

**POLITICAL SUBDIVISION ETHICS AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Francis D. Gibson

Cosponsor: John L. Valentine

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**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;
- ▶ enacts provisions related to the commission's preliminary review and review of an ethics violation;
- ▶ authorizes a county to establish a county ethics commission;
- ▶ 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           This bill takes effect on September 1, 2012.

**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
- 193 subdivision ethics commission.

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

- 196           (i) accept the complaint if the political subdivision has established a local political

197 subdivision ethics commission in accordance with Subsection (1) or (2); or

198 (ii) forward the complaint to the commission:

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

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

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

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

205 **11-49-201. Commission established -- Membership.**

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

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

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

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

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

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

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

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

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

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

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

224 (v) a special service district administrative control board member no more recently



225 than four years before the date of appointment;

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

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

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

232 (a) a political subdivision officer;

233 (b) a political subdivision employee;

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

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

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

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

239 (ii) When appointing the initial members upon formation of the commission, a member  
240 described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that  
241 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, a  
243 replacement member shall be appointed for the unexpired term of the vacating member using  
244 the procedures and requirements of Subsection (2).

245 (ii) For the purposes of this section, an appointment for an unexpired term of a  
246 vacating 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 governor.

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

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

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

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

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

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

263 (b) (i) A member may receive per diem and expenses incurred in the performance of  
264 the member's official duties at the rates established by the Division of Finance under Sections  
265 63A-3-106 and 63A-3-107.

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

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

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

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

271 **11-49-202. Meetings -- Staff.**

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

273 (a) except otherwise expressly provided in this chapter, called to meet at the discretion  
274 of the chair; or

275 (b) a majority of members agree to meet.

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

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

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

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

281 (iii) the number of ethics complaints dismissed in accordance with Section 11-49-602;

282 (iv) the number of ethics complaints reviewed by the commission in accordance with  
283 Section 11-49-701;

284 (v) an executive summary of each complaint review in accordance with Section  
285 11-49-701; and

286 (vi) an accounting of the commission's budget and expenditures.

287 (b) The summary data report shall be submitted to the Government Operations and  
288 Political Subdivisions Interim Committee on an annual basis.

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

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

293 (b) The Legislative Management Committee shall:

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

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

296 (c) Staff for the commission shall work only for the commission and may not perform  
297 services for the Senate, House of Representatives, other legislative offices, or a political  
298 subdivision.

299 (5) A meeting held by the commission is subject to Title 52, Chapter 4, Open and  
300 Public Meetings Act, unless otherwise provided.

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

**Part 3. General Powers and Procedures**

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

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

308 (a) if the applicable political subdivision is a municipality, an ethics violation of Title

309 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:

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

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

312 (b) if the applicable political subdivision is a county, an ethics violation of Title 17,

313 Chapter 16a, County Officers and Employees Disclosure Act by:

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

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

316 (iii) an employee subject to Title 17, Chapter 16a, County Officers and Employees

317 Disclosure Act; or

318 (c) for a political subdivision officer or employee other than a municipal officer or

319 employee described in Subsection (1)(a) or a county officer or employee described in

320 Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and

321 Employees' Ethics Act.

322 (2) A complaint described in Subsection (1) shall be filed in accordance with the time

323 limit provisions, if any, of the applicable part or chapter.

324 (3) (a) A complaint may not contain an allegation if that allegation and the general

325 facts and circumstances supporting that allegation have been previously reviewed by a

326 municipal ethics commission established under Section 10-3-1311, a county ethics commission

327 established under Section 17-16a-11, or a local political subdivision ethics commission

328 established under Section 11-49-103, as applicable, or the commission unless:

329 (i) the allegation was previously reviewed and dismissed by the commission under

330 Section 11-49-602 or 11-49-701;

331 (ii) the allegation is accompanied by material facts or circumstances supporting the

332 allegation that were not raised or pled to the commission; and

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

334 have only been reviewed by the commission in accordance with Section 11-49-701 on one

335 previous occasion.

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

337 (i) a municipal ethics commission established under Section 10-3-1311;  
 338 (ii) a county ethics commission established under Section 17-16a-11; or  
 339 (iii) a local political subdivision ethics commission established under Section  
 340 11-49-103.

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

343 (i) the chair when reviewing the complaint under Section 11-49-601; or  
 344 (ii) the commission, when reviewing the complaint under Section 11-49-602 or  
 345 11-49-701.

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

347 **11-49-302. General powers -- Jurisdiction.**

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

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

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

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

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

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

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

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

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

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

361 (a) dismiss an allegation described in Subsection (2)(b)(i); and

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

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

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

365 **11-49-401. Hearing on ethics complaint -- General procedures.**

366 (1) In conducting a hearing on a complaint in accordance with Part 7, Commission  
367 Review of Ethics Violation, the commission shall comply with the following process in the  
368 order specified:

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

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

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

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

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

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

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

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

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

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

389 (k) deliberations by the commission; and

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

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

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

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

396           **11-49-402. Chair as presiding officer.**

397           (1) Except as expressly provided otherwise in this chapter, the chair of the commission  
398 is vested with the power to direct the commission during meetings authorized by this chapter.

