

Montana

A. Ethics Committee due process memo

B. Adopted rules of the Ethics Committee

C. Chair's rulings on objections



Senate Ethics Committee

69th Montana Legislature

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Members: Forrest Mandeville, Chair; Tom McGillvray, Vice Chair; Christopher Pope, Vice Chair; Laura Smith
Staff: Joe Carroll, legislative attorney; Trudy Burke, lead secretary

From: Joe Carroll
To: Senate Ethics Committee
Re: Due process
Date: February 28, 2025

Question: What due process is required in this investigation?

Short answer: Mason's Manual of Legislative Procedure (2020), Section 562(4) states:

Adequate notice, formal charges, and a public hearing with the right to cross-examine witnesses have been held to be necessary components of procedural due process that must be afforded to a member prior to expulsion.

Analysis: Immediately, it is helpful to recognize that due process is a constitutional issue. Its general statement can be found in the 14th Amendment to the federal Constitution: *Nor shall any State deprive any person of life, liberty, or property, without due process of law*; and in Article II, section 17, of the Montana Constitution: *No person shall be deprived of life, liberty, or property without due process of law*. Courts recognize that due process exists on a spectrum depending on the nature of the potential deprivation. In *Morrissey v. Brewer*, 408 US 471, the U.S. Supreme Court wrote that "[d]ue process is flexible and calls for such procedural protections as the particular situation demands." Mason's Manual also states in Section 563(3):

An elected official has a property right in the office which cannot be taken away except by due process of law. An official takes office subject to the conditions imposed by the terms and nature of the political system in which the official operates. The overriding need for each house to protect its integrity through the exercise of the expulsion power, the requirement for a two-thirds vote to expel by itself satisfies procedural due process.

1. Why Mason's Manual is relevant:

Section 562(4) of Mason's Manual, which deals with the potential expulsion of a member, is relevant to the committee's due process analysis because the Senate Ethics Committee has been directed to:

make a report to the body of the Senate for the Senate to determine whether good cause is shown to expel or punish the Senator from Senate District 43.

The potential expulsion of a member of the Senate is a serious issue that the committee should be cognizant of. The committee itself is not empowered to punish or expel any senator nor is the committee empowered to recommend expulsion or any level of punishment. The body of the Senate may take no action as a result of the committee's report. The body may censure the

respondent or may impose some level of punishment. These possibilities are all less grave than the possibility of expulsion. But expulsion is a possibility the body of the Senate may choose.

The due process afforded in this investigation should be appropriate to the highest level of potential sanction that the investigation may result in to protect the respondent's rights in all outcomes.

The Montana Constitution has a specific due process provision applicable to the body of the Senate when considering the expulsion or punishment of a member. The final sentence of Article V, section 10(1) states: *Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.* The Constitution does not provide further specific guidance on the question of due process for the potential expulsion of a senator.

Neither the Joint Rules of the Legislature nor the Senate Rules have specific provisions in place for the procedure regarding the potential expulsion of a senator applicable to this situation. Joint Rule 60-20 states:

Mason's Manual of Legislative Procedure (2020) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

Likewise, Senate Rule 60-20 states:

The most recent publication of Mason's Manual of Legislative Procedure governs the proceedings of the Senate in all cases not covered by these rules.

Mason's Manual's clear statement about the necessity of adequate notice, formal charges, and a public hearing with the right to cross-examine witnesses is the controlling authority for the question of what due process is required in this investigation.

2. The requirements of Mason's Manual are currently satisfied:

It may be noted that the committee provided notice and formal charges to the respondent most recently on February 24, 2025, by letter. The letter specified that a hearing will begin on March 7, 2025, and that the respondent will have the opportunity to cross-examine witnesses. This provides the respondent with 11 calendar days of notice and at least nine legislative days of notice. Nine legislative days constitutes 10% of the legislative days this Legislature may be convened in a regular session. The provided notice far exceeds the standard set by Senate Rule 30-60(2), which requires not less than 3 legislative days' notice for a hearing. Moreover, this process began with a vote of the body of the Senate on January 27, 2025, and an initial notice letter was sent to the respondent on February 3, 2025. Whether viewed narrowly or expansively, adequate notice appears present.

