

- 28 ▶ provides the chair of the commission or an ethics committee with the authority to
29 direct proceedings and make rulings;
- 30 ▶ permits a majority of the commission or committee to overrule certain decisions of
31 the chair;
- 32 ▶ provides subpoena powers to the commission and committees;
- 33 ▶ provides procedures for issuing a subpoena;
- 34 ▶ defines actions that constitute contempt of the Legislature in relation to procedures
35 established under these rules;
- 36 ▶ provides procedures for enforcing findings of contempt of the Legislature;
- 37 ▶ provides general procedures for the examination of a witness;
- 38 ▶ establishes permitted and restricted communications by commission and committee
39 members during the period that an ethics complaint is under review;
- 40 ▶ establishes rules that govern the payment of attorney fees and costs;
- 41 ▶ establishes conduct requirements for an attorney appearing before the commission
42 or a committee;
- 43 ▶ provides procedures for filing an ethics complaint, including:
- 44 • who may file a complaint;
- 45 • restrictions on dates for filing a complaint;
- 46 • the form of the complaint; and
- 47 • information required to be included in the complaint;
- 48 ▶ prohibits any person from disclosing the existence or contents of an ethics
49 complaint while the commission is reviewing the complaint;
- 50 ▶ requires a complaint to be filed with the Senate or House Ethics Committee;
- 51 ▶ changes the title of an ethics committee cochair to vice chair;
- 52 ▶ modifies provisions for the recusal of an ethics committee member;
- 53 ▶ requires the chair and vice chair of the committee to review the complaint for
54 technical compliance with filing rules;
- 55 ▶ requires a new complaint to be filed if the original complaint fails to meet filing
56 requirements;
- 57 ▶ requires the chair and vice chair of an ethics committee to forward a complaint that
58 meets the filing requirements to the Independent Legislative Ethics Commission;

- 59 ▶ provides that the commission shall conduct the original review of each ethics
60 complaint;
- 61 ▶ provides that commission meetings and hearings shall be closed to the public;
- 62 ▶ permits the commission or an ethics committee to dismiss allegations that have
63 previously been heard by the commission or an ethics committee;
- 64 ▶ provides procedures for the commission to schedule a meeting to review an ethics
65 complaint;
- 66 ▶ permits the accused legislator, referred to as the respondent, to file a response to the
67 complaint;
- 68 ▶ establishes procedures and requirements for filing a response;
- 69 ▶ permits the commission to hold meetings on preliminary matters in relation to a
70 complaint before holding the formal review of the complaint;
- 71 ▶ provides that the scope of the committee's authority is limited to review of those
72 allegations contained in the complaint;
- 73 ▶ provides procedures for the commission's review of the complaint;
- 74 ▶ permits the commission to consult on certain issues with commission staff outside
75 of the presence of parties and their counsel;
- 76 ▶ prohibits third party recording of commission meetings, except under limited
77 circumstances;
- 78 ▶ requires that all portions of the commission's meetings be recorded;
- 79 ▶ provides procedures for storing a record of commission meetings;
- 80 ▶ provides that recordings and records of commission meetings are to be classified as
81 private records under the Government Records Access and Management Act;
- 82 ▶ provides procedures for the commission's deliberations when reviewing an ethics
83 complaint;
- 84 ▶ provides standards of evidence and voting procedures to be used by the commission
85 in determining whether each allegation in a complaint is proved or not proved;
- 86 ▶ requires the commission to dismiss allegations that are not found to be proved;
- 87 ▶ if one or more allegation is found to be proved, requires the commission to:
 - 88 • refer the proved allegations to the Senate Ethics Committee or the House Ethics
89 Committee; and

