethics Complaint**

353 **JR6-2-301. General Procedures for Conducting a Hearing on an Ethics**

354 **Complaint.**

355 (1) In conducting a hearing on a complaint, the Independent Legislative Ethics
356 Commission or the Senate or House Ethics Committee shall comply with the following
357 process in the order specified:

358 (a) introduction and instructions for procedure and process, at the discretion of the
359 chair;

360 (b) complainants' opening argument, to be presented by a complainant or
361 complainants' counsel;

362 (c) complainants' presentation of evidence and witnesses in support of allegations in
363 the complaint;

364 (d) consideration of motions to dismiss the complaint or motions for a directed
365 verdict, as applicable;

366 (e) respondent's opening argument, to be presented by the respondent or respondent's
367 counsel;

368 (f) respondent's presentation of evidence and witnesses refuting allegations in the

369 complaint;

370 (g) presentation of rebuttal evidence and witnesses by the complainants, at the
371 discretion of the chair;

372 (h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion
373 of the chair;

374 (i) complainants' closing argument, to be presented by a complainant or complainants'
375 counsel;

376 (j) respondent's closing argument, to be presented by the respondent or respondent's
377 counsel;

378 (k) deliberations by the commission or committee; and

379 (1) adoption of the commission's or committee's findings.

380 (2) The commission or an ethics committee may, in extraordinary circumstances, vary
381 the order contained in Subsection (1) by majority vote and by providing notice to the parties.

382 (3) The chair may schedule the examination of a witness or evidence subpoenaed at
383 the request of the chair or the committee under JR6-2-303 at the chair's discretion.

384 Section 8. **JR6-2-302** is enacted to read:

385 **JR6-2-302. Chair as Presiding Judge.**

386 (1) Except as expressly provided otherwise in this title, the chair of the Independent
387 Legislative Ethics Commission and the chair of the Senate or House Ethics Committee is
388 vested with the power to direct the commission or committee during meetings authorized by
389 this title.

390 (2) Unless expressly prohibited from doing so under this title, the commission or
391 committee may overrule a decision of the chair by using the following procedure:

392 (a) If a member objects to a decision of the chair, that member may appeal the
393 decision by stating:

394 (i) "I appeal the decision of the chair."; and

395 (ii) the basis for the objection.

396 (b) This motion is nondebatable.

397 (c) The chair shall direct a roll call vote to determine if the commission or committee
398 supports the decision of the chair.

399 (d) A majority vote of the commission or committee is necessary to overrule the
400 decision of the chair.

401 (3) The chair may set time limitations on any part of a meeting or hearing authorized
402 by this title.

403 Section 9. **JR6-2-303** is enacted to read:

404 **JR6-2-303. Subpoena Powers.**

405 (1) For all proceedings authorized by this title, the Independent Legislative Ethics
406 Commission or the Senate or House Ethics Committee may issue a subpoena to:

407 (a) require the attendance of a witness;

408 (b) direct the production of evidence; or

409 (c) require both the attendance of a witness and the production of evidence.

410 (2) The commission shall issue a subpoena under this rule:

411 (a) as required under JR6-2-305;

412 (b) at the direction of the commission chair, if the chair determines that the testimony
413 or evidence is relevant to the review of a complaint under Chapter 4, Part 2, Review of Ethics
414 Complaint by the Independent Legislative Ethics Commission; or

415 (c) upon a vote of a majority of the commission members.

416 (3) An ethics committee shall issue a subpoena under this rule:

417 (a) as required under JR6-2-305;

418 (b) at the direction of the committee chair or vice chair, if the chair or vice chair
419 determines that the testimony or evidence is relevant to review of a complaint under Chapter 4,
420 Part 3, Review of Ethics Complaint by Ethics Committee; or

421 (c) upon a vote of a majority of the committee members.

422 (4) The Director of the Office of Legislative Research and General Counsel shall issue
423 a subpoena on behalf of an ethics committee when requested to do so by one of the persons or
424 entities authorized to do so under Subsection (3).

425 Section 10. **JR6-2-304** is enacted to read:

426 **JR6-2-304. Contempt of the Legislature.**

427 (1) (a) The following actions constitute contempt of the Legislature in relation to
428 actions and proceedings under this title:

429 (i) disobedience to a direction of the commission chair;

430 (ii) disobedience to a direction of an ethics committee chair;

431 (iii) failure to answer a question during a hearing when directed to do so by:

432 (A) the commission chair, unless the direction is overridden by the commission under
433 JR6-2-302;

434 (B) an ethics committee chair, unless the direction is overridden by the committee
435 under JR6-2-302; or

436 (C) a majority of the commission or committee;

437 (iv) failure to comply with a subpoena or other order issued under authority of this
438 title;

439 (v) violation of privacy provisions established by JR6-3-102;

440 (vi) violation of the communication provisions established by JR6-2-306;

441 (vii) violation of a request to comply with a provision of this title by a chair or a
442 majority of the members of the commission or committee; or

443 (viii) any other ground that is specified in statute or recognized at common law.

444 (b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is
445 to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth
446 Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's
447 testimony relates.

448 (2) (a) The following persons may authorize an enforcement action against a person in
449 contempt of the Legislature under the provisions of this title:

450 (i) the commission chair, subject to the provisions of JR6-2-302;

451 (ii) members of the commission, by means of a majority vote;

452 (iii) an ethics committee chair, subject to the provisions of JR6-2-302; or

453 (iv) members of an ethics committee, by means of a majority vote.

454 (b) In initiating and pursuing an action against an individual for contempt of the
455 Legislature, the plaintiff shall comply with the procedures and requirements of Section
456 36-14-5.

457 Section 11. **JR6-2-305** is enacted to read:

458 **JR6-2-305. Testimony and Examination of Witnesses -- Oath -- Procedure --**
459 **Contempt.**

460 (1) (a) The chair shall ensure that each witness listed in the complaint and response is
461 subpoenaed for appearance at the hearing unless:

462 (i) the witness is unable to be properly identified or located; or

463 (ii) service is otherwise determined to be impracticable.