3. The requirements of Mason's Manual are exceeded:

Committee Rule E10-30(3) directs the respondent to provide the committee with "*a list of witnesses with information related to the investigation, with contact information. . .*" This rule

facilitates the committee's ability to potentially call witnesses on behalf of the respondent. Likewise, E10-30(4) and (5) direct the respondent to provide the committee with lists of records in the possession of the Legislative Branch and the Executive Branch "*that are germane to the proceedings and requested in order to present a response at the hearing.*" This facilitates the committee's ability to consider issuing subpoenas for records on behalf of the respondent. These provisions, which potentially aid the respondent's ability to respond to the formal charges, exceed the due process requirements stated in Mason's Manual.

4. Looking to case law for guidance:

If the committee accepts for the sake of argument that there is relevant case law on the question of due process in a legislative investigation that may result in expulsion of a senator, the committee may look to cases mentioned by the special counsel and by the respondent's counsel at the February 24, 2025, hearing, and to other cases about the exercise of legislative powers.

4.A –Case raised by the special counsel:

The special counsel suggested that the committee consider the case *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 for guidance. The *Loudermill* case explains that:

An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case.

In this investigation, notice has been provided and an opportunity for a hearing that meets or exceeds the requirements stated in Mason's Manual is scheduled.

Loudermill is specifically a case about employment and termination. In that specific context, *Loudermill* explains:

The principle that under the Due Process Clause an individual must be given an opportunity for a hearing before he is deprived of any significant property interest, requires "some kind of hearing" prior to the discharge of an employee who has a constitutionally protected property interest in his employment.

The Senate Ethics Committee has taken provisions for the respondent to have not merely "some kind of a hearing," but a hearing that includes calling witnesses and cross-examination.

Boreen v. Christensen, 267 Mont. 405 is a case of the Montana Supreme Court in which the court used *Loudermill* as a guide, explaining that the federal court found Mr. *Loudermill* "*had a property interest in his continued employment,*" and concluded that:

Loudermill mandates that due process requires notice to the employee with an explanation of the employer's evidence and the opportunity for the employee to respond in "something less" than a full evidentiary hearing before termination.

4.B –Cases raised by the respondent's counsel:

At the February 24, 2025 hearing, the respondent's counsel raised for consideration *Jones v. Montana State University*. This case cites extensively the case of *Mysse v. Martens*, 279 Mont. 253. In *Mysse*, the Montana Supreme Court discussed *Loudermill*, explaining that the purpose of a pre-termination hearing required by *Loudermill* is "an initial check against mistaken decisions—essentially a determination of whether there are grounds to believe that the charges against the employee are true and support the proposed action." The committee's pending adjudicatory hearing fulfills that check.

The respondent's counsel raised the court case *State ex rel. Ryan v. Norby*, 118 Mont. 283. That case was about the termination of a "police judge" who was removed from office and who contended that he needed to be given "notice and an opportunity to defend." It seems that the due process provided to the respondent by the Senate Ethics Committee meets or exceeds the request of the police judge to have notice and an opportunity.

4.C –Additional cases to consider

The committee may also consider that no court case will provide clear guidelines on the due process that is appropriate in an investigation that could result in the removal of a senator. This is because of the separation of powers within our state government and comity between the federal and state governments.

In *State ex rel. Ford v. Cutts*, 53 Mont. 300, the Attorney General of Montana sought to oust a member of the 15th session of the Montana Legislature. The court stated:

We cannot and should not take jurisdiction of this proceeding because it must end in nothing. Each house is the judge of the ultimate right of persons claiming seats as members thereof.

The court cited Article V, section 9, of the 1889 Constitution. The relevant part of that section states: "*each house shall choose its other officers and shall judge the elections, returns and qualifications of its members.*" The 1972 Constitution moved that section on the seating of members to Article V, section 10—the same section of the current Constitution that describes each chamber's ability to potentially expel a member. The deference the court showed to the Legislature's ability to seat a member may well extend to the Legislature's ability to potentially expel a member.

In *Monseratte v. N.Y. State Senate*, 599 F.3d 148, a case about the expulsion of a senator from the New York Senate, the U.S. Second Circuit Court of Appeals explained that "[p]rudence dictates that a federal court should exercise a respectful reluctance to interfere in the measures taken by a state legislature to regulate its affairs, discipline its members, and protect its integrity and good name." Addressing the particular situation, the court noted that:

The pre-expulsion process available to Monseratte sufficiently reduced the risk that the charges against him would go unrefuted. "The touchstone of due process, of course, is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it."

