

1 **SENATE RULES RESOLUTION - SENATE**
2 **CONFIRMATION PROCESS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lyle W. Hillyard**

6 **This resolution modifies Senate Rules by modifying procedures governing the Senate**
7 **Judicial Confirmation Committee. This resolution requires each judicial appointee to be**
8 **interviewed by the confirmation committee. This resolution establishes requirements for**
9 **the distribution and review of appointees, resources, application materials, and other**
10 **related documents. This resolution takes effect immediately.**

11 This resolution affects legislative rules as follows:

12 AMENDS:

13 **SR-24.04**

14 REPEALS AND REENACTS:

15 **SR-24.04.1**

16 *Be it resolved by the Senate of the state of Utah:*

17 Section 1. **SR-24.04** is amended to read:

18 **SR-24.04. Senate Confirmation Committee(s).**

19 (1) The President shall:

20 (a) appoint a Senate Executive Confirmation Committee(s) of no more than seven
21 Senators, no more than four of whom are [of] from the same political party[. The President
22 shall include the appropriate];

23 (b) appoint the Senate appropriations subcommittee chair and standing committee chair
24 [for the nominees identified in the Governor's appointments. This] having jurisdiction over the
25 agency or entity to which the nominee is appointed; and

26 (c) designate one Senator to act as chair of the committee.

27 (2) If called by the chair, the committee shall meet [prior to] and make a



28 recommendation to the Senate before any Senate confirmation session to review gubernatorial
29 nominations[~~, if called by the chair~~] to fill executive branch positions.

30 ~~[(2)]~~ (3) (a) The committee shall review the resume and qualifications of any full-time
31 gubernatorial executive branch appointee and may interview appointees.

32 (b) If a meeting is held, the committee shall ~~[make its recommendation to the Senate~~
33 ~~for their consent or rejection of any gubernatorial appointee it has reviewed and shall include~~
34 ~~the committee vote on each appointee. If a committee votes not to endorse an appointee, the~~
35 ~~vote shall be forwarded to the Senate for their further review and action.]~~ convey its
36 recommendation to the Senate in a form that identifies to the Senate how each Senate
37 Executive Confirmation Committee member voted on the nominee.

38 ~~[(3) Nothing contained in this rule shall be construed to limit the authority of the~~
39 ~~Senate as provided in Utah Constitution Article VIII, Section 8.]~~

40 Section 2. **SR-24.04.1** is repealed and reenacted to read:

41 **SR-24.04.1. Judicial Senate Confirmation Committee Procedures.**

42 (1) The President shall:

43 (a) appoint a Senate Judicial Confirmation Committee of no more than seven Senators,
44 no more than four of whom are from the same political party; and

45 (b) designate one Senator to act as chair of the committee.

46 (2) The President may not convene the Senate to consider confirmation of a judicial
47 appointee until the Senate Judicial Confirmation Committee has submitted its
48 recommendation.

49 (3) (a) The committee shall comply with the procedures established in this rule.

50 (b) Each committee member shall ensure that records received by them that are
51 classified "private," "protected," or "controlled" under Utah Code Annotated Title 63, Chapter
52 2, Government Records Access and Management Act are released only pursuant to the
53 requirements of that act.

54 (4) After the Judicial Nominating Commission announces the nominees and forwards
55 those names to the Office of Legislative Research and General Counsel as required by Utah
56 Code Annotated Section 20A-12-104, that office shall provide the resume of each nominee to
57 each member of the Senate.

58 (5) When the Governor provides the President of the Senate with the nominees'

59 resume, application materials, and other related documents, the President shall provide that
60 information to the chair and two members of the Senate Judicial Confirmation Committee, one
61 selected by the President of the Senate and one selected by the Senate Minority Leader.