464 (b) The chair shall determine the scheduling and order of witnesses and presentation
465 of evidence.

466 (c) The commission or committee may, by majority vote:

467 (i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);

468 (ii) modify the chair's determination on the scheduling and order of witnesses under
469 Subsection (1)(b);

470 (iii) decline to hear or call a witness that has been requested by the complainant or
471 respondent;

472 (iv) decline to review or consider evidence submitted in relation to an ethics
473 complaint; or

474 (v) request and subpoena witnesses or evidence according to the procedures of
475 JR6-2-303.

476 (2) (a) Each witness shall testify under oath.

477 (b) The chair or the chair's designee shall administer the oath to each witness.

478 (3) After the oath has been administered to the witness, the chair shall direct testimony
479 as follows:

480 (a) allow the party that has called the witness, or that party's counsel, to question the

481 witness;

482 (b) allow the opposing party, or that party's counsel, to cross-examine the witness;

483 (c) allow additional questioning by a party or a party's counsel as appropriate;

484 (d) give commission or committee members the opportunity to question the witness;

485 and

486 (e) as appropriate, allow further examination of the witness by the commission or

487 committee, or the parties or their counsel.

488 (4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:

489 (i) direct the witness to answer; or

490 (ii) rule that the witness is not required to answer the question.

491 (b) If the witness declines to answer a question after the chair or a majority of the
492 commission or committee determines that the witness is required to answer the question, the
493 witness may be held in contempt as provided in JR6-2-304.

494 (5) (a) The chair or a majority of the members of the commission or committee may
495 direct a witness to furnish any relevant evidence for consideration if the witness has brought
496 the material voluntarily or has been required to bring it by subpoena.

497 (b) If the witness declines to provide evidence in response to a subpoena, the witness
498 may be held in contempt as provided in JR6-2-304.

499 Section 12. **JR6-2-306** is enacted to read:

500 **JR6-2-306. Communications of Commission and Committee Members.**

501 (1) As used in this section, "third party" means:

502 (a) for a member of the Independent Legislative Ethics Commission, a person who is
503 not a member of the commission or staff to the commission; or

504 (b) for a member of an ethics committee, a person who is not a member of the
505 committee or staff to the committee.

506 (2) While a complaint is under review by the commission or an ethics committee, a
507 member of that commission or committee may not initiate or consider any communications
508 concerning the complaint with a third party unless:

509 (a) the communication is expressly permitted under the procedures established by this
510 title; or

511 (b) the communication is made by the third party, in writing, simultaneously to:

512 (i) all members of the commission or committee; and

513 (ii) a staff member of the commission or committee.

514 (3) (a) While the commission is reviewing a complaint under this title, a commission
515 member may communicate outside of the meetings, hearing, or deliberations with another
516 member of, or staff to, the commission, only if the member's communication does not
517 materially compromise the member's responsibility to independently review and make
518 decisions in relation to the complaint.

519 (b) While a committee is reviewing a complaint under this title, a committee member
520 may communicate outside of the meeting, hearing, or deliberations with another member of, or
521 staff to, the committee, only if the member's communication does not materially compromise
522 the member's responsibility to independently review and make decisions in relation to the
523 complaint.

524 (4) While a complaint is under review by an ethics committee, a member of the
525 commission may not comment publicly or privately about the commission's decision,
526 reasoning, or other matters relating to the ethics complaint, but may provide or refer a
527 questioner to the commission's written recommendation.

528 Section 13. **JR6-2-307** is enacted to read:

529 **JR6-2-307. Attorney Fees and Costs.**

530 (1) A person filing a complaint under this title:

531 (a) may, but is not required to, retain legal representation during the complaint review
532 process; and

533 (b) is responsible for payment of complainants' attorney fees and costs incurred.

534 (2) (a) A legislator against whom a complaint is filed under this title:

535 (i) may, but is not required to, retain legal representation during the complaint review
536 process; and

537 (ii) is responsible for that legislator's own attorney fees and costs involved, except as
538 provided in Subsection (2)(b).

539 (b) The Senate, for a Senator, or the House of Representatives, for a Representative,
540 shall pay the reasonable attorney fees and costs incurred by a legislator against whom a
541 complaint is filed under this title if:

542 (i) the commission declines to recommend that any allegation in the complaint be
543 reviewed by an ethics committee; or

544 (ii) an ethics committee determines that none of the allegations in the complaint that
545 were recommended for review by the commission have been proved.

546 (3) (a) An attorney participating in a hearing before the commission or an ethics
547 committee shall comply with:

548 (i) the Rules of Professional Conduct established by the Utah Supreme Court;

549 (ii) the procedures and requirements of this title; and

550 (iii) the directions of the chairs, commission, and ethics committees.

551 (b) Violations of Subsection (3)(a) may constitute:

552 (i) contempt of the Legislature under JR6-2-304; or

553 (ii) a violation of the Rules of Professional Conduct subject to enforcement by the
554 Utah State Bar.

555 Section 14. **JR6-3-101** is amended to read:

556 **CHAPTER 3. FILING A COMPLAINT ALLEGING A**
557 **VIOLATION OF LEGISLATIVE ETHICS**

558 **JR6-3-101. Ethics Complaints -- Filing -- Form.**

559 ~~[(1) Any legislator who wishes to file an ethics complaint against another legislator~~
560 ~~shall file a written complaint.]~~

561 (1) (a) The following individuals, who shall be referred to as the complainants, may
562 file a complaint against an individual legislator if the complaint meets the requirements of
563 JR6-2-201 and Subsection (1)(b):

564 (i) two or more members of the House of Representatives, for a complaint against a

565 Representative, provided that the complaint contains evidence or sworn testimony that:

566 (A) sets forth facts and circumstances supporting the alleged violation; and

567 (B) is evidence or sworn testimony of the type that would generally be admissible

568 under the Utah Rules of Evidence;

569 (ii) two or more members of the Senate, for a complaint against a Senator, provided

570 that the complaint contains evidence or sworn testimony that:

571 (A) sets forth facts and circumstances supporting the alleged violation; and

572 (B) is evidence or sworn testimony of the type that would generally be admissible

573 under the Utah Rules of Evidence; or

574 (iii) two or more registered voters currently residing within Utah, if, for each alleged

575 violation pled in the complaint, at least one of those registered voters has actual knowledge of

576 the facts and circumstances supporting the alleged violation.