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

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

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

404           (ii) the basis for the objection.

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

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

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

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

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

413           **11-49-403. Subpoena powers.**

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

416           (a) require the attendance of a witness;

417           (b) direct the production of evidence; or

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

419           (2) The commission shall issue a subpoena:

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

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

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

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

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

430 **11-49-404. Contempt of the commission.**

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

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

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

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

438 (B) a majority of the commission;

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

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

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

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

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

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



449 testimony relates.

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

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

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

454 (b) In initiating and pursuing an action against an individual for contempt of the  
 455 commission, the plaintiff shall comply with the procedures and requirements of Section  
 456 11-49-405.

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

458 **11-49-405. Order to compel -- Enforcement.**

459 (1) (a) When the subject of a subpoena issued in accordance with Section 11-49-403  
 460 disobeys or fails to comply with the subpoena, or if a person appears before the commission  
 461 pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully  
 462 interrogated, the commission may:

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

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

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

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

471 (ii) A court may:

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

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

475 (2) (a) If a commission subpoena requires the production of accounts, books, papers,  
 476 documents, or other tangible things, the person or entity to whom the subpoena is directed may

477 petition a district court to quash or modify the subpoena at or before the time specified in the  
478 subpoena for compliance.

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

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

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

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

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

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

490 **Contempt.**

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

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

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

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

497 (c) The commission may, by majority vote:

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

499 (ii) modify the chair's determination on the scheduling and order of witnesses under

500 Subsection (1)(b);

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

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

504 or

505 (v) request and subpoena witnesses or evidence according to the procedures of Section  
506 11-49-403.

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

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

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

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

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

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

515 (d) give commission members the opportunity to question the witness; and

516 (e) as appropriate, allow further examination of the witness by the commission, or the  
517 parties or their counsel.

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

519 (i) direct the witness to answer; or

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

521 (b) If the witness declines to answer a question after the chair or a majority of the  
522 commission determines that the witness is required to answer the question, the witness may be  
523 held in contempt as provided in Section 11-49-404.

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

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

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

530 **11-49-407. Communications of commission members.**

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

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

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

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

539 (i) all members of the commission; and

540 (ii) a staff member of the commission.

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

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

547 **11-49-408. Attorney fees and costs.**

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

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

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

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

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

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

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

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

- 561 (i) the Rules of Professional Conduct established by the Utah Supreme Court;
- 562 (ii) the procedures and requirements of this chapter; and
- 563 (iii) the directions of the chair and commission.
- 564 (b) A violation of Subsection (3)(a) may constitute:
- 565 (i) contempt of the commission under Section 11-49-404; or
- 566 (ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah
- 567 State Bar.

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

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

570 **11-49-501. Ethics complaints -- Who may file -- Form.**

571 (1) (a) Notwithstanding any other provision, the following may file a complaint,

572 subject to the requirements of Subsections (1)(b) and (c) and Section 11-49-301, against a

573 political subdivision officer or employee:

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

575 subdivision;

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

577 (iii) one or more registered voters who reside within the boundaries of a political

578 subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

579 (b) A person described in Subsection (1)(a) may not file a complaint unless at least one

580 person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and

581 circumstances supporting the alleged ethics violation.

582 (c) A complainant may file a complaint only against an individual who, on the date that

583 the complaint is filed, is serving as a political subdivision officer or is a political subdivision

584 employee.

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

586 Governor.

587 (ii) The lieutenant governor shall forward the complaint to the chair of the commission

588 no later than five days after the day on which the complaint is filed.

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

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

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

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

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

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

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

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

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

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

605 (d) include for each alleged ethics violation:

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

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

608 circumstances supporting each allegation; and

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

610 which shall be provided by:

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

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

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

614 witness:

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

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

- 617 (iii) a specific description of any documents or evidence a complainant desires the
- 618 witness to produce;
- 619 (f) a statement that each complainant:
- 620 (i) has reviewed the allegations contained in the complaint and the sworn statements
- 621 and documents attached to the complaint;
- 622 (ii) believes that the complaint is submitted in good faith and not for any improper
- 623 purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the
- 624 respondent's reputation, or causing unnecessary expenditure of public funds; and
- 625 (iii) believes the allegations contained in the complaint to be true and accurate; and
- 626 (g) the signature of each complainant.
- 627 (4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:
- 628 (a) the name, address, and telephone number of the signer;
- 629 (b) a statement that the signer has actual knowledge of the facts and circumstances
- 630 alleged in the affidavit;
- 631 (c) the facts and circumstances testified by the signer;
- 632 (d) a statement that the affidavit is believed to be true and correct and that false
- 633 statements are subject to penalties of perjury; and
- 634 (e) the signature of the signer.

