

Senator Curtis S. Bramble proposes the following substitute bill:

POLITICAL SUBDIVISION ETHICS AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

Cosponsor: John L. Valentine

LONG TITLE

General Description:

This bill enacts language related to a political subdivision officer or employee ethics violation.

Highlighted Provisions:

This bill:

- ▶ authorizes a municipality to establish a municipal ethics commission;
- ▶ enacts general provisions;
- ▶ defines terms;
- ▶ authorizes a political subdivision to establish an ethics commission within the political subdivision or by interlocal agreement;
- ▶ enacts provisions related to the Political Subdivisions Ethics Review Commission (Commission);
- ▶ enacts provisions related to general powers and procedures;
- ▶ enacts provisions related to a hearing on an ethics complaint;
- ▶ enacts provisions related to an ethics complaint;
- ▶ enacts provisions related to a review of an ethics complaint for compliance;



- 25 ▶ enacts provisions related to the commission's preliminary review and review of an
- 26 ethics violation;
- 27 ▶ authorizes a county to establish a county ethics commission;
- 28 ▶ amends provisions related to a closed public meeting;
- 29 ▶ amends provisions related to a private record;
- 30 ▶ removes a county from the authority of Title 67, Chapter 16, Utah Public Officers'
- 31 and Employees' Ethics Act;
- 32 ▶ enacts language related to filing a complaint for a violation of Title 67, Chapter 16,
- 33 Utah Public Officers' and Employees' Ethics Act; and
- 34 ▶ makes technical corrections.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 ~~H~~→ ~~[None]~~ **This bill takes effect on September 1, 2012.** ←~~H~~

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **10-3-1311**, as enacted by Laws of Utah 1981, Chapter 57
- 42 **17-16a-11**, as enacted by Laws of Utah 1983, Chapter 46
- 43 **52-4-204**, as last amended by Laws of Utah 2010, Chapters 35 and 239
- 44 **63G-2-302**, as last amended by Laws of Utah 2011, Chapters 85, 327, and 413
- 45 **67-16-3**, as last amended by Laws of Utah 2008, Chapter 382
- 46 **67-16-4**, as last amended by Laws of Utah 2008, Chapter 382

47 ENACTS:

- 48 **11-49-101**, Utah Code Annotated 1953
- 49 **11-49-102**, Utah Code Annotated 1953
- 50 **11-49-103**, Utah Code Annotated 1953
- 51 **11-49-201**, Utah Code Annotated 1953
- 52 **11-49-202**, Utah Code Annotated 1953
- 53 **11-49-301**, Utah Code Annotated 1953
- 54 **11-49-302**, Utah Code Annotated 1953
- 55 **11-49-401**, Utah Code Annotated 1953

- 56 **11-49-402**, Utah Code Annotated 1953
- 57 **11-49-403**, Utah Code Annotated 1953
- 58 **11-49-404**, Utah Code Annotated 1953
- 59 **11-49-405**, Utah Code Annotated 1953
- 60 **11-49-406**, Utah Code Annotated 1953
- 61 **11-49-407**, Utah Code Annotated 1953
- 62 **11-49-408**, Utah Code Annotated 1953
- 63 **11-49-501**, Utah Code Annotated 1953
- 64 **11-49-502**, Utah Code Annotated 1953
- 65 **11-49-601**, Utah Code Annotated 1953
- 66 **11-49-602**, Utah Code Annotated 1953
- 67 **11-49-603**, Utah Code Annotated 1953
- 68 **11-49-604**, Utah Code Annotated 1953
- 69 **11-49-701**, Utah Code Annotated 1953
- 70 **11-49-702**, Utah Code Annotated 1953
- 71 **11-49-703**, Utah Code Annotated 1953
- 72 **11-49-704**, Utah Code Annotated 1953
- 73 **11-49-705**, Utah Code Annotated 1953
- 74 **11-49-706**, Utah Code Annotated 1953
- 75 **67-16-15**, Utah Code Annotated 1953



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

78 Section 1. Section **10-3-1311** is amended to read:

79 **10-3-1311. Municipal ethics commission -- Complaints charging violations.**

80 [~~(1) Any complaint against a person who is under the merit system, charging that~~
81 person with a violation of this part, shall be filed and processed in accordance with the
82 provisions of the merit system.]

83 [~~(2) If the person charged with the violation is not under any merit system, then the~~
84 complaint shall be filed with the mayor or city manager. The mayor or city manager shall
85 investigate the complaint and shall give the person an opportunity to be heard. A written report
86 of the findings and the recommendation of the mayor or city manager shall be filed with the

87 governing body. If the governing body finds that the person has violated this part, it may
88 dismiss, suspend, or take such other appropriate action with respect to the person.}]

89 (1) A municipality may establish by ordinance an ethics commission to review a
90 complaint against an officer or employee subject to this part for a violation of a provision of
91 this part.

92 (2) (a) A person filing a complaint for a violation of this part shall file the complaint:

93 (i) with the municipal ethics commission, if a municipality has established a municipal
94 ethics commission in accordance with Subsection (1); or

95 (ii) with the Political Subdivisions Ethics Review Commission in accordance with
96 Title 11, Chapter 49, Political Subdivisions Ethics Review Commission, if the municipality has
97 not established a municipal ethics commission.

98 (b) A municipality that receives a complaint described in Subsection (2)(a) may:

99 (i) accept the complaint if the municipality has established a municipal ethics
100 commission in accordance with Subsection (1); or

101 (ii) forward the complaint to the Political Subdivisions Ethics Review Commission
102 established in Section 11-49-201:

103 (A) regardless of whether the municipality has established a municipal ethics
104 commission; or

105 (B) if the municipality has not established a municipal ethics commission.

106 (3) If the alleged ethics complaint is against a person who is a member of the municipal
107 ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions
108 Ethics Review Commission.

109 Section 2. Section **11-49-101** is enacted to read:

110 **CHAPTER 49. POLITICAL SUBDIVISIONS ETHICS REVIEW COMMISSION**

111 **Part 1. General Provisions**

112 **11-49-101. Title.**

113 This chapter is known as "Political Subdivisions Ethics Review Commission."

114 Section 3. Section **11-49-102** is enacted to read:

115 **11-49-102. Definitions.**

116 (1) "Commission" means the Political Subdivisions Ethics Review Commission
117 established in Section 11-49-201.

118 (2) "Complainant" means a person who files a complaint in accordance with Section
119 11-49-501.

120 (3) "Ethics violation" means a violation of:

121 (a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

122 (b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

123 (c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

124 (4) "Local political subdivision ethics commission" means an ethics commission
125 established by a political subdivision within the political subdivision or with another political
126 subdivision by interlocal agreement in accordance with Section 11-49-103.

127 (5) "Political subdivision" means a county, municipality, school district, community
128 development and renewal agency, local district, special service district, an entity created by an
129 interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local
130 building authority, or any other governmental subdivision or public corporation.

131 (6) (a) "Political subdivision employee" means a person who is:

132 (i) (A) in a municipality, employed as a city manager or non-elected chief executive on
133 a full or part-time basis; or

134 (B) employed as the non-elected chief executive by a political subdivision other than a
135 municipality on a full or part-time basis; and

136 (ii) subject to:

137 (A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

138 (B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

139 (C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

140 (b) "Political subdivision employee" does not include:

141 (i) a person who is a political subdivision officer;

142 (ii) an employee of a state entity; or

143 (iii) a legislative employee as defined in Section 67-16-3.

144 (7) "Political subdivision governing body" means:

145 (a) for a county, the county legislative body as defined in Section 68-3-12.5;

146 (b) for a municipality, the council of the city or town;

147 (c) for a school district, the local board of education described in Section 53A-3-101;

148 (d) for a community development and renewal agency, the agency board described in

149 Section 17C-1-203;

150 (e) for a local district, the board of trustees described in Section 17B-1-301;

151 (f) for a special service district;

152 (i) the legislative body of the county, city, or town that established the special service
153 district, if no administrative control board has been appointed under Section 17D-1-301; or

154 (ii) the administrative control board of the special service district, if an administrative
155 control board has been appointed under Section 17D-1-301;

156 (g) for an entity created by an interlocal agreement, the governing body of an interlocal
157 entity, as defined in Section 11-13-103;

158 (h) for a local building authority, the governing body, as defined in Section 17D-2-102,
159 that creates the local building authority; or

160 (i) for any other governmental subdivision or public corporation, the board or other
161 body authorized to make executive and management decisions for the subdivision or public
162 corporation.