577 (b) A complainant may file a complaint only against an individual who is serving as a

578 member of the Legislature on the date that the complaint is filed.

579 (2) (a) Complainants shall file a complaint with:

580 [(a)] (i) [~~with the President of the Senate and~~] the chair and vice chair of the Senate

581 Ethics Committee, if the complaint is against a [Senator] member of the Senate; or

582 [(b)] (ii) [~~with the Speaker of the House and~~] the chair and vice chair of the House

583 Ethics Committee, if the complaint is against a [Representative] member of the House of

584 Representatives.

585 (b) An individual may not file a complaint during the 60 calendar days immediately

586 preceding:

587 (i) a regular primary election, if the accused legislator is a candidate in the primary

588 election; or

589 (ii) a regular general election in which the accused legislator is a candidate, unless the

590 accused legislator is unopposed in the election.

591 [(2)(a)] (3) [~~The legislator filing the complaint shall ensure that it contains] The~~

592 complainants shall ensure that each complaint filed under this rule is in writing and contains

593 the following information:

594 ~~[(i)]~~ (a) the name and position or title of the ~~[person]~~ legislator alleged to be in
595 violation, who ~~[is]~~ shall be referred to as the respondent;

596 ~~[(ii)]~~ (b) the name ~~[and]~~, address, and telephone number of ~~[at least three Senators, if~~
597 ~~the respondent is a Senate member, or at least three Representatives, if the respondent is a~~
598 ~~House member, who are]~~ each individual who is filing the complaint~~[-, who are the~~
599 ~~complainant or complainants]~~;

600 ~~[(iii)]~~ (c) ~~[the nature of the]~~ a description of each alleged violation~~[-, including for~~
601 ~~each alleged violation:~~

602 ~~[(iv) subject to Subsection (1)(b), any facts alleged to support the complaint; and]~~

603 ~~[(v) all documents that support the complaint as an attachment to it.]~~

604 (i) a reference to:

605 (A) the section of the code of conduct alleged to have been violated; or

606 (B) the criminal provision violated and the docket number of the case involving the
607 legislator;

608 (ii) the name of the complainant or complainants who have actual knowledge of the
609 facts and circumstances supporting each allegation;

610 (iii) the facts and circumstances supporting each allegation, which shall be provided
611 by:

612 (A) copies of official records or documentary evidence; or

613 (B) one or more affidavits, each of which shall comply with the following format:

614 (I) the name, address, and telephone number of the signer;

615 (II) a statement that the signer has actual knowledge of the facts and circumstances
616 alleged in the affidavit;

617 (III) the facts and circumstances testified to by the signer;

618 (IV) a statement that the affidavit is believed to be true and correct and that false
619 statements are subject to penalties of perjury; and

620 (V) the signature of the signer;

621 (d) a list of the witnesses that the complainants wish to have called, including for each
622 witness:

623 (i) the name, address, and, if available, one or more telephone numbers of the witness;

624 (ii) a brief summary of the testimony to be provided by the witness; and

625 (iii) a specific description of any documents or evidence complainants desire the
626 witness to produce;

627 (e) a statement that each complainant:

628 (i) has reviewed the allegations contained in the complaint and the sworn statements
629 and documents attached to the complaint;

630 (ii) believes that the complaint is submitted in good faith and not for any improper
631 purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the
632 respondent's reputation, or causing unnecessary expenditure of public funds; and

633 (iii) believes the allegations contained in the complaint to be true and accurate; and

634 (f) the signature of each complainant.

635 ~~[(b) If any of the facts supporting the complaint are based upon the information and~~
636 ~~belief of the complainants, the complaint shall state that the facts are presented "upon~~
637 ~~information and belief" and give the basis for that information and belief.]~~

638 Section 15. **JR6-3-102** is enacted to read:

639 **JR6-3-102. Privacy of Ethics Complaints -- Contempt -- Enforcement of Finding**
640 **of Contempt -- Dismissal.**

641 (1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the
642 complainants, the respondent, commission members, a committee chair or vice chair, or staff
643 to the commission or a committee, may not disclose the existence of a complaint, a response,
644 nor any information concerning any alleged violation that is the subject of a complaint.

645 (b) The restrictions in Subsection (1)(a) do not apply to:

646 (i) a complaint or response that is publicly released by the commission and referred to
647 an ethics committee for review under the procedures and requirements of JR6-4-204, and the
648 allegations contained in the publicly released complaint or response; or

649 (ii) the respondent's voluntary disclosure of a finding by the commission that no
 650 allegations in a complaint were proved, after that finding is issued by the commission under
 651 the procedures and requirements of JR6-4-204.

652 (c) Nothing in this rule prevents a person from disclosing facts or allegations about
 653 potential criminal violations to law enforcement authorities.

654 (2) A person who violates the provisions of Subsection (1)(a) is in contempt of the
 655 Legislature and proceedings may be initiated to enforce the finding of contempt using the
 656 procedures provided in JR6-2-304 and Section 36-14-5.

657 (3) If the existence of an ethics complaint is publicly disclosed during the period that
 658 the Independent Legislative Ethics Commission is reviewing the complaint, the complaint
 659 shall be summarily dismissed without prejudice.

660 Section 16. **JR6-4-101** is amended to read:

661 **CHAPTER 4. PROCEDURES FOR REVIEWING ETHICS COMPLAINTS**

662 **Part 1. Initial Review of Ethics Complaint and Response**

663 **JR6-4-101. Review of Ethics Complaint for Compliance with Form**

664 **Requirements -- Independent Requirements for Complaint -- Notice of Complaint to**
 665 **Commission Members.**

666 (1) ~~(a)~~ Within five business days after receipt of ~~the~~ a complaint, the staff of the
 667 ~~committee~~ ethics committee receiving the complaint, in consultation with the committee
 668 chair and ~~cochair~~ vice chair, shall examine ~~each~~ the complaint to determine if it is in
 669 compliance with JR6-2-201 and JR6-3-101.