- 90 • prepare a recommendation, a modified complaint, and a modified response for
- 91 public release and submission to the ethics committee for review;
- 92 ▶ provides procedures for the ethics committee's review of allegations submitted by
- 93 the commission;
- 94 ▶ provides that committee meetings for review of the allegations submitted by the
- 95 commission are subject to the Open and Public Meetings Act;
- 96 ▶ permits the committee to close the meeting for discussion of certain matters;
- 97 ▶ prohibits third party recording of committee meetings, except under limited
- 98 circumstances;
- 99 ▶ requires that all portions of the committee's meetings be recorded;
- 100 ▶ provides procedures for storing a record of committee meetings;
- 101 ▶ provides procedures for the committee's deliberations;
- 102 ▶ provides standards of evidence and voting procedures to be used by a committee in
- 103 determining whether each allegation referred to the committee by the commission is
- 104 proved or not proved;
- 105 ▶ requires a committee to dismiss allegations that are not found to be proved;
- 106 ▶ requires a committee to publicly issue a finding and order on the allegations;
- 107 ▶ if one or more allegation is found to be proved, requires the committee to:
- 108 • vote on a recommended consequence for the violation, including censure,
- 109 expulsion, or denial of any of the respondent's rights or privileges; and
- 110 • refer the finding and order to the membership of the House or Senate; and
- 111 ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR6-2-101

JR6-2-102

JR6-2-201

JR6-3-101

JR6-4-101

121 **JR6-4-102**

122 **JR6-4-201**

123 ENACTS:

124 **JR6-2-103**

125 **JR6-2-104**

126 **JR6-2-301**

127 **JR6-2-302**

128 **JR6-2-303**

129 **JR6-2-304**

130 **JR6-2-305**

131 **JR6-2-306**

132 **JR6-2-307**

133 **JR6-3-102**

134 **JR6-4-103**

135 REPEALS AND REENACTS:

136 **JR6-2-202**

137 **JR6-4-202**

138 **JR6-4-203**

139 **JR6-4-204**

140 **JR6-4-301**

141 **JR6-4-302**

142 **JR6-4-303**

143 **JR6-4-304**

144 **JR6-4-305**

145 **JR6-4-306**

146 REPEALS:

147 **JR6-4-205**

148 **JR6-4-206**

149 **JR6-4-207**

150 **JR6-4-307**

151 **JR6-4-308**

152 JR6-4-309
153 JR6-4-310

154

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

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

157 **CHAPTER 2. HOUSE AND SENATE ETHICS COMMITTEES**
158 **AND INDEPENDENT ETHICS COMMISSION**

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

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

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

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

163 (a) the chair and three additional [members] Senators appointed by the President of the
164 Senate; and

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

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

168 (a) the chair and three additional [members] Representatives appointed by the Speaker
169 of the House of Representatives; and

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

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

174 (5) (a) ~~If a [complaint is filed against any member of the respective ethics committees;~~
175 ~~the President of the Senate or the Speaker of the House shall appoint another] member of an~~
176 ethics committee is accused of wrongdoing in a complaint to be reviewed by the committee, or
177 if a member of an ethics committee determines that he or she has a conflict of interest in
178 relation to a complaint to be reviewed by the ethics committee, a member of the Senate or
179 House [tø] shall be appointed to temporarily serve in that member's place while the complaint
180 is under review[.] as follows:

181 (i) except as provided in Subsection (5)(a)(ii), the member shall be appointed by the
182 person who appointed the member who is being temporarily replaced, consistent with

183 Subsection (2), for a member of the Senate Ethics Committee, or Subsection (3), for the House
 184 Ethics Committee; or

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

188 (A) the Senate majority leader, if the person designated is the President of the Senate;

189 (B) the Senate minority whip, if the person designated is the Senate minority leader;

190 (C) the House majority leader, if the person designated is the Speaker of the House; or

191 (D) the House minority whip, if the person designated is the House minority leader.

192 (b) The temporary committee member's term ends when the committee has concluded
 193 its review of the complaint.

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

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

196 (1) The Senate and House Ethics Committees shall operate as both standing and
 197 interim committees.

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

199 (a) the discretion of the chair; or

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

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

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

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

204 (b) the Legislative General Counsel; and

205 (c) any other [~~members of the~~] staff [~~of that office~~] designated by the director or the
 206 Legislative General Counsel.

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

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

209 (1) As used in this section, "original appointing entity" means:

210 (a) for a former judge appointed to the commission under Subsection (3)(a), the
 211 President of the Senate, the Speaker of the House, the Senate minority leader, and the House
 212 minority leader;

213 (b) for a former legislator appointed to the commission under Subsection (3)(b), the

214 President of the Senate and the Speaker of the House; or

215 (c) for a former legislator appointed to the commission under Subsection (3)(c), the
216 Senate minority leader and the House minority leader.