163 (8) (a) "Political subdivision officer" means a person elected in a political subdivision
164 who is subject to:

165 (i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

166 (ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

167 (iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

168 (b) "Political subdivision officer" does not include:

169 (i) a person elected or appointed to a state entity;

170 (ii) the governor;

171 (iii) the lieutenant governor;

172 (iv) a member or member-elect of either house of the Legislature; or

173 (v) a member of Utah's congressional delegation.

174 (9) "Respondent" means a person who files a response in accordance with Section
175 11-49-604.

176 Section 4. Section **11-49-103** is enacted to read:

177 **11-49-103. Local ethics commission permitted -- Filing requirements.**

178 (1) A political subdivision, other than a municipality described in Section 10-3-1311 or
179 a county described in Section 17-16a-11, may establish a local political subdivision ethics

180 commission within the political subdivision to review a complaint against a political
 181 subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and
 182 Employees' Ethics Act.

183 (2) A political subdivision may enter into an interlocal agreement with another political
 184 subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a
 185 local political subdivision ethics commission to review a complaint against a political
 186 subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and
 187 Employees' Ethics Act.

188 (3) (a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah
 189 Public Officers' and Employees' Ethics Act, shall file the complaint with:

190 (i) a local political subdivision ethics commission, if the political subdivision has
 191 established a local political subdivision ethics commission under Subsection (1) or (2); or

192 (ii) the commission ~~§~~ → **if the political subdivision has not established a local political**
 192a **subdivision ethics commission** ← ~~§~~ .

193 (b) A political subdivision that receives a complaint described in Subsection (3)(a)
 194 may:

195 (i) accept the complaint if the political subdivision has established a local political
 196 subdivision ethics commission in accordance with Subsection (1) or (2); or

197 (ii) forward the complaint to the commission:

198 (A) regardless of whether the political subdivision has established a local political
 199 subdivision ethics commission; or

200 (B) if the political subdivision has not established a local political subdivision ethics
 201 commission.

202 Section 5. Section **11-49-201** is enacted to read:

203 **Part 2. Political Subdivisions Ethics Review Commission**

204 **11-49-201. Commission established -- Membership.**

205 (1) There is established a Political Subdivisions Ethics Review Commission.

206 (2) The commission is composed of seven persons, each of whom is registered to vote
 207 in this state and appointed by the governor with the advice and consent of the Senate, as
 208 follows:

209 (a) one member who has served, but no longer serves, as a judge of a court of record in
 210 this state;

211 (b) one member who has served as a mayor or municipal council member no more
212 recently than four years before the date of appointment;

213 (c) one member who has served as a member of a local board of education no more
214 recently than four years before the date of appointment;

215 (d) two members who are lay persons; and

216 (e) two members, each of whom is one of the following:

217 (i) a municipal mayor no more recently than four years before the date of appointment;

218 (ii) a municipal council member no more recently than four years before the date of
219 appointment;

220 (iii) a county mayor no more recently than four years before the date of appointment;

221 (iv) a county commissioner no more recently than four years before the date of
222 appointment;

223 (v) a special service district administrative control board member no more recently
224 than four years before the date of appointment;

225 (vi) a local district board of trustees member no more recently than four years before
226 the date of appointment; or

227 (vii) a judge who has served, but no longer serves, as a judge of a court of record in
228 this state.

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

231 (a) a political subdivision officer;

232 (b) a political subdivision employee;

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

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

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

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

238 (ii) When appointing the initial members upon formation of the commission, a member
239 described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that
240 approximately half of the commission is appointed every two years.

241 (b) (i) When a vacancy occurs in the commission's membership for any reason, a

242 replacement member shall be appointed for the unexpired term of the vacating member using
243 the procedures and requirements of Subsection (2).

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

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

248 (d) A member of the commission may resign from the commission by giving one
249 month's written notice of the resignation to the governor.

250 (e) The governor shall remove a member from the commission if the member:

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

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

254 (iii) fails to meet the qualifications of office as provided in this section.

255 (f) If a commission member is accused of wrongdoing in a complaint, or if a
256 commission member determines that the commission member has a conflict of interest in
257 relation to a complaint, a temporary commission member shall be appointed to serve in that
258 member's place for the purposes of reviewing that complaint using the procedures and
259 requirements of Subsection (2).

260 (5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may
261 not receive compensation or benefits for the member's service.

262 (b) (i) A member may receive per diem and expenses incurred in the performance of
263 the member's official duties at the rates established by the Division of Finance under Sections
264 63A-3-106 and 63A-3-107.

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

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

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

269 Section 6. Section **11-49-202** is enacted to read:

270 **11-49-202. Meetings -- Staff.**

271 (1) The commission shall meet for the purpose of reviewing an ethics complaint when:

272 (a) except otherwise expressly provided in this chapter, called to meet at the discretion

273 of the chair; or
274 (b) a majority of members agree to meet.
275 (2) A majority of the commission is a quorum.
276 (3) (a) The commission shall prepare, on an annual basis, a summary data report that
277 contains:
278 (i) a general description of the activities of the commission during the past year;
279 (ii) the number of ethics complaints filed with the commission;
280 (iii) the number of ethics complaints dismissed in accordance with Section 11-49-602;
281 (iv) the number of ethics complaints reviewed by the commission in accordance with
282 Section 11-49-701;
283 (v) an executive summary of each complaint review in accordance with Section
284 11-49-701; and
285 (vi) an accounting of the commission's budget and expenditures.
286 (b) The summary data report shall be submitted to the Government Operations and
287 Political Subdivisions Interim Committee on an annual basis.
288 (c) The summary data report shall be a public record.
289 (4) (a) The Senate and the House of Representatives shall employ staff for the
290 commission at a level that is reasonable to assist the commission in performing its duties as
291 established in this chapter.
292 (b) The Legislative Management Committee shall:
293 (i) authorize each staff position for the commission; and
294 (ii) approve the employment of each staff member for the commission.
295 (c) Staff for the commission shall work only for the commission and may not perform
296 services for the Senate, House of Representatives, other legislative offices, or a political
297 subdivision.
298 (5) A meeting held by the commission is subject to Title 52, Chapter 4, Open and
299 Public Meetings Act, unless otherwise provided.

300 Section 7. Section **11-49-301** is enacted to read:

301 **Part 3. General Powers and Procedures**

302 **11-49-301. Authority to review complaint -- Grounds for complaint -- Limitations**
303 **on filings.**

304 (1) Subject to the requirements of this chapter and Section 10-3-1311 or 17-16a-11, the
305 commission is authorized to review an ethics complaint against a political subdivision officer
306 or employee if the complaint alleges:

307 (a) if the applicable political subdivision is a municipality, an ethics violation of Title
308 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:

309 (i) a city manager or non-elected chief executive; or

310 (ii) an elected officer, as defined in Section 10-3-1303;

311 (b) if the applicable political subdivision is a county, an ethics violation of Title 17,
312 Chapter 16a, County Officers and Employees Disclosure Act by:

313 (i) an appointed officer, as defined in Section 17-16a-3;

314 (ii) an elected officer, as defined in Section 17-16a-3; or

315 (iii) an employee subject to Title 17, Chapter 16a, County Officers and Employees
316 Disclosure Act; or

317 (c) for a political subdivision officer or employee other than a municipal officer or
318 employee described in Subsection (1)(a) or a county officer or employee described in
319 Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and
320 Employees' Ethics Act.

321 (2) A complaint described in Subsection (1) shall be filed in accordance with the time
322 limit provisions, if any, of the applicable part or chapter.

323 (3) (a) A complaint may not contain an allegation if that allegation and the general
324 facts and circumstances supporting that allegation have been previously reviewed by a
325 municipal ethics commission established under Section 10-3-1311, a county ethics commission
326 established under Section 17-16a-11, or a local political subdivision ethics commission
327 established under Section 11-49-103, as applicable, or the commission unless:

328 (i) the allegation was previously reviewed and dismissed by the commission under
329 Section 11-49-602 or 11-49-701;

330 (ii) the allegation is accompanied by material facts or circumstances supporting the
331 allegation that were not raised or pled to the commission; and

332 (iii) the allegation and the general facts and circumstances supporting that allegation
333 have only been reviewed by the commission in accordance with Section 11-49-701 on one
334 previous occasion.