670 ~~(b)(i)~~ (2)(a) If the chair and ~~cochair determine~~ vice chair determine that the
 671 complaint does not comply with JR6-2-201 or JR6-3-101, the chair shall return the complaint
 672 to the ~~complainants~~ first complainant named on the complaint with:

673 (i) a statement detailing the reason for the non-compliance; and

674 (ii) a copy of the applicable legislative rules ~~on ethics~~.

675 ~~(ii) The~~ (b) If a complaint is returned for non-compliance with the requirements of
 676 this title, the complainants may ~~resubmit the~~ file another complaint if the new complaint

677 independently meets the requirements of JR6-3-101, including any requirements for timely
 678 filing.

679 ~~[(c)]~~ (3) If the chair and ~~[cochair]~~ vice chair determine that the complaint complies
 680 with ~~[this title]~~ the requirements of this rule, the chair shall:

681 ~~[(i)]~~ (a) accept the complaint;

682 ~~[(ii)]~~ (b) notify ~~[each member]~~ the chair and the staff of the ~~[ethics committee]~~
 683 Independent Legislative Ethics Commission that the complaint has been filed and accepted;
 684 and

685 ~~[(iii)]~~ (c) ~~[provide each member of the ethics committee with a copy of]~~ promptly
 686 forward the complaint[-] to:

687 ~~[(2) No committee member or staff may disclose publically any information received~~
 688 ~~by the committee concerning any alleged violation until the member of the Senate or House~~
 689 ~~charged in the violation has received the Summary of the Preliminary Inquiry required by~~
 690 ~~JR6-4-206.]~~

691 (i) the commission; and

692 (ii) the legislator who is the subject of the ethics complaint via personal delivery or a
 693 delivery method that provides verification of receipt, together with a copy of the applicable
 694 legislative rules and notice of the legislator's deadline for filing a response to the complaint.

695 Section 17. **JR6-4-102** is amended to read:

696 **JR6-4-102. Meeting of the Independent Legislative Ethics Commission for**
 697 **Review of Complaint -- Procedures.**

698 ~~[(1) Within 30 days after the complaint is accepted, the chair and cochair shall:]~~

699 By no later than 10 calendar days after the day on which the complaint is accepted
 700 under JR6-4-101, the commission chair shall:

701 ~~[(a)]~~ (1) schedule ~~[an ethics committee]~~ a commission meeting[-; and] on a date no
 702 later than 60 calendar days after the date on which the committee chair and vice chair accept
 703 the complaint;

704 ~~[(b)]~~ (2) place the ~~[ethics]~~ complaint on the agenda for consideration at that meeting

705 [~~with the recommendation that:~~];

706 [~~(i) the complaint be considered; or]~~

707 [~~(ii) the complaint be dismissed because it fails to allege facts that constitute a~~
708 ~~violation.]~~

709 [~~(2) (a) At the ethics committee meeting, the committee shall determine:]~~

710 [~~(i) whether or not the alleged violation in the complaint is within the jurisdiction of~~
711 ~~the committee; and]~~

712 [~~(ii) whether or not the complaint merits further inquiry.]~~

713 [~~(b) The chair shall notify the complainants and respondent, in writing, of the~~
714 ~~determination made by the committee.]~~

715 [~~(3) If the committee determines that the complaint merits further inquiry, the~~
716 ~~committee meeting shall become a preliminary inquiry to determine whether the alleged~~
717 ~~violation occurred.]~~

718 (3) provide notice of the date, time, and location of the meeting to:

719 (a) the members of the commission;

720 (b) the first complainant named in the complaint; and

721 (c) the respondent; and

722 (4) provide a copy of the complaint to each member of the commission.

723 Section 18. **JR6-4-103** is enacted to read:

724 **JR6-4-103. Response to Ethics Complaint -- Filing -- Form.**

725 (1) The legislator that is the subject of the complaint may file a response to the
726 complaint no later than 30 days after the day on which the legislator receives delivery of the
727 complaint.

728 (2) The respondent shall file the response with the commission and shall ensure that
729 the response is in writing and contains the following information:

730 (a) the name, address, and telephone number of the respondent;

731 (b) for each alleged violation in the complaint:

732 (i) each affirmative defense asserted in response to the allegation, including a general

733 description of each affirmative defense and the facts and circumstances supporting the defense
734 to be provided by one or more affidavits, each of which shall comply with the following
735 format:

736 (A) the name, address, and telephone number of the signer;

737 (B) a statement that the signer has actual knowledge of the facts and circumstances
738 alleged in the affidavit;

739 (C) the facts and circumstances testified to by the signer;

740 (D) a statement that the affidavit is believed to be true and correct and that false
741 statements are subject to penalties of perjury; and

742 (E) the signature of the signer;

743 (ii) the facts and circumstances refuting the allegation, which shall be provided by:

744 (A) copies of official records or documentary evidence; or

745 (B) one or more affidavits, each of which shall comply with the following format:

746 (I) the name, address, and telephone number of the signer;

747 (II) a statement that the signer has actual knowledge of the facts and circumstances
748 alleged in the affidavit;

749 (III) the facts and circumstances testified to by the signer;

750 (IV) a statement that the affidavit is believed to be true and correct and that false
751 statements are subject to penalties of perjury; and

752 (V) the signature of the signer;

753 (c) a list of the witnesses that the respondent wishes to have called, including for each
754 witness:

755 (i) the name, address, and, if available, telephone number of the witness;

756 (ii) a brief summary of the testimony to be provided by the witness; and

757 (iii) a specific description of any documents or evidence the respondent desires the
758 witness to produce;

759 (d) a statement that the respondent:

760 (i) has reviewed the allegations contained in the complaint and the sworn statements

761 and documents attached to the response; and

762 (ii) believes the contents of the response to be true and accurate; and

763 (e) the signature of the respondent.