217 (2) There is established an Independent Legislative Ethics Commission.

218 (3) The commission is composed of five persons, each of whom is registered to vote in
219 this state, appointed as follows:

220 (a) three members, who have served, but no longer serve, as judges of a court of record
221 in this state, no more than two of whom may be members of the same political party, appointed
222 by the mutual consent of the President of the Senate, the Speaker of the House of
223 Representatives, the Senate minority leader, and the House minority leader;

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

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

230 (4) A member of the commission may not, during the member's term of office on the
231 commission, act or serve as:

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

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

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

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

236 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), each member of the commission
237 shall serve a four-year term.

238 (ii) When appointing the initial members to the commission, the President of the
239 Senate, Speaker of the House of Representatives, the Senate minority leader, and the House
240 minority leader shall direct that two of the members appointed under Subsection (3) serve a
241 two-year term so that approximately half of the commission is appointed every two years.

242 (b) (i) When a vacancy occurs in the commission's membership for any reason, the
243 original appointing entity shall appoint a replacement for the unexpired term of the vacating
244 member.

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

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

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

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

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

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

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

258 (f) If a commission member is accused of wrongdoing in a complaint, or if a
259 commission member determines that he or she has a conflict of interest in relation to a
260 complaint, the original appointing entity shall appoint a temporary commission member
261 according to the procedures and requirements of Subsection (3), to serve in that member's place
262 for the purposes of reviewing that complaint.

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

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

266 (7) A commission member may not receive compensation or benefits for the member's
267 services, but may receive per diem and travel expenses in accordance with:

268 (a) Section 63A-3-106;

269 (b) Section 63A-3-107; and

270 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
271 63A-3-107.

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

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

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

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

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

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

280 (3) (a) The Senate and the House of Representatives shall employ staff for the
281 commission at a level that is reasonable to assist the commission in performing its duties as
282 established in this chapter.

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

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

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

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

288 **Limitations on Filings.**

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

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

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

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

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

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

307 (3) (a) A complaint may not contain an allegation that is based on facts and
308 circumstances against a legislator that have been previously reviewed by the commission or an
309 ethics committee.

310 (b) If a compliant contains an allegation that is based on facts and circumstances
311 against a legislator that have been previously reviewed by the commission or a committee, the
312 commission or ethics committee may summarily dismiss that allegation as provided in this
313 title.

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

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

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

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

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

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

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

323 **Complaint.**

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

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

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

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

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

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

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

338 complaint;

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

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

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

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

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

348 (l) adoption of the commission's or committee's findings.

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

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

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

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

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

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

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

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

364 (ii) the basis for the objection.

365 (b) This motion is nondebatable.

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

368 (d) A majority vote of the commission or committee is necessary to overrule the

369 decision of the chair.

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

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

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

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

376 (a) require the attendance of a witness;

377 (b) direct the production of evidence; or

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

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

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

381 (b) at the direction of the commission chair, if the chair determines that the testimony
382 or evidence is relevant to the review of a complaint under Chapter 4, Part 2, Review of Ethics

383 Complaint by the Independent Legislative Ethics Commission; or

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

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

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

387 (b) at the direction of the committee chair or vice chair, if the chair or vice chair
388 determines that the testimony or evidence is relevant to review of a complaint under Chapter 4,

389 Part 3, Review of Ethics Complaint by Ethics Committee; or

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

391 (4) The Director of the Office of Legislative Research and General Counsel shall issue
392 a subpoena on behalf of an ethics committee when requested to do so by one of the persons or

393 entities authorized to do so under Subsection (3).

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

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

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

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

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

400 (iii) failure to answer a question during a hearing when directed to do so by:
401 (A) the commission chair, unless the direction is overridden by the commission under
402 JR6-2-302;

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

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

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

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

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

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

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

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

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

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

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

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

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

423 (b) In initiating and pursuing an action against an individual for contempt of the
424 Legislature, the plaintiff shall comply with the procedures and requirements of Section
425 36-14-5.