335 (b) The commission may not review a complaint that is currently before:

336 (i) a municipal ethics commission established under Section 10-3-1311;

337 (ii) a county ethics commission established under Section 17-16a-11; or

338 (iii) a local political subdivision ethics commission established under Section

339 11-49-103.

340 (c) If an allegation in the complaint does not comply with the requirements of
341 Subsection (3)(a) or (b), the allegation shall be summarily dismissed with prejudice by:

342 (i) the chair when reviewing the complaint under Section 11-49-601; or

343 (ii) the commission, when reviewing the complaint under Section 11-49-602 or
344 11-49-701.

345 Section 8. Section **11-49-302** is enacted to read:

346 **11-49-302. General powers -- Jurisdiction.**

347 (1) The commission has jurisdiction only over an individual who is a political
348 subdivision officer or employee.

349 (2) The commission shall dismiss an ethics complaint if:

350 (a) the respondent resigns or is terminated from the political subdivision; or

351 (b) except as provided in Subsection (3):

352 (i) the respondent is charged with a criminal violation of:

353 (A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

354 (B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

355 (C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

356 (ii) the facts and allegations presented in the ethics complaint assert the same or similar
357 facts and allegations as those asserted in the criminal charges.

358 (3) If an ethics complaint asserts an ethics violation in addition to a criminal violation
359 described in Subsection (2)(b), the commission shall:

360 (a) dismiss an allegation described in Subsection (2)(b)(ii); and

361 (b) proceed with any remaining allegation in the complaint.

362 Section 9. Section **11-49-401** is enacted to read:

363 **Part 4. Hearing on Ethics Complaint**

364 **11-49-401. Hearing on ethics complaint -- General procedures.**

365 (1) In conducting a hearing on a complaint in accordance with Part 7, Commission

366 Review of Ethics Violation, the commission shall comply with the following process in the
367 order specified:

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

370 (b) complainant's opening argument, to be presented by a complainant or complainant's
371 counsel;

372 (c) complainant's presentation of evidence and witnesses in support of allegations in
373 the complaint;

374 (d) consideration of motions to dismiss the complaint or motions for a finding of no
375 cause, as applicable;

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

378 (f) respondent's presentation of evidence and witnesses refuting allegations in the
379 complaint;

380 (g) presentation of rebuttal evidence and witnesses by the complainant, at the
381 discretion of the chair;

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

384 (i) complainant's closing argument, to be presented by a complainant or complainant's
385 counsel;

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

388 (k) deliberations by the commission; and

389 (l) adoption of the commission's findings.

390 (2) The commission may, in extraordinary circumstances, vary the order contained in
391 Subsection (1) by majority vote and by providing notice to the parties.

392 (3) The chair may schedule the examination of a witness or evidence subpoenaed at the
393 request of the chair or the commission under Section 11-49-403 at the chair's discretion.

394 Section 10. Section **11-49-402** is enacted to read:

395 **11-49-402. Chair as presiding officer.**

396 (1) Except as expressly provided otherwise in this chapter, the chair of the commission

397 is vested with the power to direct the commission during meetings authorized by this chapter.

398 (2) Unless expressly prohibited from doing so under this chapter, the commission may
399 overrule a decision of the chair by using the following procedure:

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

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

403 (ii) the basis for the objection.

404 (b) A motion described in Subsection (2)(a) is nondebatable.

405 (c) The chair shall direct a roll call vote to determine if the commission supports the
406 decision of the chair.

407 (d) A majority vote of the commission is necessary to overrule the decision of the
408 chair.

409 (3) The chair may set time limitations on any part of a meeting or hearing authorized
410 by this chapter.

411 Section 11. Section **11-49-403** is enacted to read:

412 **11-49-403. Subpoena powers.**

413 (1) Except for a preliminary review described in Section 11-49-602, for a proceeding
414 authorized by this chapter, the commission may issue a subpoena to:

415 (a) require the attendance of a witness;

416 (b) direct the production of evidence; or

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

418 (2) The commission shall issue a subpoena:

419 (a) in accordance with Section 11-49-405;

420 (b) at the direction of the commission chair, if the chair determines that the testimony
421 or evidence is relevant to the review of a complaint under Part 7, Commission Review of
422 Ethics Violations; or

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

424 (3) If the commission issues a subpoena authorized under this section, the commission
425 shall give a reasonable period of time for the person or entity to whom the subpoena is directed
426 to petition a district court to quash or modify the subpoena before the time specified in the
427 subpoena for compliance.

428 Section 12. Section **11-49-404** is enacted to read:

429 **11-49-404. Contempt of the commission.**

430 (1) (a) The following actions constitute contempt of the commission in relation to
431 actions and proceedings under this chapter:

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

433 (ii) failure, without legal justification, to answer a question during a hearing when
434 directed to do so by:

435 (A) the commission chair, unless the direction is overridden by the commission in
436 accordance with Section 11-49-402; or

437 (B) a majority of the commission;

438 (iii) failure to comply with a subpoena or other order issued under authority of this
439 chapter:

440 (iv) violation of privacy provisions established by Section 11-49-502;

441 (v) violation of the communication provisions established by Section 11-49-407;

442 (vi) violation of a request to comply with a provision of this chapter by a chair or a
443 majority of the members of the commission; or

444 (vii) any other ground that is specified in statute or recognized by common law.

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

449 (2) (a) The following persons may authorize an enforcement action against a person in
450 contempt of the commission under the provisions of this chapter:

451 (i) the commission chair, subject to the provisions of Section 11-49-402; or

452 (ii) members of the commission, by means of a majority vote.

453 (b) In initiating and pursuing an action against an individual for contempt of the
454 commission, the plaintiff shall comply with the procedures and requirements of Section
455 11-49-405.

456 Section 13. Section **11-49-405** is enacted to read:

457 **11-49-405. Order to compel -- Enforcement.**

458 (1) (a) When the subject of a subpoena issued in accordance with Section 11-49-403

459 disobeys or fails to comply with the subpoena, or if a person appears before the commission
460 pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully
461 interrogated, the commission may:

462 (i) file a motion for an order to compel obedience to the subpoena with the district
463 court within the jurisdiction of the applicable political subdivision;

464 (ii) file, with the district court, a motion for an order to show cause why the penalties
465 established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person
466 named in the subpoena for contempt of the commission; or

467 (iii) pursue other remedies against persons in contempt of the commission.

468 (b) (i) Upon receipt of a motion under this section, the court shall expedite the hearing
469 and decision on the motion.

470 (ii) A court may:

471 (A) order the person named in the subpoena to comply with the subpoena; and

472 (B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon
473 the person named in the subpoena for contempt of the commission.

474 (2) (a) If a commission subpoena requires the production of accounts, books, papers,
475 documents, or other tangible things, the person or entity to whom the subpoena is directed may
476 petition a district court to quash or modify the subpoena at or before the time specified in the
477 subpoena for compliance.

478 (b) The commission may respond to a motion to quash or modify the subpoena by
479 pursuing any remedy authorized by Subsection (1).

480 (c) If the court finds that a commission subpoena requiring the production of accounts,
481 books, papers, documents, or other tangible things is unreasonable or oppressive, the court may
482 quash or modify the subpoena.

483 (3) Nothing in this section prevents the commission from seeking an extraordinary writ
484 to remedy contempt of the commission.

485 (4) Any party aggrieved by a decision of a court under this section may appeal that
486 action directly to the Utah Supreme Court.

487 Section 14. Section **11-49-406** is enacted to read:

488 **11-49-406. Testimony and examination of witnesses -- Oath -- Procedure --**
489 **Contempt.**

- 490 (1) (a) The chair shall ensure that each witness listed in the complaint and response is
491 subpoenaed for appearance at the hearing unless:
- 492 (i) the witness is unable to be properly identified or located; or
493 (ii) service is otherwise determined to be impracticable.
- 494 (b) The chair shall determine the scheduling and order of witnesses and presentation of
495 evidence.
- 496 (c) The commission may, by majority vote:
- 497 (i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);
498 (ii) modify the chair's determination on the scheduling and order of witnesses under
499 Subsection (1)(b);
- 500 (iii) decline to hear or call a witness that has been requested by the complainant or
501 respondent;
- 502 (iv) decline to review or consider evidence submitted in relation to an ethics complaint;
503 or
- 504 (v) request and subpoena witnesses or evidence according to the procedures of Section
505 11-49-403.
- 506 (2) (a) Each witness shall testify under oath.
- 507 (b) The chair or the chair's designee shall administer the oath to each witness.
- 508 (3) After the oath has been administered to the witness, the chair shall direct testimony
509 as follows:
- 510 (a) allow the party that has called the witness, or that party's counsel, to question the
511 witness;
- 512 (b) allow the opposing party, or that party's counsel, to cross-examine the witness;
513 (c) allow additional questioning by a party or a party's counsel as appropriate;
514 (d) give commission members the opportunity to question the witness; and
515 (e) as appropriate, allow further examination of the witness by the commission, or the
516 parties or their counsel.
- 517 (4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:
- 518 (i) direct the witness to answer; or
519 (ii) rule that the witness is not required to answer the question.
- 520 (b) If the witness declines to answer a question after the chair or a majority of the

521 commission determines that the witness is required to answer the question, the witness may be
522 held in contempt as provided in Section 11-49-404.

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

526 (b) If the witness declines to provide evidence in response to a subpoena, the witness
527 may be held in contempt as provided in Section 11-49-404.

528 Section 15. Section **11-49-407** is enacted to read:

529 **11-49-407. Communications of commission members.**

530 (1) As used in this section, "third party" means a person who is not a member of the
531 commission or staff to the commission.

532 (2) While a complaint is under review by the commission, a member of the
533 commission may not initiate or consider any communications concerning the complaint with a
534 third party unless:

535 (a) the communication is expressly permitted under the procedures established by this
536 chapter; or

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

538 (i) all members of the commission; and

539 (ii) a staff member of the commission.

540 (3) While the commission is reviewing a complaint under this chapter, a commission
541 member may communicate outside of the meetings, hearing, or deliberations with another
542 member of, or staff to, the commission, only if the member's communication does not
543 materially compromise the member's responsibility to independently review and make
544 decisions in relation to the complaint.

545 Section 16. Section **11-49-408** is enacted to read:

546 **11-49-408. Attorney fees and costs.**

547 (1) A person filing a complaint under this chapter:

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

550 (b) is responsible for payment of complainant's attorney fees and costs incurred.

551 (2) (a) A respondent against whom a complaint is filed under this chapter may:

552 (i) but is not required to, retain legal representation during the complaint review
 553 process; and

554 (ii) be entitled to the provision of legal defense by the political subdivision in
 555 accordance with Section 63G-7-902.

556 (b) For purposes of Subsection (2)(a)(ii), a complaint filed against a respondent in
 557 accordance with this chapter shall constitute an action against a governmental employee in
 558 accordance with Section 63G-7-902.

559 (3) (a) An attorney participating in a hearing before the commission shall comply with:

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

561 (ii) the procedures and requirements of this chapter; and

562 (iii) the directions of the chair and commission.

563 (b) A violation of Subsection (3)(a) may constitute:

564 (i) contempt of the commission under Section 11-49-404; or

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

567 Section 17. Section **11-49-501** is enacted to read:

568 **Part 5. Complaint of Ethics Violation**

569 **11-49-501. Ethics complaints -- Who may file -- Form.**

570 (1) (a) Notwithstanding any other provision, the following may file a complaint,
 571 subject to the requirements of Subsections (1)(b) and (c) and Section 11-49-301, against a
 572 political subdivision officer or employee:

573 (i) two or more registered voters who reside within the boundaries of a political
 574 subdivision;

575 (ii) two or more registered voters who pay a fee or tax to a political subdivision; or

576 (iii) one or more registered voters who reside within the boundaries of a political
 577 subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

578 (b) A person described in Subsection (1)(a) may not file a complaint unless at least one
 579 person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and
 580 circumstances supporting the alleged ethics violation.

581 (c) A complainant may file a complaint only against an individual who, on the date that
 582 the complaint is filed, is serving as a political subdivision officer or is a political subdivision

583 employee.

584 (2) (a) (i) A complainant shall file a complaint with the Office of the Lieutenant
585 Governor.

586 (ii) The lieutenant governor shall forward the complaint to the chair of the commission
587 no later than five days after the day on which the complaint is filed.

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

590 (i) a regular primary election, if the accused political subdivision officer is a candidate
591 in the primary election; or

592 (ii) a regular general election in which an accused political subdivision officer is a
593 candidate, unless the accused political subdivision officer is unopposed in the election.

594 (3) A complainant shall ensure that each complaint filed under this section is in writing
595 and contains the following information:

596 (a) the name and position of the political subdivision officer or employee alleged to be
597 in violation;

598 (b) the name, address, and telephone number of each individual who is filing the
599 complaint;

600 (c) a description of each alleged ethics violation, as applicable of:

601 (i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

602 (ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

603 (iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

604 (d) include for each alleged ethics violation:

605 (i) a reference to the section of the code alleged to have been violated;

606 (ii) the name of the complainant who has actual knowledge of the facts and

607 circumstances supporting each allegation; and

608 (iii) with reasonable specificity, the facts and circumstances supporting each allegation,

609 which shall be provided by:

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

611 (B) one or more affidavits that include the information required in Subsection (4);

612 (e) a list of the witnesses that a complainant wishes to have called, including for each

613 witness;

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

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

616 (iii) a specific description of any documents or evidence a complainant desires the
617 witness to produce;

618 (f) a statement that each complainant:

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

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

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

625 (g) the signature of each complainant.

626 (4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:

627 (a) the name, address, and telephone number of the signer;

628 (b) a statement that the signer has actual knowledge of the facts and circumstances
629 alleged in the affidavit;

630 (c) the facts and circumstances testified by the signer;

631 (d) a statement that the affidavit is believed to be true and correct and that false
632 statements are subject to penalties of perjury; and

633 (e) the signature of the signer.

634 Section 18. Section **11-49-502** is enacted to read:

635 **11-49-502. Privacy of ethics complaint -- Contempt -- Enforcement of finding of**
636 **contempt -- Dismissal.**

637 (1) (a) Except as provided in Subsection (1)(b) or (c), a person, including a
638 complainant, the respondent, a commission member, or staff to the commission, may not
639 disclose the existence of a complaint, a response, nor any information concerning any alleged
640 ethics violation that is the subject of a complaint:

641 (i) unless otherwise provided in this chapter; or

642 (ii) after a complaint is presented at the meeting described in Section 11-49-701.

643 (b) The restrictions in Subsection (1)(a) do not apply to the respondent's voluntary
644 disclosure of a finding by the commission that no allegations in a complaint were proved, after

645 that finding is issued by the commission under the procedures and requirements of Section
646 11-49-602.

647 (c) Nothing in this section shall prevent a person from disclosing facts or allegations
648 about potential criminal violations to a law enforcement authority.

649 (d) Nothing in this section may be construed to hinder or prevent a respondent from
650 preparing a defense to a complaint, including contacting a witness or other actions in
651 preparation for review by the commission.

652 (2) A person who violates the provisions of Subsection (1)(a) is in contempt of the
653 commission and proceedings may be initiated to enforce the finding of contempt using the
654 procedures provided in Sections 11-49-404 and 11-49-405.

655 (3) If the existence of an ethics complaint is publicly disclosed before or during the
656 preliminary review period described in Section 11-49-602, the complaint shall be summarily
657 dismissed without prejudice.

658 Section 19. Section **11-49-601** is enacted to read:

659 **Part 6. Review of Complaint for Compliance**

660 **11-49-601. Review of ethics complaint for compliance with form requirements --**
661 **Independent requirements for complaint-- Notice.**

662 (1) Within five business days after receipt of a complaint, the staff of the commission,
663 in consultation with the chair of the commission, shall examine the complaint to determine if it
664 is in compliance with Sections 11-49-301 and 11-49-501.

665 (2) (a) If the chair determines that the complaint does not comply with Sections
666 11-49-301 and 11-49-501, the chair shall:

667 (i) return the complaint to the first complainant named on the complaint with:

668 (A) a statement detailing the reason for the non-compliance; and

669 (B) a copy of the applicable provisions in this chapter; and

670 (ii) notify the applicable political subdivision governing body that:

671 (A) a complaint was filed against an unidentified political subdivision officer or
672 employee but was returned for non-compliance with this chapter; and

673 (B) the fact that a complaint was filed and returned shall be kept confidential until the
674 commission submits its annual summary data report as required by Section 11-49-202.

675 (b) If a complaint is returned for non-compliance with the requirements of this chapter,

676 a complainant may file another complaint if the new complaint independently meets the
677 requirements of Sections 11-49-301 and 11-49-501, including any requirements for timely
678 filing.

679 (3) If the chair determines that the complaint complies with the requirements of this
680 section, the chair shall:

681 (a) accept the complaint;

682 (b) notify each member of the commission that the complaint has been filed and
683 accepted;

684 (c) notify the applicable political subdivision that:

685 (i) a complaint has been filed against an unidentified political subdivision officer or
686 employee;

687 (ii) the identity of the political subdivision officer or employee and the allegations
688 raised in the complaint are confidential pending the commission's preliminary review of the
689 complaint; and

690 (iii) the fact that a complaint was filed shall be kept confidential until the commission
691 publicly discloses the existence of the complaint via:

692 (A) notice of the commission's review of a complaint in accordance with Section
693 11-49-701; or

694 (B) submission of the commission's annual summary data report as required in Section
695 11-49-202; and

696 (d) promptly forward the complaint to the political subdivision officer or employee
697 who is the subject of the ethics complaint via personal delivery or a delivery method that
698 provides verification of receipt, together with a copy of this chapter and notice of the officer's
699 or employee's deadline for filing a response to the complaint if the complaint is not dismissed
700 under Section 11-49-602.

701 Section 20. Section **11-49-602** is enacted to read:

702 **11-49-602. Preliminary review of complaint -- Standard of proof -- Notice.**

703 (1) (a) By no later than 10 calendar days after the day on which a complaint is accepted
704 under Section 11-49-601, the commission chair shall:

705 (i) schedule a commission meeting on a date no later than 60 calendar days after the
706 date on which the commission accepts the complaint;

- 707 (ii) place the complaint on the agenda for consideration at the meeting;
- 708 (iii) provide a copy of the complaint to the members; and
- 709 (iv) provide notice of the date, time, and location of the meeting:
- 710 (A) to the respondent;
- 711 (B) the first complainant named in the complaint;
- 712 (C) each commission member; and
- 713 (D) in accordance with Section 52-4-202.
- 714 (b) The meeting described in Subsection (1)(a)(ii) is closed to the public in accordance
- 715 with Section 52-4-204.
- 716 (2) (a) At the meeting described in Subsection (1)(a)(i):
- 717 (i) the commission members shall review each allegation in the complaint;
- 718 (ii) the commission may not receive testimony, hear a motion from a party, or admit
- 719 evidence; and
- 720 (iii) the chair shall conduct deliberations.
- 721 (b) The commission may, if necessary:
- 722 (i) request a formal response or affidavit from a respondent; and
- 723 (ii) review the response or affidavit at the meeting.
- 724 (c) Upon a motion made by a commission member, the commission may exclude
- 725 commission staff from all or a portion of the deliberations by a majority vote.
- 726 (3) (a) During deliberations, each commission member shall, for each allegation,
- 727 determine:
- 728 (i) whether the facts alleged, if true, would be an ethics violation;
- 729 (ii) whether the complaint includes an affidavit from a person with firsthand
- 730 knowledge of alleged facts described in Subsection (3)(a)(i); and
- 731 (iii) whether the complaint is frivolous or solely for a political purpose.
- 732 (b) A commission member shall vote to forward an allegation in a complaint for a final
- 733 commission review in accordance with Part 7, Commission Review of Ethics Violation, if the
- 734 commission member determines:
- 735 (i) an allegation, if true, would be an ethics violation;
- 736 (ii) the complaint contains an affidavit with firsthand knowledge of the allegation
- 737 under Subsection (3)(a)(ii); and

- 738 (iii) the allegation is not frivolous or solely for a political purpose.
739 (4) (a) A verbal roll call vote shall be taken on each allegation and each member's vote
740 shall be recorded.
741 (b) The commission may not review an allegation for a final determination under Part
742 7, Commission Review of Ethics Violation, unless six of the seven members of the
743 commission vote to review the allegation.
744 (5) (a) An allegation that is not forwarded for a final determination is dismissed.
745 (b) Before the commission issues an order in accordance with this section, the
746 commission may, upon a majority vote, reconsider and hold a new vote on an allegation.
747 (c) A motion to reconsider a vote may only be made by a member of the commission
748 who voted that the allegation should not be forwarded for a final determination.
749 (6) (a) If each allegation stated in a complaint is dismissed in accordance with this
750 section, the commission shall:
751 (i) issue and enter into the record an order that the complaint is dismissed because no
752 allegations, in accordance with this section, were forwarded for a final determination;
753 (ii) classify all recordings, testimony, evidence, orders, findings, and other records
754 directly relating to the meetings authorized by this part as private records under Section
755 63G-2-302;
756 (iii) provide notice of the determination, in a manner determined by the chair, to:
757 (A) the respondent;
758 (B) the first complainant named on the complaint; and
759 (C) subject to Subsection (6)(b), the appropriate political subdivision; and
760 (iv) provide notice to each person or entity named in Subsections (6)(a)(iii)(A) through
761 (C) that, under provisions of Section 11-49-502 and other provisions of this chapter, a person
762 who discloses the findings of the commission in violation of any provision of this chapter is in
763 contempt of the commission and is subject to penalties for contempt.
764 (b) The notification to the appropriate political subdivision shall notify the political
765 subdivision that:
766 (i) a complaint against an unidentified political subdivision officer or employee has
767 been dismissed; and
768 (ii) the fact that a complaint was filed shall be kept confidential until the commission

769 publicly discloses the existence of the complaint via submission of the commission's annual
770 summary data report as required in Section 11-49-202.

771 (7) If one or more of the allegations stated in a complaint are not dismissed in
772 accordance with this section, the commission shall:

773 (a) issue and enter into the record:

774 (i) an order for each allegation that is dismissed, if any, because the allegation was not
775 forwarded for a final determination; and

776 (ii) an order for further review under Part 7, Commission Review of Ethics Violation,
777 of each allegation that is not dismissed;

778 (b) classify all recordings, orders, findings, and other records or documents directly
779 relating to a meeting authorized by this section as private records under Section 63G-2-302;

780 (c) if an allegation was dismissed, provide notice of the determination for each
781 allegation dismissed in a manner determined by the chair, to:

782 (i) the respondent;

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

784 (iii) subject to Subsection (8), the appropriate political subdivision; and

785 (d) provide notice to each person or entity named in Subsections (7)(c)(i) through (iii)
786 that:

787 (i) under provisions of Section 11-49-502 and other provisions of this chapter, a person
788 who discloses the findings of the commission under this section in violation of any provision of
789 this chapter is in contempt of the commission and is subject to penalties for contempt; and

790 (ii) the commission shall review the remaining allegations in the complaint at a
791 meeting described in Section 11-49-603 and in accordance with Part 7, Commission Review of
792 Ethics Violation.

793 (8) The notification to the appropriate political subdivision shall notify the political
794 subdivision that:

795 (a) an unspecified allegation in a complaint against an unidentified political
796 subdivision officer or employee has been dismissed; and

797 (b) the fact that a complaint was filed shall be kept confidential until the commission
798 publicly discloses the existence of the complaint in accordance with the provisions of this
799 chapter.

800 (9) For a complaint described in Subsection (7), the commission members shall ensure
801 that, within five business days after the day of the meeting described in Subsection (1)(a)(ii),
802 the complaint is redacted to remove references to an allegation that is dismissed under this
803 section.

804 (10) The chair shall ensure that a record of the meeting held under this section is kept
805 in accordance with Section 11-49-702.

806 Section 21. Section **11-49-603** is enacted to read:

807 **11-49-603. Meeting of the Commission to review a complaint -- Procedures.**

808 By no later than 10 calendar days after the day on which a complaint is accepted under
809 Section 11-49-602 for further review, the commission chair shall:

810 (1) schedule a commission meeting on a date no later than 45 calendar days after the
811 date on which the commission ~~§~~ → **[accepts the complaint]** votes to forward a complaint for final
811a **determination in accordance Section 11-49-602** ← ~~§~~ ;

812 (2) place the complaint on the agenda for consideration at the meeting described in
813 Subsection (1);

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

815 (a) to:

816 (i) the members of the commission;

817 (ii) the first complainant named in the complaint; and

818 (iii) the respondent; and

819 (b) in accordance with Section 52-4-202; and

820 (4) provide a copy of the complaint or redacted complaint, as required in Section
821 11-49-602, to each member of the commission.

822 Section 22. Section **11-49-604** is enacted to read:

823 **11-49-604. Response to ethics complaint -- Filing -- Form.**

824 (1) The political subdivision officer or employee who is the subject of the complaint
825 may file a response to the complaint no later than 30 days after the day on which the officer or
826 employee receives delivery of an order issued by the commission under Subsection
827 11-49-602(7).

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

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

831 (b) for each alleged ethics violation in the complaint:
832 (i) each affirmative defense asserted in response to the allegation, including a general
833 description of each affirmative defense and the facts and circumstances supporting the defense
834 to be provided by one or more affidavits, each of which shall comply with Subsection (4);
835 (ii) the facts and circumstances refuting the allegation, which shall be provided by:
836 (A) copies of official records or documentary evidence; or
837 (B) one or more affidavits, each of which shall comply with Subsection (4);
838 (c) a list of the witnesses that the respondent wishes to have called, including for each
839 witness:
840 (i) the name, address, and, if available, telephone number of the witness;
841 (ii) a brief summary of the testimony to be provided by the witness; and
842 (iii) a specific description of any documents or evidence the respondent desires the
843 witness to produce;
844 (d) a statement that the respondent:
845 (i) has reviewed the allegations contained in the complaint and the sworn statements
846 and documents attached to the response; and
847 (ii) believes the contents of the response to be true and accurate; and
848 (e) the signature of the respondent.
849 (3) Promptly after receiving the response, the commission shall provide copies of the
850 response to:
851 (a) each member of the commission; and
852 (b) the first named complainant on the complaint.
853 (4) An affidavit described in Subsection (2)(b)(i) or (2)(b)(ii)(B) shall include the
854 following information:
855 (a) the name, address, and telephone number of the signer;
856 (b) a statement that the signer has actual knowledge of the facts and circumstances
857 alleged in the affidavit;
858 (c) the facts and circumstances testified to by the signer;
859 (d) a statement that the affidavit is believed to be true and correct and that false
860 statements are subject to penalties of perjury; and
861 (e) the signature of the signer.

862 Section 23. Section **11-49-701** is enacted to read:

863 **Part 7. Commission Review of Ethics Violation**

864 **11-49-701. Commission review of ethics violation.**

865 (1) The scope of a review by the commission is limited to an alleged ethics violation
866 stated in a complaint that has not been previously dismissed under Section 11-49-602.

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

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

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

873 (iii) reviewing a complaint, with or without the attendance of the parties, to determine
874 if the complaint should be dismissed in whole or in part, by means of a majority vote of the
875 commission, because the complaint pleads facts or circumstances against a political
876 subdivision officer or employee that have already been reviewed by, as provided in Section
877 11-49-301, the commission, a municipal ethics commission established in accordance with
878 Section 10-3-1311, a county ethics commission established in accordance with Section
879 17-16a-11, or a local political subdivision ethics commission established in accordance with
880 Section 11-49-103.

881 (b) Notwithstanding Section 11-49-603, the commission may, by a majority vote,
882 change the date of the meeting for review of the complaint in order to accommodate:

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

884 (ii) necessary scheduling requirements.

885 (3) (a) The commission shall comply with the Utah Rules of Evidence except where
886 the commission determines, by majority vote, that a rule is not compatible with the
887 requirements of this chapter.

888 (b) The chair shall make rulings on admissibility of evidence consistent with the
889 provisions of Section 11-49-402.

890 (4) (a) A meeting or hearing authorized in this part is open to the public except as
891 provided in Section 52-4-204.

892 (b) The following individuals may be present during the presentation of testimony and

893 evidence to the commission:

894 (i) the complainant;

895 (ii) the complainant's counsel, if applicable;

896 (iii) the respondent;

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

898 (v) members of the commission;

899 (vi) staff to the commission;

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

901 (viii) necessary security personnel.

902 (c) The commission may, in accordance with Section 52-4-204, close a meeting to:

903 (i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or

904 (ii) conduct deliberations to reach a decision on the complaint.

905 (5) If a majority of the commission determines that a continuance is necessary to obtain
906 further evidence and testimony, to accommodate administrative needs, or to accommodate the
907 attendance of commission members, witnesses, or a party, the commission shall:

908 (a) adjourn and continue the meeting to a future date and time after notice to the
909 parties; and

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

911 (6) A record, as defined in Section 63G-2-103, created by the commission under this
912 part, reviewed by the commission under this part, or received by the commission under this
913 part is a public record, as defined in Section 63G-2-103.

914 Section 24. Section **11-49-702** is enacted to read:

915 **11-49-702. Record -- Recording of meetings.**

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

918 (b) (i) The commission shall keep an audio or video recording of all portions of each
919 meeting authorized by this part.

920 (ii) The commission may, by a majority vote of the commission, permit a camera or
921 other recording device in the meeting in which the commission releases the commission's
922 recommendation under this part.

923 (2) In addition to the recording required in Subsection (1), the chair shall ensure that a

924 record of the meeting or hearing is made, which shall include:

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

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

927 (c) copies of a document or written order or ruling issued by the chair or the

928 commission; and

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

930 Section 25. Section **11-49-703** is enacted to read:

931 **11-49-703. Commission deliberations -- Standard of proof.**

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

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

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

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

938 (b) Upon a motion made by a commission member, the commission may:

939 (i) exclude commission staff from all or a portion of the deliberations by a majority
940 vote of the commission; or

941 (ii) close the meeting in accordance with Section 52-4-204.

942 (3) (a) During deliberations, for each allegation reviewed by the commission, each
943 member shall determine and cast a vote stating:

944 (i) whether the allegation is:

945 (A) proven by clear and convincing evidence; or

946 (B) not proven; and

947 (ii) for each allegation proven, whether the commission would recommend to the
948 appropriate political subdivision governing body to take one or more of the following actions:

949 (A) censure;

950 (B) in the case of a political subdivision employee, termination;

951 (C) in the case of a political subdivision officer, removal from office; or

952 (D) any other action or reprimand that the commission determines is appropriate.

953 (b) (i) A verbal roll call vote shall be taken on each allegation, and each recommended
954 action described in Subsection (3)(a)(ii) on each allegation.

- 955 (ii) Each member's vote shall be recorded.
- 956 (4) (a) An allegation is not considered to be proven unless six of the seven members of
957 the commission vote that the allegation is proven.
- 958 (b) An allegation that is not considered to be proven is dismissed.
- 959 (c) (i) Before the commission issues its recommendation in accordance with Section
960 11-49-704, the commission may, upon a majority vote, reconsider and hold a new vote on an
961 allegation.
- 962 (ii) A motion to reconsider a vote may only be made by a member of the commission
963 who voted that the allegation was not proved.
- 964 (5) At the conclusion of deliberations, the commission shall prepare its
965 recommendations as provided in Sections 11-49-704 and 11-49-705.
- 966 Section 26. Section **11-49-704** is enacted to read:
- 967 **11-49-704. Recommendations of commission.**
- 968 (1) (a) If the commission determines that no allegations in the complaint were proved,
969 the commission shall:
- 970 (i) issue and enter into the record an order that the complaint is dismissed because no
971 allegations in the complaint were found to have been proved;
- 972 (ii) provide notice of the determination at a public meeting; and
- 973 (iii) provide written notice of the determination to:
- 974 (A) the respondent;
- 975 (B) the first complainant named on the complaint; and
- 976 (C) the appropriate political subdivision.
- 977 (2) If the commission determines that one or more of the allegations in the complaint
978 were proved, the commission shall:
- 979 (a) if one or more allegations were not found to have been proven, enter into the record
980 an order dismissing those unproven allegations; and
- 981 (b) prepare a written recommendation to the applicable political subdivision governing
982 body that:
- 983 (i) lists the name of each complainant;
- 984 (ii) lists the name of the respondent;
- 985 (iii) states the date of the recommendation;

986 (iv) for each allegation that was found to be proven:

987 (A) provides a reference to the statute or criminal provision allegedly violated;

988 (B) states the number and names of commission members voting that the allegation
989 was proved and the number and names of commission members voting that the allegation was
990 not proved;

991 (C) at the option of those members voting that the allegation was proved, includes a
992 statement by one or all of those members stating the reasons for voting that the allegation was
993 proved; and

994 (D) at the option of those members voting that the allegation was not proved, includes
995 a statement by one or all of those members stating the reasons for voting that the allegation was
996 not proved;

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

999 (vi) contains a statement referring the allegations found to have been proved to the
1000 appropriate political subdivision governing body for review and, if necessary, further action;

1001 (vii) contains a statement referring to each allegation proven the commission's
1002 recommendation under Subsection 11-49-703 (3)(a)(ii);

1003 (viii) states the name of each member of the commission; and

1004 (ix) is signed by each commission member.

1005 (3) The commission shall provide notice of the determination:

1006 (a) at a public meeting; and

1007 (b) in writing to:

1008 (i) the respondent;

1009 (ii) the first complainant named on the complaint; and

1010 (iii) in accordance with Subsection (4), the appropriate political subdivision.

1011 (4) The commission shall ensure that, within five business days of the date of public
1012 issuance of the determination in accordance with Subsection (3), the following documents are
1013 provided to the political subdivision governing body:

1014 (a) a cover letter referring the proven allegations contained in the complaint to the
1015 political subdivision governing body for review;

1016 (b) a copy of the complaint;

1017 (c) a copy of the response; and

1018 (d) a copy of the commission's recommendation.

1019 Section 27. Section **11-49-705** is enacted to read:

1020 **11-49-705. Criminal allegation -- Recommendation to county or district attorney.**

1021 (1) If the commission finds that a political subdivision officer or employee allegedly
1022 violated a criminal provision, the commission shall, in addition to sending a recommendation
1023 to a political subdivision governing body in accordance with Section 11-49-704, send a
1024 recommendation for further investigation to the county or district attorney of jurisdiction by
1025 delivering to the county or district attorney a written recommendation that:

1026 (a) lists the name of each complainant;

1027 (b) lists the name of the respondent;

1028 (c) states the date of the recommendation;

1029 (d) for each allegation of a criminal violation, provide a reference to the criminal
1030 provision allegedly violated;

1031 (e) includes a general statement that is adopted by a majority of the members of the
1032 commission; and

1033 (f) gives the name of the political subdivision governing body that the commission sent
1034 a recommendation to in accordance with Section 11-49-704.

1035 (2) If the commission sends a recommendation in accordance with Subsection (1)(a),
1036 the commission shall enter into the record:

1037 (a) a copy of the recommendation; and

1038 (b) the name of the county or district attorney of jurisdiction to whom it was sent.

1039 (3) A recommendation prepared and delivered in accordance with this section is a
1040 public record.

1041 Section 28. Section **11-49-706** is enacted to read:

1042 **11-49-706. Action by political subdivision governing body.**

1043 A political subdivision governing body that receives a recommendation in accordance
1044 with Section 11-49-704 shall:

1045 (1) review the recommendation; and

1046 (2) take further action in accordance with a political subdivision's governing ordinance,
1047 bylaws, or other applicable governing rule.

1048 Section 29. Section **17-16a-11** is amended to read:

1049 **17-16a-11. County ethics commission -- Complaints charging violations --**

1050 **Procedure.**

1051 (1) A county may establish by ordinance an ethics commission to review a complaint,
 1052 except as provided in Subsection (3), against an officer or employee subject to this part for a
 1053 violation of a provision of this part.

1054 (2) (a) Except as provided in Subsection (3), a person filing a complaint for a violation
 1055 of this part shall file the complaint:

1056 (i) with the county ethics commission, if the county has established a county ethics
 1057 commission in accordance with Subsection (1); or

1058 (ii) with the Political Subdivisions Ethics Review Commission established in
 1059 accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission ~~§~~→ if the
 1059a county has not established a county ethics commission ←~~§~~ .

1060 (b) A county that receives a complaint described in Subsection (2)(a) may:

1061 (i) accept the complaint if the county has established a county ethics commission in
 1062 accordance with Subsection (1); or

1063 (ii) forward the complaint to the Political Subdivisions Ethics Review Commission
 1064 established in Section 11-49-201:

1065 (A) regardless of whether the county has established a county ethics commission; or

1066 (B) if the county has not established a county ethics commission.

1067 ~~[(+)]~~ (3) Any complaint against a person who is under the merit system, charging that
 1068 person with a violation of this part, shall be filed and processed in accordance with the
 1069 provisions of the merit system.

1070 ~~[(2) If the person charged with the violation is not under any merit system, then the~~
 1071 ~~complaint shall be filed with the commission which shall investigate the complaint and shall~~
 1072 ~~give the person an opportunity to be heard. A written report of the findings and the~~
 1073 ~~recommendation of the commission shall be filed with the governing body. If the governing~~
 1074 ~~body finds that the person has violated this part, it may dismiss, suspend, or take such other~~
 1075 ~~appropriate action with respect to the person.]~~

1076 Section 30. Section **52-4-204** is amended to read:

1077 **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for**
 1078 **meeting recorded.**

1079 (1) A closed meeting may be held if:
1080 (a) (i) a quorum is present;
1081 (ii) the meeting is an open meeting for which notice has been given under Section
1082 52-4-202; and
1083 (iii) (A) two-thirds of the members of the public body present at the open meeting vote
1084 to approve closing the meeting;
1085 (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of
1086 the members of the public body present at an open meeting vote to approve closing the
1087 meeting; [or]
1088 (C) for an ethics committee of the Legislature that is conducting an open meeting for
1089 the purpose of reviewing an ethics complaint, a majority of the members present vote to
1090 approve closing the meeting for the purpose of seeking or obtaining legal advice on legal,
1091 evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the
1092 complaint; or
1093 (D) for the Political Subdivisions Ethics Review Commission established in Section
1094 11-49-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint
1095 in accordance with Section 11-49-701, a majority of the members present vote to approve
1096 closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary,
1097 or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
1098 (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is
1099 convened for the purpose of conducting business relating to the receipt or review of an ethics
1100 complaint, provided that public notice of the closed meeting is given under Section 52-4-202,
1101 with the agenda for the meeting stating that the meeting will be closed for the purpose of
1102 "conducting business relating to the receipt or review of ethics complaints"[:]; or
1103 (ii) for the Political Subdivisions Ethics Review Commission established in Section
1104 11-49-201, the closed meeting is convened for the purpose of conducting business relating to
1105 the preliminary review of an ethics complaint in accordance with Section 11-49-602, provided
1106 that public notice of the closed meeting is given under Section 52-4-202, with the agenda for
1107 the meeting stating that the meeting will be closed for the purpose of "conducting business
1108 relating to the review of ethics complaints".
1109 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting

1110 is permitted under Section 52-4-205.

1111 (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be
1112 approved at a closed meeting.

1113 (4) The following information shall be publicly announced and entered on the minutes
1114 of the open meeting at which the closed meeting was approved:

1115 (a) the reason or reasons for holding the closed meeting;

1116 (b) the location where the closed meeting will be held; and

1117 (c) the vote by name, of each member of the public body, either for or against the
1118 motion to hold the closed meeting.

1119 (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be
1120 construed to require any meeting to be closed to the public.

1121 Section 31. Section **63G-2-302** is amended to read:

1122 **63G-2-302. Private records.**

1123 (1) The following records are private:

1124 (a) records concerning an individual's eligibility for unemployment insurance benefits,
1125 social services, welfare benefits, or the determination of benefit levels;

1126 (b) records containing data on individuals describing medical history, diagnosis,
1127 condition, treatment, evaluation, or similar medical data;

1128 (c) records of publicly funded libraries that when examined alone or with other records
1129 identify a patron;

1130 (d) records received by or generated by or for:

1131 (i) the Independent Legislative Ethics Commission, except for:

1132 (A) the commission's summary data report that is required under legislative rule; and

1133 (B) any other document that is classified as public under legislative rule; or

1134 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
1135 unless the record is classified as public under legislative rule;

1136 (e) records received or generated for a Senate confirmation committee concerning
1137 character, professional competence, or physical or mental health of an individual:

1138 (i) if prior to the meeting, the chair of the committee determines release of the records:

1139 (A) reasonably could be expected to interfere with the investigation undertaken by the
1140 committee; or

1141 (B) would create a danger of depriving a person of a right to a fair proceeding or
1142 impartial hearing; and

1143 (ii) after the meeting, if the meeting was closed to the public;

1144 (f) employment records concerning a current or former employee of, or applicant for
1145 employment with, a governmental entity that would disclose that individual's home address,
1146 home telephone number, Social Security number, insurance coverage, marital status, or payroll
1147 deductions;

1148 (g) records or parts of records under Section 63G-2-303 that a current or former
1149 employee identifies as private according to the requirements of that section;

1150 (h) that part of a record indicating a person's Social Security number or federal
1151 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
1152 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

1153 (i) that part of a voter registration record identifying a voter's driver license or
1154 identification card number, Social Security number, or last four digits of the Social Security
1155 number;