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

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

637 **contempt -- Dismissal.**

- 638 (1) (a) Except as provided in Subsection (1)(b) or (c), a person, including a
- 639 complainant, the respondent, a commission member, or staff to the commission, may not
- 640 disclose the existence of a complaint, a response, nor any information concerning any alleged
- 641 ethics violation that is the subject of a complaint:
- 642 (i) unless otherwise provided in this chapter; or
- 643 (ii) after a complaint is presented at the meeting described in Section 11-49-701.
- 644 (b) The restrictions in Subsection (1)(a) do not apply to the respondent's voluntary

645 disclosure of a finding by the commission that no allegations in a complaint were proved after  
646 that finding is issued by the commission under the procedures and requirements of Section  
647 11-49-602.

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

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

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

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

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

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

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

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

666 (2) (a) If the chair determines that the complaint does not comply with Sections  
667 11-49-301 and 11-49-501, the chair shall:

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

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

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

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

672 (A) a complaint was filed against an unidentified political subdivision officer or



673 employee but was returned for non-compliance with this chapter; and

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

676 (b) If a complaint is returned for non-compliance with the requirements of this chapter,  
677 a complainant may file another complaint if the new complaint independently meets the  
678 requirements of Sections 11-49-301 and 11-49-501, including any requirements for timely  
679 filing.

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

682 (a) accept the complaint;

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

685 (c) notify the applicable political subdivision that:

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

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

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

693 (A) notice of the commission's review of a complaint in accordance with Section  
694 11-49-701; or

695 (B) submission of the commission's annual summary data report as required in Section  
696 11-49-202; and

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

701 under Section 11-49-602.

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

703 **11-49-602. Preliminary review of complaint -- Standard of proof -- Notice.**

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

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

708 (ii) place the complaint on the agenda for consideration at the meeting;

709 (iii) provide a copy of the complaint to the members; and

710 (iv) provide notice of the date, time, and location of the meeting:

711 (A) to the respondent;

712 (B) the first complainant named in the complaint;

713 (C) each commission member; and

714 (D) in accordance with Section 52-4-202.

715 (b) The meeting described in Subsection (1)(a)(ii) is closed to the public in accordance  
716 with Section 52-4-204.

717 (2) (a) At the meeting described in Subsection (1)(a)(i):

718 (i) the commission members shall review each allegation in the complaint;

719 (ii) the commission may not receive testimony, hear a motion from a party, or admit  
720 evidence; and

721 (iii) the chair shall conduct deliberations.

722 (b) The commission may, if necessary:

723 (i) request a formal response or affidavit from a respondent; and

724 (ii) review the response or affidavit at the meeting.

725 (c) Upon a motion made by a commission member, the commission may exclude  
726 commission staff from all or a portion of the deliberations by a majority vote.

727 (3) (a) During deliberations, each commission member shall, for each allegation,  
728 determine:

729 (i) whether the facts alleged, if true, would be an ethics violation;  
730 (ii) whether the complaint includes an affidavit from a person with firsthand  
731 knowledge of alleged facts described in Subsection (3)(a)(i); and  
732 (iii) whether the complaint is frivolous or solely for a political purpose.  
733 (b) A commission member shall vote to forward an allegation in a complaint for a final  
734 commission review in accordance with Part 7, Commission Review of Ethics Violation, if the  
735 commission member determines:  
736 (i) an allegation, if true, would be an ethics violation;  
737 (ii) the complaint contains an affidavit with firsthand knowledge of the allegation  
738 under Subsection (3)(a)(ii); and  
739 (iii) the allegation is not frivolous or solely for a political purpose.  
740 (4) (a) A verbal roll call vote shall be taken on each allegation and each member's vote  
741 shall be recorded.  
742 (b) The commission may not review an allegation for a final determination under Part  
743 7, Commission Review of Ethics Violation, unless six of the seven members of the  
744 commission vote to review the allegation.  
745 (5) (a) An allegation that is not forwarded for a final determination is dismissed.  
746 (b) Before the commission issues an order in accordance with this section, the  
747 commission may, upon a majority vote, reconsider and hold a new vote on an allegation.  
748 (c) A motion to reconsider a vote may only be made by a member of the commission  
749 who voted that the allegation should not be forwarded for a final determination.  
750 (6) (a) If each allegation stated in a complaint is dismissed in accordance with this  
751 section, the commission shall:  
752 (i) issue and enter into the record an order that the complaint is dismissed because no  
753 allegations, in accordance with this section, were forwarded for a final determination;  
754 (ii) classify all recordings, testimony, evidence, orders, findings, and other records  
755 directly relating to the meetings authorized by this part as private records under Section  
756 63G-2-302;

757 (iii) provide notice of the determination, in a manner determined by the chair, to:  
758 (A) the respondent;  
759 (B) the first complainant named on the complaint; and  
760 (C) subject to Subsection (6)(b), the appropriate political subdivision; and  
761 (iv) provide notice to each person or entity named in Subsections (6)(a)(iii)(A) through  
762 (C) that, under provisions of Section 11-49-502 and other provisions of this chapter, a person  
763 who discloses the findings of the commission in violation of any provision of this chapter is in  
764 contempt of the commission and is subject to penalties for contempt.