62 (6) After the Governor announces the appointee and provides the information required
63 by Utah Code Annotated Section 67-1-2:

64 (a) the chair of the Senate Judicial Confirmation Committee shall direct the preparation
65 of a news release which shall include:

66 (i) a brief description of the judicial position to be filled;

67 (ii) the name of the appointee;

68 (iii) a brief description of the functions of the Senate Judicial Confirmation
69 Committee;

70 (iv) a request that members of the Senate wanting to make comments contact the chair
71 or the Office of Legislative Research and General Counsel by the deadline specified in the
72 news release, which may not be less than ten business days after publication of the news
73 release;

74 (v) a request that members of the public wanting to make comments must contact the
75 Office of Legislative Research and General Counsel by the deadline specified in the news
76 release, which may not be less than ten business days after publication of the news release; and

77 (vi) a notice that any person wanting to comment must submit a written statement of
78 their testimony, including the person's name, telephone number, and mailing address, to the
79 Office of Legislative Research and General Counsel; and

80 (b) the Office of Legislative Research and General Counsel shall:

81 (i) provide the resume of the appointee and the news release described in this
82 Subsection (6) to:

83 (A) each member of the Senate; and

84 (B) the news media, including television, radio, and the major circulation newspapers
85 in Salt Lake City and the geographical area served by the judicial office to be filled by the
86 appointee; and

87 (ii) provide the appointee's resume, application materials, and other related documents
88 to each member of the Senate Judicial Confirmation Committee.

89 (7) (a) The chair of the Senate Judicial Confirmation Committee may direct its staff to

90 investigate:

91 (i) the background, qualifications, and fitness for judicial office of the appointee

92 generally; and

93 (ii) specific issues raised or revealed by any member of the committee, any Senator, or
94 any member of the public, or that may arise at any time during the Senate confirmation process.

95 (b) In conducting the investigation, committee staff may contact any person or
96 organization that might have information about the nominee's fitness for judicial office.

97 (c) The chair may direct staff to ask the Governor, the chair of the Judicial Nominating
98 Commission, or both, whether or not certain facts revealed by the investigation were known to
99 the Governor or the nominating commission at the time the candidate was considered by either
100 of them.

101 (8) (a) The chair of the Senate Judicial Confirmation Committee shall provide public
102 notice of each committee meeting.

103 (b) The public notice shall include an explanation that:

104 (i) any person wanting to testify regarding the appointee must submit a written
105 statement to the Office of Legislative Research and General Counsel at least 24 hours before
106 the meeting is scheduled to begin; and

107 (ii) portions of the meeting may be closed under Utah Code Annotated Title 52,
108 Chapter 4, Open and Public Meetings.

109 (9) Before convening a meeting of the Senate Judicial Confirmation Committee, the
110 chair shall:

111 (a) review all written statements from persons desiring to address the committee
112 regarding the Governor's appointee;

113 (b) review all records to be distributed to the committee and classify each record as
114 "public" or "private" by applying the standard contained in Subsection 63-2-302(1)(e)(i);

115 (c) determine which persons making a timely request to testify under Subsection (6)(a)
116 may address the committee; and

117 (d) if necessary, establish reasonable time limits for public comment.

118 (10) In conducting the meeting:

119 (a) the chair shall allow the appointee to address the committee;

120 (i) before the committee hears any other testimony; and

121 (ii) after the last witness testifies before the committee and before the committee makes
122 its decision; and

123 (b) the chair may hold committee meetings in the geographic area to be served by the
124 judicial office.

125 (11) The committee may close the committee meeting for any of the purposes outlined
126 in Utah Code Annotated, Title 52, Chapter 4, Open and Public Meetings.

127 (12) In determining whether to recommend that the nominee be confirmed or rejected,
128 the Senate Judicial Confirmation Committee shall:

129 (a) review the appointee's resume, application materials, and any other documents or
130 information related to the nominee's fitness for judicial office;

131 (b) review each written statement submitted to the committee;

132 (c) interview, under oath or affirmation, each judicial appointee;

133 (d) base its decision regarding confirmation solely upon a consideration of the
134 nominee's fitness for judicial office without regard to any partisan political consideration;

135 (e) vote on whether or not to recommend confirmation of the appointee to the Senate;
136 and

137 (f) convey its recommendation to the Senate in a form that identifies to the Senate how
138 each Senate Judicial Confirmation Committee member voted on the nominee.

139 (13) The Office of Legislative Research and General Counsel shall provide a copy of
140 this rule to judicial appointees.

141 (14) Nothing contained in this rule shall be construed to limit the authority of the
142 Senate as provided in Utah Constitution Article VIII, Section 8.

143 **Section 3. Effective date.**

144 This resolution takes effect upon approval by a constitutional majority vote of all
145 members of the Senate.

Legislative Review Note

as of 2-3-03 10:56 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SR0006

Senate Rules Resolution - Senate Confirmation Process

10-Feb-03

9:02 AM

State Impact

Provisions of this resolution can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst