

741 (a) the governor;

742 (b) the lieutenant governor;

743 (c) the state auditor;

744 (d) the state treasurer; or

745 (e) the attorney general.

746 (4) "Improper purpose" includes harassing a respondent, causing unwarranted harm to
747 a respondent's reputation, or causing unnecessary expenditure of public funds.

748 (5) "Respondent" means the executive branch elected official against whom an ethics
749 complaint described in Section 63A-13-402 is filed.

750 (6) "Violation" means a high crime, a misdemeanor, or malfeasance in office.

751 Section 9. Section **63A-13-201** is enacted to read:

752 **Part 2. Independent Executive Branch Ethics Commission**

753 **63A-13-201. Title.**

754 This part is known as "Independent Executive Branch Ethics Commission."

755 Section 10. Section **63A-13-202** is enacted to read:

756 **63A-13-202. Independent Executive Branch Ethics Commission -- Membership.**

757 (1) ~~H~~→ (a) ←~~H~~ There is created the Independent Executive Branch Ethics Commission,
757a consisting

758 of the following five members appointed by the governor, each of whom shall be registered to
759 vote in the state at the time of appointment:

760 ~~H~~→ [~~(a)~~] (i) ←~~H~~ two members who served:

761 ~~H~~→ [~~(i)~~] (A) ←~~H~~ as elected officials in state government no more recently than
761a four years before the
762 day on which the member is appointed; or

763 ~~H~~→ [~~(ii)~~] (B) ←~~H~~ in a management position in the state executive branch no more
763a recently than four
764 years before the day on which the member is appointed;

765 ~~H~~→ [~~(b)~~] (ii) ←~~H~~ one member who:

766 ~~H~~→ [~~(i)~~] (A) ←~~H~~ has served, but no longer actively serves, as a judge of a court
766a in the state; or

767 ~~H~~→ [~~(ii)~~] (B) ←~~H~~ is a licensed attorney in the state and is not, and has not been, a judge; and

768 ~~H~~→ [~~(c)~~] (iii) ←~~H~~ two citizen members.

768a ~~H~~→ (b) **The governor shall make appointments to the commission as follows:**

768b **(i) each executive branch elected official, other than the governor, shall select,**

768c **and provide to the governor, at least two names for potential appointment to one of the**
768d **membership positions described in Subsection (1)(a);**

768e **(ii) the governor shall determine which of the executive branch elected officials**
768f **described in Subsection (1)(b)(i) shall select names for which membership position;**

768g **(iii) the governor shall appoint to the commission one of the names provided by each**
768h **executive branch elected official described in Subsection (1)(b)(i);**

768i **(iv) the governor shall directly appoint the remaining member of the commission; and**

768j **(v) if an executive branch elected official fails to submit names to the governor within**
768k **15 days after the day on which the governor makes the determination described in Subsection**
768l **(1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership**
768m **position. ←H**

769 **(2) A member of the commission may not, during the member's term of office on the**
770 **commission, act or serve as:**

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

834 (5) Except as expressly otherwise provided in this chapter, all meetings held under this
 835 chapter are closed to the public.

836 Section 12. Section **63A-13-301** is enacted to read:

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

838 **63A-13-301. Title.**

839 This part is known as "General Powers and Procedures."

840 Section 13. Section **63A-13-302** is enacted to read:

841 **63A-13-302. Authority to review complaint -- Grounds for complaint --**

842 **Limitations on filings.**

843 (1) Subject to the requirements of this chapter, the commission may review an ethics
 844 complaint against an executive branch elected official if the complaint alleges that the
 845 executive branch elected official has committed ~~§~~→ [:

846 ~~—— (a) a high crime;~~

847 ~~—— (b) a misdemeanor; or~~

848 ~~—— (c) malfeasance in office] a violation~~ ←~~§~~ .

849 (2) Individuals who file a complaint for an alleged violation shall file the complaint
 850 within two years after the later of:

851 (a) the day on which the action or omission that forms the basis for the alleged
 852 violation occurs or would have been discovered by a reasonable person; or

853 (b) the day on which a plea or conviction that forms the basis for the allegation is
 854 entered.