765 (b) The notification to the appropriate political subdivision shall notify the political  
766 subdivision that:

767 (i) a complaint against an unidentified political subdivision officer or employee has  
768 been dismissed; and

769 (ii) the fact that a complaint was filed shall be kept confidential until the commission  
770 publicly discloses the existence of the complaint via submission of the commission's annual  
771 summary data report as required in Section 11-49-202.

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

774 (a) issue and enter into the record:

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

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

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

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

783 (i) the respondent;

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

785 (iii) subject to Subsection (8), the appropriate political subdivision; and  
 786 (d) provide notice to each person or entity named in Subsections (7)(c)(i) through (iii)  
 787 that:

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

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

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

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

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

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

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

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

808 **11-49-603. Meeting of the Commission to review a complaint -- Procedures.**

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

811 (1) schedule a commission meeting on a date no later than 45 calendar days after the  
 812 date on which the commission votes to forward a complaint for final determination in

813 accordance with Section 11-49-602;

814 (2) place the complaint on the agenda for consideration at the meeting described in

815 Subsection (1):

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

817 (a) to:

818 (i) the members of the commission;

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

820 (iii) the respondent; and

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

822 (4) provide a copy of the complaint or redacted complaint, as required in Section

823 11-49-602, to each member of the commission.

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

825 **11-49-604. Response to ethics complaint -- Filing -- Form.**

826 (1) The political subdivision officer or employee who is the subject of the complaint  
827 may file a response to the complaint no later than 30 days after the day on which the officer or  
828 employee receives delivery of an order issued by the commission under Subsection  
829 11-49-602(7).

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

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

833 (b) for each alleged ethics violation in the complaint:

834 (i) each affirmative defense asserted in response to the allegation, including a general  
835 description of each affirmative defense and the facts and circumstances supporting the defense  
836 to be provided by one or more affidavits, each of which shall comply with Subsection (4);

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

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

839 (B) one or more affidavits, each of which shall comply with Subsection (4);

840 (c) a list of the witnesses that the respondent wishes to have called, including for each

841 witness:

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

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

844 (iii) a specific description of any documents or evidence the respondent desires the

845 witness to produce;

846 (d) a statement that the respondent:

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

848 and documents attached to the response; and

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

850 (e) the signature of the respondent.

851 (3) Promptly after receiving the response, the commission shall provide copies of the

852 response to:

853 (a) each member of the commission; and

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

855 (4) An affidavit described in Subsection (2)(b)(i) or (2)(b)(ii)(B) shall include the

856 following information:

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

858 (b) a statement that the signer has actual knowledge of the facts and circumstances

859 alleged in the affidavit;

860 (c) the facts and circumstances testified to by the signer;

861 (d) a statement that the affidavit is believed to be true and correct and that false

862 statements are subject to penalties of perjury; and

863 (e) the signature of the signer.

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

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

866 **11-49-701. Commission review of ethics violation.**

867 (1) The scope of a review by the commission is limited to an alleged ethics violation

868 stated in a complaint that has not been previously dismissed under Section 11-49-602.

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

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

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

875           (iii) reviewing a complaint, with or without the attendance of the parties, to determine  
876 if the complaint should be dismissed in whole or in part, by means of a majority vote of the  
877 commission, because the complaint pleads facts or circumstances against a political  
878 subdivision officer or employee that have already been reviewed by, as provided in Section  
879 11-49-301, the commission, a municipal ethics commission established in accordance with  
880 Section 10-3-1311, a county ethics commission established in accordance with Section  
881 17-16a-11, or a local political subdivision ethics commission established in accordance with  
882 Section 11-49-103.

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

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

886           (ii) necessary scheduling requirements.

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

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

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

894           (b) The following individuals may be present during the presentation of testimony and  
895 evidence to the commission:

896           (i) the complainant;



- 897           (ii) the complainant's counsel, if applicable;
- 898           (iii) the respondent;
- 899           (iv) the respondent's counsel, if applicable;
- 900           (v) members of the commission;
- 901           (vi) staff to the commission;
- 902           (vii) a witness, while testifying before the commission; and
- 903           (viii) necessary security personnel.
- 904           (c) The commission may, in accordance with Section 52-4-204, close a meeting to:
- 905           (i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or
- 906           (ii) conduct deliberations to reach a decision on the complaint.
- 907           (5) If a majority of the commission determines that a continuance is necessary to obtain
- 908 further evidence and testimony, to accommodate administrative needs, or to accommodate the
- 909 attendance of commission members, witnesses, or a party, the commission shall:
- 910           (a) adjourn and continue the meeting to a future date and time after notice to the
- 911 parties; and
- 912           (b) establish that future date and time by majority vote.
- 913           (6) A record, as defined in Section 63G-2-103, created by the commission under this
- 914 part, reviewed by the commission under this part, or received by the commission under this
- 915 part, is a public record, as defined in Section 63G-2-103.
- 916           Section 24. Section **11-49-702** is enacted to read:
- 917           **11-49-702. Record -- Recording of meetings.**
- 918           (1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or
- 919 other recording device in a meeting authorized by this part.
- 920           (b) (i) The commission shall keep an audio or video recording of all portions of each
- 921 meeting authorized by this part.
- 922           (ii) The commission may, by a majority vote of the commission, permit a camera or
- 923 other recording device in the meeting in which the commission releases the commission's
- 924 recommendation under this part.