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

427 **JR6-2-305. Testimony and Examination of Witnesses -- Oath -- Procedure --**
428 **Contempt.**

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

- 431 (i) the witness is unable to be properly identified or located; or
- 432 (ii) service is otherwise determined to be impracticable.
- 433 (b) The chair shall determine the scheduling and order of witnesses and presentation of
- 434 evidence.
- 435 (c) The commission or committee may, by majority vote:
- 436 (i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);
- 437 (ii) modify the chair's determination on the scheduling and order of witnesses under
- 438 Subsection (1)(b);
- 439 (iii) decline to hear or call a witness that has been requested by the complainant or
- 440 respondent;
- 441 (iv) decline to review or consider evidence submitted in relation to an ethics complaint;
- 442 or
- 443 (v) request and subpoena witnesses or evidence according to the procedures of
- 444 JR6-2-303.
- 445 (2) (a) Each witness shall testify under oath.
- 446 (b) The chair or the chair's designee shall administer the oath to each witness.
- 447 (3) After the oath has been administered to the witness, the chair shall direct testimony
- 448 as follows:
- 449 (a) allow the party that has called the witness, or that party's counsel, to question the
- 450 witness;
- 451 (b) allow the opposing party, or that party's counsel, to cross-examine the witness;
- 452 (c) allow additional questioning by a party or a party's counsel as appropriate;
- 453 (d) give commission or committee members the opportunity to question the witness;
- 454 and
- 455 (e) as appropriate, allow further examination of the witness by the commission or
- 456 committee, or the parties or their counsel.
- 457 (4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:
- 458 (i) direct the witness to answer; or
- 459 (ii) rule that the witness is not required to answer the question.
- 460 (b) If the witness declines to answer a question after the chair or a majority of the
- 461 commission or committee determines that the witness is required to answer the question, the

462 witness may be held in contempt as provided in JR6-2-304.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

525 **CHAPTER 3. FILING A COMPLAINT ALLEGING A**
526 **VIOLATION OF LEGISLATIVE ETHICS**

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

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

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

533 (i) two or more members of the House of Representatives, for a complaint against a
534 Representative;

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

536 (iii) two or more registered voters currently residing within Utah, if, for each alleged
537 violation pled in the complaint, at least one of those registered voters has actual knowledge of
538 the facts and circumstances supporting the alleged violation.

539 (b) A complainant may file a complaint only against an individual who is serving as a
540 member of the Legislature on the date that the complaint is filed.

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

542 ~~[(a)]~~ (i) [with the President of the Senate and] the chair and vice chair of the Senate
543 Ethics Committee, if the complaint is against a [Senator] member of the Senate; or

544 ~~[(b)]~~ (ii) [with the Speaker of the House and] the chair and vice chair of the House
545 Ethics Committee, if the complaint is against a [Representative] member of the House of
546 Representatives.

547 (b) An individual may not file a complaint during the 60 calendar days immediately
548 preceding:

549 (i) a regular primary election, if the accused legislator is a candidate in the primary
550 election; or

551 (ii) a regular general election in which the accused legislator is a candidate, unless the
552 accused legislator is unopposed in the election.

553 ~~[(2) (a)]~~ (3) [The legislator filing the complaint shall ensure that it contains] The
554 complainants shall ensure that each complaint filed under this rule is in writing and contains

555 the following information:

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

558 [(ii)] (b) the name [and], address, and telephone number of [at least three Senators, if
559 the respondent is a Senate member, or at least three Representatives, if the respondent is a
560 House member, who are] each individual who is filing the complaint[, who are the complainant
561 or complainants];

562 [(iii)] (c) [the nature of the] a description of each alleged violation[;], including for
563 each alleged violation:

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

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

566 (i) a reference to:

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

568 (B) the criminal provision violated and the docket number of the case involving the
569 legislator;

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

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

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

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

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

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

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

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

582 (V) the signature of the signer;

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

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

- 586 (ii) a brief summary of the testimony to be provided by the witness; and
587 (iii) a specific description of any documents or evidence complainants desire the
588 witness to produce;
589 (e) a statement that each complainant:
590 (i) has reviewed the allegations contained in the complaint and the sworn statements
591 and documents attached to the complaint;
592 (ii) believes that the complaint is submitted in good faith and not for any improper
593 purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the
594 respondent's reputation, or causing unnecessary expenditure of public funds; and
595 (iii) believes the allegations contained in the complaint to be true and accurate; and
596 (f) the signature of each complainant.
597 ~~[(b) If any of the facts supporting the complaint are based upon the information and~~
598 ~~belief of the complainants, the complaint shall state that the facts are presented "upon~~
599 ~~information and belief" and give the basis for that information and belief.]~~

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

601 **JR6-3-102. Privacy of Ethics Complaints -- Contempt -- Enforcement of Finding**
602 **of Contempt -- Dismissal.**

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

607 (b) A complaint or response that is publicly released by the commission and referred to
608 an ethics committee for review under the procedures and requirements of JR6-4-204, and the
609 allegations contained in the publicly released complaint, are not subject to the restrictions of
610 Subsection (1)(a).

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

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

616 (3) If the existence of an ethics complaint is publicly disclosed during the period that

617 the Independent Legislative Ethics Commission is reviewing the complaint, the complaint shall
 618 be summarily dismissed.

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

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

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

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

623 **Requirements -- Independent Requirements for Complaint -- Notice of Complaint to**
 624 **Commission Members.**

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

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

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

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

634 ~~(ii) The~~ (b) If a complaint is returned for non-compliance with the requirements of
 635 this title, the complainants may ~~resubmit the~~ file another complaint if the new complaint
 636 independently meets the requirements of JR6-3-101, including any requirements for timely
 637 filing.

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

640 (i) (a) accept the complaint;

641 (ii) (b) notify ~~each member~~ the chair and the staff of the ~~ethics committee~~
 642 Independent Legislative Ethics Commission that the complaint has been filed and accepted;

643 and

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

646 (2) No committee member or staff may disclose publically any information received
 647 by the committee concerning any alleged violation until the member of the Senate or House

648 charged in the violation has received the Summary of the Preliminary Inquiry required by
649 JR6-4-206.]

650 (i) the commission; and

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

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

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

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

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

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

663 [~~(b) (2) place the [ethics] complaint on the agenda for consideration at that meeting~~
664 [with the recommendation that:];

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

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

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

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

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

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

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

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

678 (a) the members of the commission;

- 679 (b) the first complainant named in the complaint; and
- 680 (c) the respondent; and
- 681 (4) provide a copy of the complaint to each member of the commission.

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

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

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

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

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

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

691 (i) each affirmative defense asserted in response to the allegation, including a general
692 description of each affirmative defense and the facts and circumstances supporting the defense
693 to be provided by one or more affidavits, each of which shall comply with the following
694 format:

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

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

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

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

701 (E) the signature of the signer;

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

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

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

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

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

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

709 (IV) a statement that the affidavit is believed to be true and correct and that false

710 statements are subject to penalties of perjury; and
 711 (V) the signature of the signer;
 712 (c) a list of the witnesses that the respondent wishes to have called, including for each
 713 witness:
 714 (i) the name, address, and, if available, telephone number of the witness;
 715 (ii) a brief summary of the testimony to be provided by the witness; and
 716 (iii) a specific description of any documents or evidence the respondent desires the
 717 witness to produce;
 718 (d) a statement that the respondent:
 719 (i) has reviewed the allegations contained in the complaint and the sworn statements
 720 and documents attached to the response; and
 721 (ii) believes the contents of the response to be true and accurate; and
 722 (e) the signature of the respondent.
 723 (3) Promptly after receiving the response, the commission shall provide copies of the
 724 response to:
 725 (a) each member of the commission; and
 726 (b) the first named complainant on the complaint.

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

728 **Part 2. Review of Ethics Complaint by the Independent Legislative Ethics Commission**
 729 **JR6-4-201. Review of Ethics Complaint by the Independent Legislative Ethics**
 730 **Commission.**

731 (1) The scope of the [~~preliminary inquiry~~] Independent Legislative Ethics
 732 Commission's review is limited to the alleged violations stated in the complaint.
 733 [~~(2) (a) Only relevant or material evidence is admissible in the preliminary inquiry.~~]
 734 (2) (a) Before holding the meeting for review of the complaint, the commission chair
 735 may schedule a separate meeting of the commission for the purposes of:
 736 (i) hearing motions or arguments from the parties, including hearing motions or
 737 arguments relating to dismissal of a complaint, admission of evidence, or procedures;
 738 (ii) holding a vote of the commission, with or without the attendance of the parties, on
 739 procedural or commission business matters relating to a complaint; or
 740 (iii) reviewing a complaint, with or without the attendance of the parties, to determine

741 if the complaint should be dismissed in whole or in part, by means of a majority vote of the
742 commission, because it pleads facts or circumstances against a legislator that have already been
743 reviewed by the commission or an ethics committee as provided in JR6-2-201.

