

1 **JOINT RULES RESOLUTION -- ETHICS COMMISSION**

2 **AMENDMENTS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Derek L. Kitchen**

6 House Sponsor: Casey Snider

8 **LONG TITLE**

9 **General Description:**

10 This resolution amends provisions related to disqualifying a member of the Independent
11 Legislative Ethics Commission.

12 **Highlighted Provisions:**

13 This resolution:
14 ▶ corrects an incorrect citation.

15 **Special Clauses:**

16 None

17 **Legislative Rules Affected:**

18 AMENDS:

19 **JR6-2-103.5**

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

22 Section 1. **JR6-2-103.5** is amended to read:

23 **JR6-2-103.5. Motion to disqualify Independent Legislative Ethics Commission**
24 **member for conflict of interest.**

25 (1) A complainant may file a motion to disqualify one or more members of the
26 Independent Legislative Ethics Commission from participating in proceedings relating to an
27 ethics complaint if the individual files the motion within 20 days after the later of:

- 28 (a) the day on which the individual files the ethics complaint; or
29 (b) the day on which the individual knew or should have known of the grounds upon

30 which the motion is based.

31 (2) A respondent may file a motion to disqualify one or more members of the
32 commission from participating in proceedings relating to an ethics complaint if the respondent
33 files the motion within 20 days after the later of:

34 (a) the day on which the respondent receives delivery of the ethics complaint; or

35 (b) the day on which the respondent knew or should have known of the grounds upon
36 which the motion is based.

37 (3) A motion filed under this section shall include:

38 (a) a statement that the members to whom the motion relates have a conflict of interest
39 that, under the circumstances, would lead a reasonable person to question the impartiality of
40 the members;

41 (b) a detailed description of the grounds supporting the statement described in
42 Subsection (3)(a); and

43 (c) a statement that the motion is filed in good faith, supported by an affidavit or
44 declaration under penalty of [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn
45 Declarations Act, stating that the motion and all accompanying statements and documents are
46 true and correct to the best of the complainant's or respondent's knowledge.

47 (4) A party may not file more than one motion to disqualify, unless the second or
48 subsequent motion:

49 (a) is based on grounds of which the party was not aware, and could not have been
50 aware, at the time of the earlier motion; and

51 (b) is accompanied by a statement, included in the affidavit or declaration described in
52 Subsection (3)(c), explaining how and when the party first became aware of the grounds
53 described in Subsection (4)(a).

54 (5) The commission shall dismiss a motion filed under this section, with prejudice, if
55 the motion:

56 (a) is not timely filed; or

57 (b) does not comply with the requirements of this section.

58 (6) A member of the commission may:

59 (a) on the member's own motion, disqualify the member from participating in
60 proceedings relating to an ethics complaint if the member believes that the member has a
61 conflict of interest that, under the circumstances, would lead a reasonable person to question
62 the impartiality of the member; or

63 (b) ask the commission to disqualify another member of the commission if the member
64 believes that the member has a conflict of interest that, under the circumstances, would lead a
65 reasonable person to question the impartiality of the member.

66 (7) (a) When a party files a motion under this section, or when a commission member
67 makes a request under Subsection (6)(b), the commission member for whom disqualification is
68 sought may make the initial determination regarding whether the commission member has a
69 conflict of interest.

70 (b) If a commission member described in Subsection (7)(a) determines that the
71 commission member has a conflict of interest, the commission member shall disqualify the
72 commission member from participating in the matter.

73 (c) If a commission member described in Subsection (7)(a) determines that the
74 commission member does not have a conflict of interest, or declines to make the determination,
75 the remainder of the commission shall, by majority vote, determine whether the commission
76 member has a conflict of interest.

77 (d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on
78 the issue of a conflict of interest.

79 (8) In making a determination under Subsection (7)(c), the commission may:

80 (a) gather additional evidence;

81 (b) hear testimony; or

82 (c) request that the commission member who is the subject of the motion or request file
83 an affidavit or declaration responding to questions posed by commission.