855 (3) (a) A complaint may not contain an allegation that was previously reviewed by the
 856 commission, unless:

857 (i) the allegation is accompanied by material facts or circumstances supporting the
 858 allegation that were not raised or pled to the commission when the allegation was previously
 859 reviewed; and

860 (ii) the allegation and the general facts and circumstances supporting the allegation
 861 were only reviewed by the commission on one previous occasion.

862 (b) If an allegation in a complaint does not comply with the requirements of Subsection
 863 (3)(a), the commission or the chair shall dismiss the allegation with prejudice.

864 Section 14. Section **63A-13-303** is enacted to read:

1175 findings of the commission in violation of any provision of this chapter is in contempt of the
 1176 commission and is subject to penalties for contempt.

1177 (2) If the commission determines that one or more of the allegations in the complaint
 1178 have merit, the commission shall:

1179 (a) if one or more allegations were not found to have merit, enter into the record an
 1180 order dismissing the allegations that were found not to have merit;

1181 (b) within 30 business days after the day on which the commission makes the
 1182 determination, prepare a written finding, for submission to the Legislature, that:

1183 (i) lists the name of each complainant;

1184 (ii) lists the name of the respondent;

1185 (iii) states the date of the finding;

1186 (iv) for each allegation that was found to ~~be~~ have merit:

1187 (A) describes the high crime, misdemeanor, or malfeasance ~~of~~ in ~~an~~ office allegedly
 1188 committed by the respondent;

1189 (B) states the number and names of commission members who voted that the allegation
 1190 has merit and the number and names of commission members who voted that the allegation
 1191 does not have merit;

1192 (C) subject to Subsection (3), at the option of those members voting that the allegation
 1193 has merit, includes a statement by one or all of those members stating the reasons that the
 1194 members voted that the allegation has merit; and

1195 (D) subject to Subsection (3), at the option of those members who voted that the
 1196 allegation does not have merit, includes a statement by one or all of those members stating the
 1197 reasons that the members voted that the allegation does not have merit;

1198 (v) contains any general statement that is adopted for inclusion in the finding by a
 1199 majority of the members of the commission;

1200 (vi) describes the allegations found by the commission to have merit;

1201 (vii) states the name of each member of the commission; and

1202 (viii) is signed by each member of the commission;

1203 (c) direct staff to publicly release the finding, the complaint, and the response, subject
 1204 to the redaction of any allegations that were dismissed; and

1205 (d) classify all other recordings, testimony, evidence, orders, findings, and other

1361 subpoenaed for appearance at the hearing unless:

1362 (a) the witness is unable to be properly identified or located; or

1363 (b) service is otherwise determined to be impracticable.

1364 (2) The chair shall determine the scheduling and order of witnesses and presentation of
1365 evidence.

1366 (3) The commission may, by majority vote:

1367 (a) overrule the chair's decision not to subpoena a witness under Subsection (1);

1368 (b) modify the chair's determination on the scheduling and order of witnesses, and the
1369 presentation of evidence, under Subsection (2);

1370 (c) decline to hear or call a witness ~~§~~→ [that] who ←~~§~~ is requested by a complainant or a
1370a respondent;

1371 (d) decline to review or consider evidence submitted in relation to an ethics complaint;

1372 or

1373 (e) request and subpoena witnesses or evidence according to the procedures of Section
1374 63A-13-704.

1375 (4) (a) Each witness shall testify under oath.

1376 (b) The chair or the chair's designee shall administer the oath to each witness.

1377 (5) After the oath is administered to a witness, the chair shall direct testimony as
1378 follows:

1379 (a) allow the party that called the witness, or that party's counsel, to question the
1380 witness;

1381 (b) allow the opposing party, or the opposing party's counsel, to cross-examine the
1382 witness;

1383 (c) allow additional questioning by a party or a party's counsel as appropriate;

1384 (d) give commission members the opportunity to question the witness; and

1385 (e) as appropriate, allow further examination of the witness by the commission, or the
1386 parties or their counsel.

1387 (6) (a) If a witness, a party, or a party's counsel objects to a question, the chair shall:

1388 (i) direct the witness to answer; or

1389 (ii) rule that the witness is not required to answer the question.

1390 (b) If a witness declines to answer a question after the chair or a majority of the

1391 commission determines that the witness is required to answer the question, the witness may be