1156 (j) a record that:

1157 (i) contains information about an individual;

1158 (ii) is voluntarily provided by the individual; and

1159 (iii) goes into an electronic database that:

1160 (A) is designated by and administered under the authority of the Chief Information
1161 Officer; and

1162 (B) acts as a repository of information about the individual that can be electronically
1163 retrieved and used to facilitate the individual's online interaction with a state agency;

1164 (k) information provided to the Commissioner of Insurance under:

1165 (i) Subsection 31A-23a-115(2)(a);

1166 (ii) Subsection 31A-23a-302(3); or

1167 (iii) Subsection 31A-26-210(3);

1168 (l) information obtained through a criminal background check under Title 11, Chapter
1169 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

1170 (m) information provided by an offender that is:

1171 (i) required by the registration requirements of Section 77-27-21.5; and

- 1172 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);
- 1173 (n) a statement and any supporting documentation filed with the attorney general in
1174 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
1175 homeland security;
- 1176 (o) electronic toll collection customer account information received or collected under
1177 Section 72-6-118, including contact and payment information and customer travel data[-];
- 1178 (p) an email address provided by a military or overseas voter under Section
1179 20A-16-501; [~~and~~]
- 1180 (q) a completed military-overseas ballot that is electronically transmitted under Title
1181 20A, Chapter 16, Uniform Military and Overseas Voters Act[-]; and
- 1182 (r) records received by or generated by or for the Political Subdivisions Ethics Review
1183 Commission established in Section 11-49-201, except for:
- 1184 (i) the commission's summary data report that is required in Section 11-49-202; and
1185 (ii) any other document that is classified as public in accordance with Title 11, Chapter
1186 49, Political Subdivisions Ethics Review Commission.
- 1187 (2) The following records are private if properly classified by a governmental entity:
- 1188 (a) records concerning a current or former employee of, or applicant for employment
1189 with a governmental entity, including performance evaluations and personal status information
1190 such as race, religion, or disabilities, but not including records that are public under Subsection
1191 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
- 1192 (b) records describing an individual's finances, except that the following are public:
- 1193 (i) records described in Subsection 63G-2-301(2);
- 1194 (ii) information provided to the governmental entity for the purpose of complying with
1195 a financial assurance requirement; or
- 1196 (iii) records that must be disclosed in accordance with another statute;
- 1197 (c) records of independent state agencies if the disclosure of those records would
1198 conflict with the fiduciary obligations of the agency;
- 1199 (d) other records containing data on individuals the disclosure of which constitutes a
1200 clearly unwarranted invasion of personal privacy;
- 1201 (e) records provided by the United States or by a government entity outside the state
1202 that are given with the requirement that the records be managed as private records, if the

1203 providing entity states in writing that the record would not be subject to public disclosure if
1204 retained by it; and

1205 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
1206 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
1207 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

1208 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
1209 records, statements, history, diagnosis, condition, treatment, and evaluation.

1210 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
1211 doctors, or affiliated entities are not private records or controlled records under Section
1212 63G-2-304 when the records are sought:

1213 (i) in connection with any legal or administrative proceeding in which the patient's
1214 physical, mental, or emotional condition is an element of any claim or defense; or

1215 (ii) after a patient's death, in any legal or administrative proceeding in which any party
1216 relies upon the condition as an element of the claim or defense.

1217 (c) Medical records are subject to production in a legal or administrative proceeding
1218 according to state or federal statutes or rules of procedure and evidence as if the medical
1219 records were in the possession of a nongovernmental medical care provider.

1220 Section 32. Section **67-16-3** is amended to read:

1221 **67-16-3. Definitions.**

1222 As used in this chapter:

1223 (1) "Agency" means any department, division, agency, commission, board, council,
1224 committee, authority, or any other institution of the state or any of its political subdivisions.

1225 (2) "Agency head" means the chief executive or administrative officer of any agency.

1226 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
1227 aid, advise, furnish information to, or otherwise provide assistance to a person or business
1228 entity, believing that such action is of help, aid, advice, or assistance to such person or business
1229 entity and with the intent to assist such person or business entity.

1230 (4) "Business entity" means a sole proprietorship, partnership, association, joint
1231 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
1232 a business.

1233 (5) "Compensation" means anything of economic value, however designated, which is

1234 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
1235 other than the governmental employer for or in consideration of personal services, materials,
1236 property, or any other thing whatsoever.

1237 (6) "Controlled, private, or protected information" means information classified as
1238 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and
1239 Management Act, or other applicable provision of law.

1240 (7) "Governmental action" means any action on the part of the state, a political
1241 subdivision, or an agency, including:

1242 (a) any decision, determination, finding, ruling, or order; and

1243 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,
1244 sanction, or approval, or the denial thereof, or the failure to act in respect to.

1245 (8) "Improper disclosure" means disclosure of controlled, private, or protected
1246 information to any person who does not have the right to receive the information.

1247 (9) "Legislative employee" means any officer or employee of the Legislature, or any
1248 committee of the Legislature, who is appointed or employed to serve, either with or without
1249 compensation, for an aggregate of less than 800 hours during any period of 365 days.

1250 "Legislative employee" does not include legislators.

1251 (10) "Legislator" means a member or member-elect of either house of the Legislature
1252 of the state of Utah.

1253 (11) "Political subdivision" means a district, ~~county,~~ school district, or any other
1254 political subdivision of the state that is not an agency, but does not include ~~municipalities~~ a
1255 municipality or a county.

1256 (12) "Public employee" means a person who is not a public officer who is employed on
1257 a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public
1258 employee" does not include legislators or legislative employees.

1259 (13) "Public officer" means all elected or appointed officers of the state or any of its
1260 political subdivisions who occupy policymaking posts. "Public officer" does not include
1261 legislators or legislative employees.

1262 (14) "State" means the state of Utah.

1263 (15) "Substantial interest" means the ownership, either legally or equitably, by an
1264 individual, the individual's spouse, or the individual's minor children, of at least 10% of the

1265 outstanding capital stock of a corporation or a 10% interest in any other business entity.

1266 Section 33. Section **67-16-4** is amended to read:

1267 **67-16-4. Improperly disclosing or using private, controlled, or protected**
1268 **information -- Using position to secure privileges or exemptions -- Accepting employment**
1269 **which would impair independence of judgment or ethical performance -- Exceptions.**

1270 (1) [~~Except as provided in Subsection (3), it~~] It is an offense for a public officer, public
1271 employee, or legislator, under circumstances not amounting to a violation of Section
1272 63G-6-1001 or 76-8-105, to:

1273 (a) accept employment or engage in any business or professional activity that he might
1274 reasonably expect would require or induce him to improperly disclose controlled information
1275 that he has gained by reason of his official position;

1276 (b) disclose or improperly use controlled, private, or protected information acquired by
1277 reason of his official position or in the course of official duties in order to further substantially
1278 the officer's or employee's personal economic interest or to secure special privileges or
1279 exemptions for himself or others;

1280 (c) use or attempt to use his official position to:

1281 (i) further substantially the officer's or employee's personal economic interest; or

1282 (ii) secure special privileges or exemptions for himself or others;

1283 (d) accept other employment that he might expect would impair his independence of
1284 judgment in the performance of his public duties; or

1285 (e) accept other employment that he might expect would interfere with the ethical
1286 performance of his public duties.

1287 (2) (a) Subsection (1) does not apply to the provision of education-related services to
1288 public school students by public education employees acting outside their regular employment.

1289 (b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.

1290 [~~(3) A county legislative body member who does not participate in the process of~~
1291 ~~selecting a mental health or substance abuse service provider does not commit an offense under~~
1292 ~~Subsection (1)(a) or (b) by:]~~

1293 [~~(a) serving also as a member of the governing board of the provider of mental health~~
1294 ~~or substance abuse services under contract with the county; or]~~

1295 [~~(b) discharging, in good faith, the duties and responsibilities of each position.]~~

1296 Section 34. Section **67-16-15** is enacted to read:

1297 **67-16-15. Complaint -- Political Subdivisions Ethics Review Commission.**

1298 A person may file a complaint for an alleged violation of this chapter by a political

1299 subdivision officer or employee in accordance with Title 11, Chapter 49, Political Subdivisions

1300 Ethics Review Commission.

1300a **Ĥ→ Section 35. Effective date.**

1300b **This bill takes effect on September 1, 2012. ←Ĥ**