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

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

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

929 (c) copies of a document or written order or ruling issued by the chair or the  
930 commission; and

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

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

933 **11-49-703. Commission deliberations -- Standard of proof.**

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

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

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

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

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

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

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

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

946 (i) whether the allegation is:

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

948 (B) not proven; and

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

951 (A) censure;

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

953 (C) in the case of a political subdivision officer, removal from office; or  
954 (D) any other action or reprimand that the commission determines is appropriate.  
955 (b) (i) A verbal roll call vote shall be taken on each allegation, and each recommended  
956 action described in Subsection (3)(a)(ii) on each allegation.  
957 (ii) Each member's vote shall be recorded.  
958 (4) (a) An allegation is not considered to be proven unless six of the seven members of  
959 the commission vote that the allegation is proven.  
960 (b) An allegation that is not considered to be proven is dismissed.  
961 (c) (i) Before the commission issues its recommendation in accordance with Section  
962 11-49-704, the commission may, upon a majority vote, reconsider and hold a new vote on an  
963 allegation.  
964 (ii) A motion to reconsider a vote may only be made by a member of the commission  
965 who voted that the allegation was not proved.  
966 (5) At the conclusion of deliberations, the commission shall prepare its  
967 recommendations as provided in Sections 11-49-704 and 11-49-705.  
968 Section 26. Section **11-49-704** is enacted to read:  
969 **11-49-704. Recommendations of commission.**  
970 (1) (a) If the commission determines that no allegations in the complaint were proved,  
971 the commission shall:  
972 (i) issue and enter into the record an order that the complaint is dismissed because no  
973 allegations in the complaint were found to have been proved;  
974 (ii) provide notice of the determination at a public meeting; and  
975 (iii) provide written notice of the determination to:  
976 (A) the respondent;  
977 (B) the first complainant named on the complaint; and  
978 (C) the appropriate political subdivision.  
979 (2) If the commission determines that one or more of the allegations in the complaint  
980 were proved, the commission shall:

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

983 (b) prepare a written recommendation to the applicable political subdivision governing  
984 body that:

985 (i) lists the name of each complainant;

986 (ii) lists the name of the respondent;

987 (iii) states the date of the recommendation;

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

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

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

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

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

999 (v) contains any general statement that is adopted for inclusion in the recommendation  
1000 by a majority of the members of the commission;

1001 (vi) contains a statement referring the allegations found to have been proved to the  
1002 appropriate political subdivision governing body for review and, if necessary, further action;

1003 (vii) contains a statement referring to each allegation proven the commission's  
1004 recommendation under Subsection 11-49-703 (3)(a)(ii);

1005 (viii) states the name of each member of the commission; and

1006 (ix) is signed by each commission member.

1007 (3) The commission shall provide notice of the determination:

1008 (a) at a public meeting; and

- 1009           (b) in writing to:
- 1010           (i) the respondent;
- 1011           (ii) the first complainant named on the complaint; and
- 1012           (iii) in accordance with Subsection (4), the appropriate political subdivision.

1013           (4) The commission shall ensure that, within five business days of the date of public  
1014 issuance of the determination in accordance with Subsection (3), the following documents are  
1015 provided to the political subdivision governing body:

1016           (a) a cover letter referring the proven allegations contained in the complaint to the  
1017 political subdivision governing body for review;

1018           (b) a copy of the complaint;

1019           (c) a copy of the response; and

1020           (d) a copy of the commission's recommendation.

1021           Section 27. Section **11-49-705** is enacted to read:

1022           **11-49-705. Criminal allegation -- Recommendation to county or district attorney.**

1023           (1) If the commission finds that a political subdivision officer or employee allegedly  
1024 violated a criminal provision, the commission shall, in addition to sending a recommendation  
1025 to a political subdivision governing body in accordance with Section 11-49-704, send a  
1026 recommendation for further investigation to the county or district attorney of jurisdiction by  
1027 delivering to the county or district attorney a written recommendation that:

1028           (a) lists the name of each complainant;

1029           (b) lists the name of the respondent;

1030           (c) states the date of the recommendation;

1031           (d) for each allegation of a criminal violation, provide a reference to the criminal  
1032 provision allegedly violated;

1033           (e) includes a general statement that is adopted by a majority of the members of the  
1034 commission; and

1035           (f) gives the name of the political subdivision governing body that the commission sent  
1036 a recommendation to in accordance with Section 11-49-704.

1037 (2) If the commission sends a recommendation in accordance with Subsection (1)(a),  
1038 the commission shall enter into the record:

1039 (a) a copy of the recommendation; and

1040 (b) the name of the county or district attorney of jurisdiction to whom it was sent.