764 (3) Promptly after receiving the response, the commission shall provide copies of the
765 response to:

766 (a) each member of the commission; and

767 (b) the first named complainant on the complaint.

768 Section 19. **JR6-4-201** is amended to read:

769 **Part 2. Review of Ethics Complaint by the Independent Legislative Ethics Commission**

770 **JR6-4-201. Review of Ethics Complaint by the Independent Legislative Ethics**

771 **Commission.**

772 (1) The scope of the [~~preliminary inquiry~~] Independent Legislative Ethics
773 Commission's review is limited to the alleged violations stated in the complaint.

774 [~~(2)(a) Only relevant or material evidence is admissible in the preliminary inquiry.]~~

775 (2) (a) Before holding the meeting for review of the complaint, the commission chair
776 may schedule a separate meeting of the commission for the purposes of:

777 (i) hearing motions or arguments from the parties, including hearing motions or
778 arguments relating to dismissal of a complaint, admission of evidence, or procedures;

779 (ii) holding a vote of the commission, with or without the attendance of the parties, on
780 procedural or commission business matters relating to a complaint; or

781 (iii) reviewing a complaint, with or without the attendance of the parties, to determine
782 if the complaint should be dismissed in whole or in part, by means of a majority vote of the
783 commission, because it pleads facts or circumstances against a legislator that have already
784 been reviewed by the commission or an ethics committee as provided in JR6-2-201.

785 (b) Notwithstanding JR6-4-102, the commission may, by a majority vote, change the
786 date of the meeting for review of the complaint in order to accommodate:

787 (i) a meeting authorized under Subsection (2)(a); or

788 (ii) necessary scheduling requirements.

789 (3) (a) The commission shall comply with the Utah Rules of Evidence except where
790 the commission determines, by majority vote, that a rule is not compatible with the
791 requirements of this title.

792 (b) The ~~[chair's determination of]~~ chair shall make rulings on admissibility ~~[is final~~
793 ~~and may only be overruled by a majority vote of the committee]~~ of evidence consistent with
794 the provisions of JR6-2-302.

795 ~~[(3) At the beginning of the preliminary inquiry, in order to expedite the committee's~~
796 ~~investigation and to facilitate a rapid resolution of the matter, the committee cochairs and the~~
797 ~~respondent may agree in writing that the procedural requirements of Part 3, Disciplinary~~
798 ~~Hearing, are waived.]~~

799 (4) (a) ~~[The preliminary inquiry is]~~ All meetings and hearings authorized in this part
800 are closed to the public.

801 (b) The ~~[respondent and the respondent's counsel]~~ following individuals may be
802 present during the presentation of testimony and evidence to the ~~[committee:]~~ commission:

803 ~~[(c) Only Ethics Committee members and staff may be present during other portions~~
804 ~~of the preliminary inquiry:]~~

805 ~~[(5) Except for the official record, no camera or recording device may be brought in or~~
806 ~~used in the preliminary inquiry:]~~

807 ~~[(6) Upon consent of a majority of its members, the committee may permit any person,~~
808 ~~not compelled or invited, to appear and testify at a hearing or submit a sworn written statement~~
809 ~~of facts or other documentary evidence for incorporation into the record:]~~

810 ~~[(7) (a) The release of any testimony or other evidence presented at a closed hearing~~
811 ~~and the form and manner of that release shall be by a majority vote of all members of the~~
812 ~~committee:]~~

813 ~~[(b) Committee members and committee staff may not publicly disclose any other part~~
814 ~~of the preliminary inquiry:]~~

815 (i) the complainants, except that no more than three complainants may be present at
816 one time;

- 817 (ii) complainants' counsel, if applicable;
818 (iii) the respondent;
819 (iv) the respondent's counsel, if applicable;
820 (v) members of the commission;
821 (vi) staff to the commission;
822 (vii) a witness, while testifying before the commission; and
823 (viii) necessary security personnel.
- 824 (c) The complainants, respondent, and their respective counsel may be excluded from
825 a portion of the meeting when the commission discusses administrative, procedural, legal, or
826 evidentiary issues by:
- 827 (i) the order of the chair, subject to override as provided in JR6-2-302; or
828 (ii) a majority vote of the commission.
- 829 (d) When the commission deliberates at the conclusion of presentation of testimony
830 and evidence, the commission shall ensure that those deliberations are closed to all persons
831 except for the members of the commission and commission staff.
- 832 [(8)] (5) If a majority of the [committee] commission determines that a continuance is
833 necessary to obtain further evidence and testimony [are necessary], to accommodate
834 administrative needs, or to accommodate the attendance of commission members, witnesses,
835 or a party, the [committee] commission shall:
- 836 (a) adjourn and continue the [preliminary inquiry hearing] meeting to a future date
837 and time after notice to the parties; and
- 838 (b) establish that future date and time by majority vote.
- 839 Section 20. **JR6-4-202** is repealed and reenacted to read:
- 840 **JR6-4-202. Record -- Recording of Meetings.**
- 841 (1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or
842 other recording device in any meeting authorized by this part.
- 843 (b) (i) The commission shall keep an audio or video recording of all portions of each
844 meeting authorized by this part.

845 (ii) If the commission elects, by a majority vote, to release the commission's
846 recommendation in a public meeting, the meeting may, upon a majority vote of the
847 commission, be opened to cameras or other recording devices.

848 (2) In addition to the recording required in Subsection (1), the chair shall ensure that a
849 record of the meeting or hearing is made, which shall include:

850 (a) official minutes taken during the meeting or hearing, if any;

851 (b) copies of all documents or other items admitted into evidence by the commission;

852 (c) copies of any documents or written orders or rulings issued by the chair or the
853 commission; and

854 (d) any other information that a majority of the commission or the chair directs.