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

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

747 (ii) necessary scheduling requirements.

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

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

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

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

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

762 ~~[(c) Only Ethics Committee members and staff may be present during other portions of~~
763 ~~the preliminary inquiry.]~~

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

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

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

772 ~~[(b) Committee members and committee staff may not publicly disclose any other part~~
773 ~~of the preliminary inquiry.]~~

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

776 (ii) complainants' counsel, if applicable;

777 (iii) the respondent;

778 (iv) the respondent's counsel, if applicable;

779 (v) members of the commission;

780 (vi) staff to the commission;

781 (vii) a witness, while testifying before the commission; and

782 (viii) necessary security personnel.

783 (c) The complainants, respondent, and their respective counsel may be excluded from a
784 portion of the meeting when the commission discusses administrative, procedural, legal, or
785 evidentiary issues by:

786 (i) the order of the chair, subject to override as provided in JR6-2-302; or

787 (ii) a majority vote of the commission.

788 (d) When the commission deliberates at the conclusion of presentation of testimony
789 and evidence, the commission shall ensure that those deliberations are closed to all persons
790 except for the members of the commission and commission staff.

791 ~~[(8)]~~ (5) If a majority of the [committee] commission determines that a continuance is
792 necessary to obtain further evidence and testimony [are necessary], to accommodate
793 administrative needs, or to accommodate the attendance of commission members, witnesses, or
794 a party, the [committee] commission shall:

795 (a) adjourn and continue the [preliminary inquiry hearing] meeting to a future date and
796 time after notice to the parties; and

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

798 Section 20. **JR6-4-202** is repealed and reenacted to read:

799 **JR6-4-202. Record -- Recording of Meetings.**

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

802 (b) (i) The commission shall keep an audio or video recording of all portions of each

803 meeting authorized by this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

829 (ii) not proven.

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

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

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

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

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

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

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

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

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

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

847 (b) classify all recordings, testimony, evidence, orders, findings, and other records
848 directly relating to the meetings authorized by this part as private records under Section
849 63G-2-302;

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

852 (i) the respondent; and

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

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

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

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

861 (b) prepare a written recommendation to the Senate Ethics Committee, if the
862 respondent is a Senator, or to the House Ethics Committee, if the respondent is a
863 Representative, that:

864 (i) lists the name of each complainant;

- 865 (ii) lists the name of the respondent;
866 (iii) states the date of the recommendation;
867 (iv) for each allegation that was found to be proven:
868 (A) provides a reference to the code of conduct or criminal provision allegedly
869 violated;
870 (B) states the number and names of commission members voting that the allegation
871 was proved and the number and names of commission members voting that the allegation was
872 not proved;
873 (C) at the option of those members voting that the allegation was proved, includes a
874 statement by one or all of those members stating the reasons for voting that the allegation was
875 proved, provided that the statement does not cite specific evidence, specific testimony, or
876 specific witnesses; and
877 (D) at the option of those members voting that the allegation was not proved, includes
878 a statement by one or all of those members stating the reasons for voting that the allegation was
879 not proved, provided that the statement does not cite specific evidence, specific testimony, or
880 specific witnesses;
881 (v) contains any general statement that is adopted for inclusion in the recommendation
882 by a majority of the members of the commission;
883 (vi) contains a statement referring the allegations found to have been proved to the
884 appropriate ethics committee for review;
885 (vii) states the name of each member of the commission; and
886 (viii) is signed by each commission member;
887 (c) direct staff to publicly release the recommendation, the complaint, and the
888 response, subject to the redaction of any allegations that were dismissed by the commission;
889 and
890 (d) classify all other recordings, testimony, evidence, orders, findings, and other
891 records directly relating to the meetings and hearings authorized by this part as private records
892 under Section 63G-2-302.
893 (3) Notwithstanding any other provision of this title, the commission may not release a
894 recommendation during the 60 calendar days immediately preceding:
895 (a) a regular primary election, if the accused legislator is a candidate in the primary

896 election; or

897 (b) a regular general election in which the accused legislator is a candidate, unless the
898 accused legislator is unopposed in the election.