1041 (3) A recommendation prepared and delivered in accordance with this section is a  
1042 public record.

1043 Section 28. Section **11-49-706** is enacted to read:

1044 **11-49-706. Action by political subdivision governing body.**

1045 A political subdivision governing body that receives a recommendation in accordance  
1046 with Section 11-49-704 shall:

1047 (1) review the recommendation; and

1048 (2) take further action in accordance with a political subdivision's governing ordinance,  
1049 bylaws, or other applicable governing rule.

1050 Section 29. Section **17-16a-11** is amended to read:

1051 **17-16a-11. County ethics commission -- Complaints charging violations --**  
1052 **Procedure.**

1053 (1) A county may establish by ordinance an ethics commission to review a complaint,  
1054 except as provided in Subsection (3), against an officer or employee subject to this part for a  
1055 violation of a provision of this part.

1056 (2) (a) Except as provided in Subsection (3), a person filing a complaint for a violation  
1057 of this part shall file the complaint:

1058 (i) with the county ethics commission, if the county has established a county ethics  
1059 commission in accordance with Subsection (1); or

1060 (ii) with the Political Subdivisions Ethics Review Commission established in  
1061 accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission if the  
1062 county has not established a county ethics commission.

1063 (b) A county that receives a complaint described in Subsection (2)(a) may:

1064 (i) accept the complaint if the county has established a county ethics commission in

1065 accordance with Subsection (1); or

1066 (ii) forward the complaint to the Political Subdivisions Ethics Review Commission  
1067 established in Section 11-49-201:

1068 (A) regardless of whether the county has established a county ethics commission; or

1069 (B) if the county has not established a county ethics commission.

1070 ~~[(+)]~~ (3) Any complaint against a person who is under the merit system, charging that  
1071 person with a violation of this part, shall be filed and processed in accordance with the  
1072 provisions of the merit system.

1073 ~~[(2) If the person charged with the violation is not under any merit system, then the~~  
1074 ~~complaint shall be filed with the commission which shall investigate the complaint and shall~~  
1075 ~~give the person an opportunity to be heard. A written report of the findings and the~~  
1076 ~~recommendation of the commission shall be filed with the governing body. If the governing~~  
1077 ~~body finds that the person has violated this part, it may dismiss, suspend, or take such other~~  
1078 ~~appropriate action with respect to the person.]~~

1079 Section 30. Section **52-4-204** is amended to read:

1080 **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for**  
1081 **meeting recorded.**

1082 (1) A closed meeting may be held if:

1083 (a) (i) a quorum is present;

1084 (ii) the meeting is an open meeting for which notice has been given under Section  
1085 52-4-202; and

1086 (iii) (A) two-thirds of the members of the public body present at the open meeting vote  
1087 to approve closing the meeting;

1088 (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of  
1089 the members of the public body present at an open meeting vote to approve closing the  
1090 meeting; ~~[or]~~

1091 (C) for an ethics committee of the Legislature that is conducting an open meeting for  
1092 the purpose of reviewing an ethics complaint, a majority of the members present vote to

1093 approve closing the meeting for the purpose of seeking or obtaining legal advice on legal,  
1094 evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the  
1095 complaint; or

1096 (D) for the Political Subdivisions Ethics Review Commission established in Section  
1097 11-49-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint  
1098 in accordance with Section 11-49-701, a majority of the members present vote to approve  
1099 closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary,  
1100 or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

1101 (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is  
1102 convened for the purpose of conducting business relating to the receipt or review of an ethics  
1103 complaint, provided that public notice of the closed meeting is given under Section 52-4-202,  
1104 with the agenda for the meeting stating that the meeting will be closed for the purpose of  
1105 "conducting business relating to the receipt or review of ethics complaints"[-]; or

1106 (ii) for the Political Subdivisions Ethics Review Commission established in Section  
1107 11-49-201, the closed meeting is convened for the purpose of conducting business relating to  
1108 the preliminary review of an ethics complaint in accordance with Section 11-49-602, provided  
1109 that public notice of the closed meeting is given under Section 52-4-202, with the agenda for  
1110 the meeting stating that the meeting will be closed for the purpose of "conducting business  
1111 relating to the review of ethics complaints".

1112 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting  
1113 is permitted under Section 52-4-205.

1114 (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be  
1115 approved at a closed meeting.

1116 (4) The following information shall be publicly announced and entered on the minutes  
1117 of the open meeting at which the closed meeting was approved:

1118 (a) the reason or reasons for holding the closed meeting;

1119 (b) the location where the closed meeting will be held; and

1120 (c) the vote by name, of each member of the public body, either for or against the



1121 motion to hold the closed meeting.

1122 (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be  
1123 construed to require any meeting to be closed to the public.