855 (3) Except for the recommendation prepared by the commission, which shall be either
856 a private or public record as determined in JR6-4-204, any recording, testimony, evidence, or
857 other record of a meeting authorized by this part is a private record under Section 63G-2-302
858 and may not be disclosed.

859 Section 21. **JR6-4-203** is repealed and reenacted to read:

860 **JR6-4-203. Process for Making a Decision -- Deliberations.**

861 (1) After each party has presented a closing argument, the commission shall, at the
862 direction of the chair, begin its private deliberations:

863 (a) immediately after conclusion of the closing arguments; or

864 (b) at a future meeting of the commission, on a date and time determined by a majority
865 of the members of the commission.

866 (2) (a) The chair of the commission shall conduct the deliberations.

867 (b) Upon a motion made by a commission member, the commission may exclude
868 commission staff from all or a portion of the deliberations by a majority vote of the
869 commission.

870 (3) (a) During deliberations, for each allegation reviewed by the commission, each
871 member shall determine and cast a vote stating whether the allegation is:

872 (i) proven by a preponderance of the evidence; or

873 (ii) not proven.

874 (b) A verbal roll call vote shall be taken on each allegation and each member's vote
875 shall be recorded.

876 (4) (a) A count is not considered to be proven unless four of the five members of the
877 commission vote that the count is proven.

878 (b) A count that is not considered to be proven is dismissed.

879 (c) (i) Before the commission issues its recommendation under JR6-4-204, the
880 commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

881 (ii) A motion to reconsider a vote may only be made by a member of the commission
882 who voted that the allegation was not proved.

883 (5) At the conclusion of deliberations, the commission shall prepare its
884 recommendations as provided in JR6-4-204.

885 Section 22. **JR6-4-204** is repealed and reenacted to read:

886 **JR6-4-204. Recommendations of Commission.**

887 (1) If the commission determines that no allegations in the complaint were proved, the
888 commission shall:

889 (a) issue and enter into the record an order that the complaint is dismissed because no
890 allegations in the complaint were found to have been proved;

891 (b) classify all recordings, testimony, evidence, orders, findings, and other records
892 directly relating to the meetings authorized by this part as private records under Section
893 63G-2-302;

894 (c) provide notice of the determination, in a manner determined by a majority vote of
895 the commission, to:

896 (i) the respondent; and

897 (ii) the first complainant named on the complaint; and

898 (d) provide notice to a person named in Subsection (1)(c) that, under the provisions of
899 JR6-3-102 and other provisions of this title, a person who discloses the findings of the
900 commission is in contempt of the Legislature and is subject to penalties for contempt.

901 (2) If the commission determines that one or more of the allegations in the complaint
902 were proved, the commission shall:

903 (a) if one or more allegations were not found to have been proven, enter into the record
904 an order dismissing those unproven allegations;

905 (b) prepare a written recommendation to the Senate Ethics Committee, if the
906 respondent is a Senator, or to the House Ethics Committee, if the respondent is a
907 Representative, that:

908 (i) lists the name of each complainant;
909 (ii) lists the name of the respondent;
910 (iii) states the date of the recommendation;
911 (iv) for each allegation that was found to be proven:

912 (A) provides a reference to the code of conduct or criminal provision allegedly
913 violated;

914 (B) states the number and names of commission members voting that the allegation
915 was proved and the number and names of commission members voting that the allegation was
916 not proved;

917 (C) at the option of those members voting that the allegation was proved, includes a
918 statement by one or all of those members stating the reasons for voting that the allegation was
919 proved, provided that the statement does not cite specific evidence, specific testimony, or
920 specific witnesses; and

921 (D) at the option of those members voting that the allegation was not proved, includes
922 a statement by one or all of those members stating the reasons for voting that the allegation
923 was not proved, provided that the statement does not cite specific evidence, specific testimony,
924 or specific witnesses;

925 (v) contains any general statement that is adopted for inclusion in the recommendation
926 by a majority of the members of the commission;

927 (vi) contains a statement referring the allegations found to have been proved to the
928 appropriate ethics committee for review;

929 (vii) states the name of each member of the commission; and
930 (viii) is signed by each commission member;
931 (c) direct staff to publicly release the recommendation, the complaint, and the
932 response, subject to the redaction of any allegations that were dismissed by the commission;
933 and

934 (d) classify all other recordings, testimony, evidence, orders, findings, and other
935 records directly relating to the meetings and hearings authorized by this part as private records
936 under Section 63G-2-302.

937 (3) The commission shall ensure that a copy of the recommendation is made publicly
938 available and promptly provided to:

939 (a) the respondent, together with notice that the respondent may amend the
940 respondent's witness list as provided in JR6-4-301;

941 (b) the first complainant named on the complaint, together with notice that the
942 complainants may amend their witness list as provided in JR6-4-301; and

943 (c) the chair and vice chair of the Senate Ethics Committee, if the respondent is a
944 Senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a
945 Representative.

946 (4) The commission shall ensure that, within five business days of the date of issuance
947 of the recommendation:

948 (a) the complaint and the response are redacted to remove references to those
949 allegations found not to have been proven by the commission, if one or more allegations were
950 found not to have been proven; and

951 (b) the following documents are made publicly available and are provided to the chair
952 and vice chair of the Senate Ethics Committee, if the respondent is a Senator, or the chair and
953 vice chair of the House Ethics Committee, if the respondent is a Representative:

954 (i) a cover letter referring the allegations contained in the edited complaint to the
955 ethics committee for the committee's review;

956 (ii) a copy of the edited complaint;

957 (iii) a copy of the edited response; and

958 (iv) a copy of the recommendation.

959 Section 23. **JR6-4-301** is repealed and reenacted to read:

960 **Part 3. Review of Ethics Complaint by Ethics Committee**

961 **JR6-4-301. Receipt of Recommendation from Independent Legislative Ethics**

962 **Commission -- Scheduling of Ethics Committee Hearing -- Amendments.**

963 (1) Within five calendar days of the date that the chair of the Senate Ethics or House
964 Ethics Committee receives the commission's recommendation as provided under JR6-4-204,
965 the chair and vice chair of the committee shall:

966 (a) schedule a committee hearing to review the complaint on a date no later than 30
967 days after the day on which the committee receives the recommendation; and

968 (b) place the ethics complaint on the agenda for consideration at that hearing.

969 (2) (a) The complainants may not amend the complaint.

970 (b) The respondent may not amend the response.

971 (c) The complainant and respondent may file with the committee, within 10 days of
972 the date of issuance of the commission's recommendations, an amended list of witnesses and
973 evidence that they wish to have subpoenaed by the committee.

974 Section 24. **JR6-4-302** is repealed and reenacted to read:

975 **JR6-4-302. Review of Ethics Complaint by Ethics Committee.**

976 (1) The scope of the committee's review is limited to the alleged violations found to
977 have been proven by the commission, as pled in the edited complaint and the edited response
978 provided by the commission.

979 (2) (a) Before holding the hearing for review of the complaint as scheduled in
980 JR6-4-301, the chair may schedule a separate meeting of the committee to:

981 (i) hear motions or arguments from the parties, including hearing motions or
982 arguments relating to dismissal of a complaint, admission of evidence, or procedures; or

983 (ii) hold a vote of the committee, with or without the attendance of the parties, on
984 procedural or committee business matters relating to a complaint.

985 (b) Notwithstanding JR6-4-301, the committee may, by a majority vote, change the
986 date of the hearing scheduled in JR6-4-301 in order to accommodate:

987 (i) a meeting authorized under Subsection (2)(a); or

988 (ii) necessary scheduling requirements.

989 (3) (a) The committee shall comply with the Utah Rules of Evidence, except where the
990 committee determines, by majority vote, that a rule is not compatible with the requirements of
991 this title.

992 (b) The chair shall make rulings on admissibility of evidence consistent with the
993 provisions of JR6-4-202.

994 (4) (a) A meeting or hearing held under this Chapter 4, Part 3, Review of Ethics
995 Complaint by Ethics Committee:

996 (i) is subject to the requirements of Title 52, Chapter 4, Open and Public Meetings
997 Act; and

998 (ii) may be closed by a majority vote of the committee, held in the public portion of
999 the meeting, for:

1000 (A) any purpose permitted under Section 52-4-205;

1001 (B) the purpose of discussing legal, evidentiary, or procedural matters with the
1002 committee or staff; or

1003 (C) deliberations, as provided in JR6-4-304.

1004 (b) Only committee members, committee staff, and necessary security personnel may
1005 attend a closed meeting.

1006 (5) If a majority of the committee determines that a continuance of a meeting or
1007 hearing is necessary to obtain further evidence and testimony, to accommodate administrative
1008 needs, or to accommodate the attendance of committee members, witnesses, or a party, the
1009 chair or committee shall:

1010 (a) adjourn and continue the hearing or meeting to a future date and time; and

1011 (b) establish that future date and time by majority vote.

1012 Section 25. **JR6-4-303** is repealed and reenacted to read:

1013 **JR6-4-303. Record -- Recording of Meetings.**

1014 (1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or
1015 other recording device in any meeting authorized by this part.

1016 (b) (i) The committee shall keep an audio or video recording of all portions of each
1017 meeting authorized by this part.

1018 (ii) If the committee elects, by a majority vote, to release the committee's finding and
1019 order in a public meeting, that meeting may, upon a majority vote of the committee, be opened
1020 to cameras or other recording devices.

1021 (2) In addition to the recording required in Subsection (1), the chair shall ensure that a
1022 record of each hearing or meeting is made, which shall include:

1023 (a) official minutes taken during the meeting or hearing, if any;

1024 (b) copies of all documents or other items admitted into evidence;

1025 (c) copies of any documents, written orders, or written rulings issued by the chair or
1026 the committee; and

1027 (d) any other information that a majority of the committee or the chair directs.

1028 (3) (a) Except as provided in Subsection (3)(b), all recordings, testimony, evidence,
1029 and other records of meetings and hearings authorized by this part are public records.

1030 (b) All recordings, minutes, and other records produced during a closed meeting
1031 authorized under this part are classified as private records under Section 63G-2-302.

1032 Section 26. **JR6-4-304** is repealed and reenacted to read:

1033 **JR6-4-304. Process for Making a Decision -- Deliberations -- Voting in Public**
1034 **Meeting.**

1035 (1) After each party has presented a closing argument, the committee shall deliberate
1036 in a closed meeting:

1037 (a) immediately after conclusion of the closing arguments; or

1038 (b) at a future meeting of the committee, on a date and time determined by a majority
1039 of the members of the committee.

1040 (2) The chair of the committee shall conduct the deliberations.

1041 (3) During the deliberations, committee members may:
1042 (a) discuss evidence and testimony;
1043 (b) discuss and debate whether an allegation was proven or not proven;
1044 (c) discuss and debate what actions should be taken or not taken against the
1045 respondent in relation to each allegation;
1046 (d) discuss and debate any other matter related to the allegations in the complaint that
1047 is before the committee; and
1048 (e) conduct, at the call of the chair or a majority of the members of the committee, a
1049 non-binding straw poll on any matter related to the complaint.
1050 (4) (a) Notwithstanding JR6-2-306, and except as provided in Subsection (4)(b), from
1051 the time of completion of closing arguments through the time that the written finding and
1052 order are publicly issued, a committee member may not discuss any of the following matters
1053 with any other person outside of official committee deliberations:
1054 (i) the substance or specifics of the allegations, testimony, or evidence of the
1055 complaint under review;
1056 (ii) a committee member's intended vote;
1057 (iii) a committee member's recommendation for actions to be taken or not taken
1058 against the respondent in relation to the complaint; or
1059 (iv) any other non-administrative matter related to the complaint.
1060 (b) During deliberations, committee members may privately consult with staff for the
1061 purpose of discussing legal, evidentiary, or procedural matters.
1062 (5) Deliberations shall continue until they are concluded or continued to another date
1063 and time:
1064 (a) at the direction of the chair, subject to JR6-2-302; or
1065 (b) upon a motion approved by a majority of the committee members.
1066 Section 27. **JR6-4-305** is repealed and reenacted to read:
1067 **JR6-4-305. Vote on Allegations and Recommendations -- Public Meeting --**
1068 **Standards -- Reconsideration.**

1069 (1) After conclusion of the deliberations, the committee shall meet in public and, for
1070 each allegation reviewed by the committee, vote on whether the allegation is:

1071 (a) proven by clear and convincing evidence; or

1072 (b) not proven.