899 (4) The commission shall ensure that a copy of the recommendation is made publicly
900 available and promptly provided to:

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

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

905 (c) the chair and vice chair of the Senate Ethics Committee, if the respondent is a
906 Senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a
907 Representative.

908 (5) The commission shall ensure that, within five business days of the date of issuance
909 of the recommendation:

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

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

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

918 (ii) a copy of the edited complaint;

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

920 (iv) a copy of the recommendation.

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

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

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

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

925 (1) Within five calendar days of the date that the chair of the Senate Ethics or House
926 Ethics Committee receives the commission's recommendation as provided under JR6-4-204,

927 the chair and vice chair of the committee shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

950 (ii) necessary scheduling requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

990 (3) (a) Except as provided in Subsection (3)(b), all recordings, testimony, evidence,

991 and other records of meetings and hearings authorized by this part are public records.

992 (b) All recordings, minutes, and other records produced during a closed meeting

993 authorized under this part are classified as private records under Section 63G-2-302.

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

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

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

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

1000 (b) at a future meeting of the committee, on a date and time determined by a majority
1001 of the members of the committee.

1002 (2) The chair of the committee shall conduct the deliberations.

1003 (3) During the deliberations, committee members may:

1004 (a) discuss evidence and testimony;

1005 (b) discuss and debate whether an allegation was proven or not proven;

1006 (c) discuss and debate what actions should be taken or not taken against the respondent
1007 in relation to each allegation;

1008 (d) discuss and debate any other matter related to the allegations in the complaint that
1009 is before the committee; and

1010 (e) conduct, at the call of the chair or a majority of the members of the committee, a
1011 non-binding straw poll on any matter related to the complaint.

1012 (4) (a) Notwithstanding JR6-2-306, and except as provided in Subsection (4)(b), from
1013 the time of completion of closing arguments through the time that the written finding and order
1014 are publicly issued, a committee member may not discuss any of the following matters with any
1015 other person outside of official committee deliberations:

1016 (i) the substance or specifics of the allegations, testimony, or evidence of the complaint
1017 under review;

1018 (ii) a committee member's intended vote;

1019 (iii) a committee member's recommendation for actions to be taken or not taken against

1020 the respondent in relation to the complaint; or

1021 (iv) any other non-administrative matter related to the complaint.

1022 (b) During deliberations, committee members may privately consult with staff for the
1023 purpose of discussing legal, evidentiary, or procedural matters.

1024 (5) Deliberations shall continue until they are concluded or continued to another date
1025 and time:

1026 (a) at the direction of the chair, subject to JR6-2-302; or

1027 (b) upon a motion approved by a majority of the committee members.

1028 Section 27. **JR6-4-305** is repealed and reenacted to read:

1029 **JR6-4-305. Vote on Allegations and Recommendations -- Public Meeting --**
1030 **Standards -- Reconsideration.**

1031 (1) After conclusion of the deliberations, the committee shall meet in public and, for
1032 each allegation reviewed by the committee, vote on whether the allegation is:

1033 (a) proven by clear and convincing evidence; or

1034 (b) not proven.

1035 (2) For any count that has been voted as proven, the committee shall, by a motion
1036 approved by a majority of the members of the committee, recommend one or more of the
1037 following actions:

1038 (a) censure;

1039 (b) expulsion;

1040 (c) denial or limitation of any right, power, or privilege of the respondent, if, under the
1041 Utah Constitution, the Senate or House may impose that denial or limitation, and if the
1042 violation bears upon the exercise or holding of any right, power, or privilege; or

1043 (d) any other action that the committee determines is appropriate.

1044 (3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.

1045 (4) A count is not considered to be proven unless a majority of the committee votes
1046 that the count is proven.

1047 (5) The committee, by a motion for reconsideration that is approved by a majority of
1048 the committee, may reconsider and hold a new vote provided that:

1049 (a) a motion to reconsider a vote on whether an allegation was proven or not proven

1050 may only be made by a member of the committee who voted that the allegation was not proven;

1051 and

1052 (b) a motion to reconsider a vote recommending an action against the respondent may
1053 only be made by a member of the committee who voted against the recommendation.