1124 Section 31. Section **63G-2-302** is amended to read:

1125 **63G-2-302. Private records.**

1126 (1) The following records are private:

1127 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
1128 social services, welfare benefits, or the determination of benefit levels;

1129 (b) records containing data on individuals describing medical history, diagnosis,  
1130 condition, treatment, evaluation, or similar medical data;

1131 (c) records of publicly funded libraries that when examined alone or with other records  
1132 identify a patron;

1133 (d) records received by or generated by or for:

1134 (i) the Independent Legislative Ethics Commission, except for:

1135 (A) the commission's summary data report that is required under legislative rule; and

1136 (B) any other document that is classified as public under legislative rule; or

1137 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
1138 unless the record is classified as public under legislative rule;

1139 (e) records received or generated for a Senate confirmation committee concerning  
1140 character, professional competence, or physical or mental health of an individual:

1141 (i) if prior to the meeting, the chair of the committee determines release of the records:

1142 (A) reasonably could be expected to interfere with the investigation undertaken by the  
1143 committee; or

1144 (B) would create a danger of depriving a person of a right to a fair proceeding or  
1145 impartial hearing; and

1146 (ii) after the meeting, if the meeting was closed to the public;

1147 (f) employment records concerning a current or former employee of, or applicant for  
1148 employment with, a governmental entity that would disclose that individual's home address,

1149 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
1150 deductions;

1151 (g) records or parts of records under Section 63G-2-303 that a current or former  
1152 employee identifies as private according to the requirements of that section;

1153 (h) that part of a record indicating a person's Social Security number or federal  
1154 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
1155 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

1156 (i) that part of a voter registration record identifying a voter's driver license or  
1157 identification card number, Social Security number, or last four digits of the Social Security  
1158 number;

1159 (j) a record that:

1160 (i) contains information about an individual;

1161 (ii) is voluntarily provided by the individual; and

1162 (iii) goes into an electronic database that:

1163 (A) is designated by and administered under the authority of the Chief Information  
1164 Officer; and

1165 (B) acts as a repository of information about the individual that can be electronically  
1166 retrieved and used to facilitate the individual's online interaction with a state agency;

1167 (k) information provided to the Commissioner of Insurance under:

1168 (i) Subsection 31A-23a-115(2)(a);

1169 (ii) Subsection 31A-23a-302(3); or

1170 (iii) Subsection 31A-26-210(3);

1171 (l) information obtained through a criminal background check under Title 11, Chapter  
1172 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

1173 (m) information provided by an offender that is:

1174 (i) required by the registration requirements of Section 77-27-21.5; and

1175 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

1176 (n) a statement and any supporting documentation filed with the attorney general in

1177 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
1178 homeland security;

1179       (o) electronic toll collection customer account information received or collected under  
1180 Section 72-6-118, including contact and payment information and customer travel data[-];

1181       (p) an email address provided by a military or overseas voter under Section  
1182 20A-16-501; [~~and~~]

1183       (q) a completed military-overseas ballot that is electronically transmitted under Title  
1184 20A, Chapter 16, Uniform Military and Overseas Voters Act[-]; and

1185       (r) records received by or generated by or for the Political Subdivisions Ethics Review  
1186 Commission established in Section 11-49-201, except for:

1187       (i) the commission's summary data report that is required in Section 11-49-202; and  
1188       (ii) any other document that is classified as public in accordance with Title 11, Chapter  
1189 49, Political Subdivisions Ethics Review Commission.

1190       (2) The following records are private if properly classified by a governmental entity:

1191       (a) records concerning a current or former employee of, or applicant for employment  
1192 with a governmental entity, including performance evaluations and personal status information  
1193 such as race, religion, or disabilities, but not including records that are public under Subsection  
1194 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

1195       (b) records describing an individual's finances, except that the following are public:

1196       (i) records described in Subsection 63G-2-301(2);

1197       (ii) information provided to the governmental entity for the purpose of complying with  
1198 a financial assurance requirement; or

1199       (iii) records that must be disclosed in accordance with another statute;

1200       (c) records of independent state agencies if the disclosure of those records would  
1201 conflict with the fiduciary obligations of the agency;

1202       (d) other records containing data on individuals the disclosure of which constitutes a  
1203 clearly unwarranted invasion of personal privacy;

1204       (e) records provided by the United States or by a government entity outside the state

1205 that are given with the requirement that the records be managed as private records, if the  
1206 providing entity states in writing that the record would not be subject to public disclosure if  
1207 retained by it; and

1208 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
1209 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
1210 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

1211 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
1212 records, statements, history, diagnosis, condition, treatment, and evaluation.

1213 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
1214 doctors, or affiliated entities are not private records or controlled records under Section  
1215 63G-2-304 when the records are sought:

1216 (i) in connection with any legal or administrative proceeding in which the patient's  
1217 physical, mental, or emotional condition is an element of any claim or defense; or

1218 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
1219 relies upon the condition as an element of the claim or defense.

1220 (c) Medical records are subject to production in a legal or administrative proceeding  
1221 according to state or federal statutes or rules of procedure and evidence as if the medical  
1222 records were in the possession of a nongovernmental medical care provider.