1073 (2) For any count that has been voted as proven, the committee shall, by a motion
1074 approved by a majority of the members of the committee, recommend one or more of the
1075 following actions:

1076 (a) censure;

1077 (b) expulsion;

1078 (c) denial or limitation of any right, power, or privilege of the respondent, if, under the
1079 Utah Constitution, the Senate or House may impose that denial or limitation, and if the
1080 violation bears upon the exercise or holding of any right, power, or privilege; or

1081 (d) any other action that the committee determines is appropriate.

1082 (3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.

1083 (4) A count is not considered to be proven unless a majority of the committee votes
1084 that the count is proven.

1085 (5) The committee, by a motion for reconsideration that is approved by a majority of
1086 the committee, may reconsider and hold a new vote provided that:

1087 (a) a motion to reconsider a vote on whether an allegation was proven or not proven
1088 may only be made by a member of the committee who voted that the allegation was not
1089 proven; and

1090 (b) a motion to reconsider a vote recommending an action against the respondent may
1091 only be made by a member of the committee who voted against the recommendation.

1092 (6) A count that is not voted as "proven" by a majority of the members of the
1093 committee is dismissed.

1094 (7) The committee may close the meeting for the purposes of further deliberations,
1095 subject to the requirements of JR6-4-304:

1096 (a) at the direction of the chair, subject to override by the committee as provided in

1097 JR6-2-302; or

1098 (b) upon a motion approved by a majority of the members of the committee.

1099 (8) After a final vote has been cast on each allegation and recommendation, the

1100 committee shall prepare the finding and order as provided in JR6-4-306.

1101 Section 28. **JR6-4-306** is repealed and reenacted to read:

1102 **JR6-4-306. Finding and Order.**

1103 (1) (a) If the committee determines that no allegations in the complaint were proved,

1104 the committee shall prepare a finding and order that:

1105 (i) lists the name of each complainant;

1106 (ii) lists the name of the respondent;

1107 (iii) states the date of the finding and order;

1108 (iv) for each allegation contained in the complaint:

1109 (A) provides a reference to the code of conduct or criminal provision alleged to have

1110 been violated; and

1111 (B) states the number and names of committee members voting that the allegation was

1112 proved and the number and names of committee members voting that the allegation was not

1113 proved;

1114 (v) order that the complaint is dismissed because no allegations in the complaint were

1115 found to have been proved;

1116 (vi) provide any general statement that is adopted for inclusion in the recommendation

1117 by a majority of the committee members; and

1118 (vii) states the name of each committee member.

1119 (b) Each committee member shall sign the finding and order.

1120 (2) (a) If the committee determines that one or more allegations in the complaint were

1121 proved, the committee shall issue a finding and order that:

1122 (i) lists the name of each complainant;

1123 (ii) lists the name of the respondent;

1124 (iii) states the date of the finding and order;

- 1125 (iv) for each allegation contained in the complaint:
- 1126 (A) provides a reference to the code of conduct or criminal provision alleged to have
- 1127 been violated;
- 1128 (B) states the number and names of committee members voting that the allegation was
- 1129 proved and the number and names of committee members voting that the allegation was not
- 1130 proved;
- 1131 (C) if the allegation was not found not to have been proven, orders that the allegation
- 1132 be dismissed; and
- 1133 (D) if the allegation was found to have been proven, contains:
- 1134 (I) a description of any actions that the committee recommended be taken;
- 1135 (II) the number and names of committee members voting in favor of each
- 1136 recommendation and the number and names of committee members voting against each
- 1137 recommendation;
- 1138 (III) at the option of those members voting in favor of a recommendation, a statement
- 1139 by one or all of those members stating the reasons for making the recommendation; and
- 1140 (IV) at the option of those members against a recommendation, a statement by one or
- 1141 all of those members stating the reasons for opposing the recommendation;
- 1142 (v) contains any general statement that is adopted for inclusion in the finding and
- 1143 order by a majority of the committee members;
- 1144 (vi) contains a statement directing that the finding be delivered to:
- 1145 (A) for the Senate Ethics Committee, to the President of the Senate, the Senate
- 1146 majority leader, and the Senate minority leader; or
- 1147 (B) for the House Ethics Committee, to the Speaker of the House of Representatives,
- 1148 the House majority leader, and the House minority leader; and
- 1149 (vii) states the name of each committee member.
- 1150 (b) Each committee member shall sign the finding and order.
- 1151 (3) A copy of the finding and order shall be made publicly available.
- 1152 (4) A written copy of the finding and order shall be provided to:

1153 (a) the respondent;
1154 (b) the first complainant named on the complaint; and
1155 (c) any individuals required to receive a copy as stated in the finding and order.
1156 Section 29. **Repealer.**
1157 This resolution repeals:
1158 **JR6-4-205, Rights of the Respondent.**
1159 **JR6-4-206, Record.**
1160 **JR6-4-207, Process for Making a Decision -- Remedies -- Publication of Decision.**
1161 **JR6-4-307, Disciplinary Hearing Process -- Phase 1, Adjudication Phase.**
1162 **JR6-4-308, Disciplinary Hearing Process -- Phase II, Penalty Phase -- Remedies.**
1163 **JR6-4-309, Announcement of Decision.**
1164 **JR6-4-310, Records of Disciplinary Hearing.**
1165 Section 30. **Effective date.**
1166 This resolution takes effect upon approval by a constitutional majority vote of all
1167 members of the Senate and House of Representatives.