1054 (6) A count that is not voted as "proven" by a majority of the members of the
1055 committee is dismissed.

1056 (7) The committee may close the meeting for the purposes of further deliberations,
1057 subject to the requirements of JR6-4-304:

1058 (a) at the direction of the chair, subject to override by the committee as provided in
1059 JR6-2-302; or

1060 (b) upon a motion approved by a majority of the members of the committee.

1061 (8) After a final vote has been cast on each allegation and recommendation, the
1062 committee shall prepare the finding and order as provided in JR6-4-306.

1063 Section 28. **JR6-4-306** is repealed and reenacted to read:

1064 **JR6-4-306. Finding and Order.**

1065 (1) (a) If the committee determines that no allegations in the complaint were proved,
1066 the committee shall prepare a finding and order that:

1067 (i) lists the name of each complainant;

1068 (ii) lists the name of the respondent;

1069 (iii) states the date of the finding and order;

1070 (iv) for each allegation contained in the complaint:

1071 (A) provides a reference to the code of conduct or criminal provision alleged to have
1072 been violated; and

1073 (B) states the number and names of committee members voting that the allegation was
1074 proved and the number and names of committee members voting that the allegation was not
1075 proved;

1076 (v) order that the complaint is dismissed because no allegations in the complaint were
1077 found to have been proved;

1078 (vi) provide any general statement that is adopted for inclusion in the recommendation
1079 by a majority of the committee members; and

1080 (vii) states the name of each committee member.

1081 (b) Each committee member shall sign the finding and order.

1082 (2) (a) If the committee determines that one or more allegations in the complaint were
1083 proved, the committee shall issue a finding and order that:

1084 (i) lists the name of each complainant;
1085 (ii) lists the name of the respondent;
1086 (iii) states the date of the finding and order;
1087 (iv) for each allegation contained in the complaint:

1088 (A) provides a reference to the code of conduct or criminal provision alleged to have
1089 been violated;

1090 (B) states the number and names of committee members voting that the allegation was
1091 proved and the number and names of committee members voting that the allegation was not
1092 proved;

1093 (C) if the allegation was not found not to have been proven, orders that the allegation
1094 be dismissed; and

1095 (D) if the allegation was found to have been proven, contains:

1096 (I) a description of any actions that the committee recommended be taken;
1097 (II) the number and names of committee members voting in favor of each
1098 recommendation and the number and names of committee members voting against each
1099 recommendation;

1100 (III) at the option of those members voting in favor of a recommendation, a statement
1101 by one or all of those members stating the reasons for making the recommendation; and

1102 (IV) at the option of those members against a recommendation, a statement by one or
1103 all of those members stating the reasons for opposing the recommendation;

1104 (v) contains any general statement that is adopted for inclusion in the finding and order
1105 by a majority of the committee members;

1106 (vi) contains a statement directing that the finding be delivered to:

1107 (A) for the Senate Ethics Committee, to the President of the Senate, the Senate
1108 majority leader, and the Senate minority leader; or

1109 (B) for the House Ethics Committee, to the Speaker of the House of Representatives,
1110 the House majority leader, and the House minority leader; and

1111 (vii) states the name of each committee member.

1112 (b) Each committee member shall sign the finding and order.

- 1113 (3) A copy of the finding and order shall be made publicly available.
- 1114 (4) A written copy of the finding and order shall be provided to:
- 1115 (a) the respondent;
- 1116 (b) the first complainant named on the complaint; and
- 1117 (c) any individuals required to receive a copy as stated in the finding and order.
- 1118 Section 29. **Repealer.**
- 1119 This resolution repeals:
- 1120 **JR6-4-205, Rights of the Respondent.**
- 1121 **JR6-4-206, Record.**
- 1122 **JR6-4-207, Process for Making a Decision -- Remedies -- Publication of Decision.**
- 1123 **JR6-4-307, Disciplinary Hearing Process -- Phase 1, Adjudication Phase.**
- 1124 **JR6-4-308, Disciplinary Hearing Process -- Phase II, Penalty Phase -- Remedies.**
- 1125 **JR6-4-309, Announcement of Decision.**
- 1126 **JR6-4-310, Records of Disciplinary Hearing.**

Legislative Review Note
as of 11-19-09 11:26 AM

Office of Legislative Research and General Counsel