1223 Section 32. Section **67-16-3** is amended to read:

1224 **67-16-3. Definitions.**

1225 As used in this chapter:

1226 (1) "Agency" means any department, division, agency, commission, board, council,  
1227 committee, authority, or any other institution of the state or any of its political subdivisions.

1228 (2) "Agency head" means the chief executive or administrative officer of any agency.

1229 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,  
1230 aid, advise, furnish information to, or otherwise provide assistance to a person or business  
1231 entity, believing that such action is of help, aid, advice, or assistance to such person or business  
1232 entity and with the intent to assist such person or business entity.

1233 (4) "Business entity" means a sole proprietorship, partnership, association, joint  
1234 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on  
1235 a business.

1236 (5) "Compensation" means anything of economic value, however designated, which is  
1237 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone  
1238 other than the governmental employer for or in consideration of personal services, materials,  
1239 property, or any other thing whatsoever.

1240 (6) "Controlled, private, or protected information" means information classified as  
1241 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and  
1242 Management Act, or other applicable provision of law.

1243 (7) "Governmental action" means any action on the part of the state, a political  
1244 subdivision, or an agency, including:

1245 (a) any decision, determination, finding, ruling, or order; and

1246 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,  
1247 sanction, or approval, or the denial thereof, or the failure to act in respect to.

1248 (8) "Improper disclosure" means disclosure of controlled, private, or protected  
1249 information to any person who does not have the right to receive the information.

1250 (9) "Legislative employee" means any officer or employee of the Legislature, or any  
1251 committee of the Legislature, who is appointed or employed to serve, either with or without  
1252 compensation, for an aggregate of less than 800 hours during any period of 365 days.

1253 "Legislative employee" does not include legislators.

1254 (10) "Legislator" means a member or member-elect of either house of the Legislature  
1255 of the state of Utah.

1256 (11) "Political subdivision" means a district, [~~county,~~] school district, or any other  
1257 political subdivision of the state that is not an agency, but does not include [~~municipalities~~] a  
1258 municipality or a county.

1259 (12) "Public employee" means a person who is not a public officer who is employed on  
1260 a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public

1261 employee" does not include legislators or legislative employees.

1262 (13) "Public officer" means all elected or appointed officers of the state or any of its  
1263 political subdivisions who occupy policymaking posts. "Public officer" does not include  
1264 legislators or legislative employees.

1265 (14) "State" means the state of Utah.

1266 (15) "Substantial interest" means the ownership, either legally or equitably, by an  
1267 individual, the individual's spouse, or the individual's minor children, of at least 10% of the  
1268 outstanding capital stock of a corporation or a 10% interest in any other business entity.

1269 Section 33. Section **67-16-4** is amended to read:

1270 **67-16-4. Improperly disclosing or using private, controlled, or protected**  
1271 **information -- Using position to secure privileges or exemptions -- Accepting employment**  
1272 **which would impair independence of judgment or ethical performance -- Exceptions.**

1273 (1) [~~Except as provided in Subsection (3), it~~] It is an offense for a public officer, public  
1274 employee, or legislator, under circumstances not amounting to a violation of Section  
1275 63G-6-1001 or 76-8-105, to:

1276 (a) accept employment or engage in any business or professional activity that he might  
1277 reasonably expect would require or induce him to improperly disclose controlled information  
1278 that he has gained by reason of his official position;

1279 (b) disclose or improperly use controlled, private, or protected information acquired by  
1280 reason of his official position or in the course of official duties in order to further substantially  
1281 the officer's or employee's personal economic interest or to secure special privileges or  
1282 exemptions for himself or others;

1283 (c) use or attempt to use his official position to:

1284 (i) further substantially the officer's or employee's personal economic interest; or

1285 (ii) secure special privileges or exemptions for himself or others;

1286 (d) accept other employment that he might expect would impair his independence of  
1287 judgment in the performance of his public duties; or

1288 (e) accept other employment that he might expect would interfere with the ethical

1289 performance of his public duties.

1290 (2) (a) Subsection (1) does not apply to the provision of education-related services to  
1291 public school students by public education employees acting outside their regular employment.

1292 (b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.

1293 ~~[(3) A county legislative body member who does not participate in the process of  
1294 selecting a mental health or substance abuse service provider does not commit an offense under  
1295 Subsection (1)(a) or (b) by:]~~

1296 ~~[(a) serving also as a member of the governing board of the provider of mental health  
1297 or substance abuse services under contract with the county; or]~~

1298 ~~[(b) discharging, in good faith, the duties and responsibilities of each position.]~~

1299 Section 34. Section **67-16-15** is enacted to read:

1300 **67-16-15. Complaint -- Political Subdivisions Ethics Review Commission.**

1301 A person may file a complaint for an alleged violation of this chapter by a political  
1302 subdivision officer or employee in accordance with Title 11, Chapter 49, Political Subdivisions  
1303 Ethics Review Commission.

1304 Section 35. **Effective date.**

1305 This bill takes effect on September 1, 2012.