Conclusion:

Mason's Manual of Legislative Procedure makes a clear statement that the Senate Ethics Committee should provide the respondent notice, formal charges, and a public hearing with the right to cross-examine witnesses. The committee has provided the respondent notice and formal charges. The committee provided in its notice letter a public hearing with the right to cross-examine witnesses. Aspects of the committee's rules exceed the requirements of Mason's Manual.

If case law provides the committee guidance, the due process provisions of case law cited at the February 24, 2025, meeting will likewise be met or exceeded.



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Staff: Joe Carroll, legislative attorney

Montana Senate Ethics Committee

~~Preliminary Rules~~

E10-10. General rules. (1) These rules of procedure are in addition to those in Chapter 30, Committee rules of SJ 1 and SR 1 as amended on legislative day one.

(2) These rules apply to the motion that was passed by a majority vote (49-0) of the Senate on Monday, January 27, 2025, specified as follows:

Pursuant to the Senate's authority under Article V, section 10(1), of the Montana Constitution and in light of the Legislative Audit Division Legal Counsel's findings and conclusions contained in the Hotline Submission FY 25-0076 Findings document dated January 24, 2025, that is on your desks, I move that the Senate Ethics Committee be convened to investigate and make findings of fact and conclusions to determine whether the Senator from Senate District 43, acting in his capacity as State Senator, violated or potentially violated:

- (1) *the provisions of the Montana Code of Ethics;*
- (2) *the Joint Rules of the Montana Legislature;*
- (3) *the Rules of the Senate; or*
- (4) *any other provision of law, administrative rule, or administrative guidelines or procedures.*

Upon completion of the Ethics Committee investigation and the production of findings of fact and conclusions, the Committee shall make a report to the body of the Senate for the Senate to determine whether good cause is shown to expel or punish the Senator from Senate District 43.

(3) For the purposes of these rules:

- (a) "committee" means the Senate Ethics Committee; and
- (b) "respondent" means the Senator from Senate District 43.

E10-20. Meetings. (1) At the initial meeting of the committee, and at subsequent meetings, the committee ~~shall~~ may:

- (a) schedule a date and time for the hearing on the matter;
- (b) notify the respondent of the basis for the investigation;
- (c) identify any documents that form the basis for the investigation;
- (d) identify witnesses who may have information related to the investigation; and
- (e) authorize the issuance of subpoenas and subpoenas for the production of a record (also known as a “subpoenas duces tecum”) in the manner provided for in section 5-5-107, MCA.

(2) Witnesses identified by the committee shall be given the opportunity to agree to fully participate prior to the issuance of subpoenas. Subpoenas may be issued 24 hours after the committee attempts to contact a potential witness.

(3) Subpoenas for the production of a record may be issued upon authorization by the committee, or at a time determined by the presiding officer after authorization.

(4) The meetings of the committee must be noticed. All meetings of the committee are open to the public unless the right of privacy outweighs the public’s right to know.

E10-30. Respondent’s initial duties. Within 4 legislative days of the committee’s initial meeting, the respondent shall prepare and submit to the committee the following:

- (1) a written response to the allegations of misconduct;
- (2) any documentation in support of the response;
- (3) a list of witnesses with information related to the investigation, with contact information for each witness, including a phone number and a business or residential address;
- (4) a list of records in the possession of the Legislative Branch that are germane to the proceedings and requested in order to present a response at the hearing; and
- (5) a list of records in the possession of the Executive Branch that are germane to the

proceedings and requested in order to present a response at the hearing.

E10-40. Rule changes. The committee may amend these rules by a majority vote.

E10-50. Prehearing procedure. (1) The respondent or respondent's counsel may apply to the committee for the issuance of subpoenas, if a potential witness does not agree to fully participate as described in E10-20(2).

(2) At least 24 hours before the start of the adjudicatory hearing, the special counsel and the respondent or the respondent's counsel shall exchange a final list of proposed witnesses to be called by the committee at the hearing, copies of all documents expected to be introduced as exhibits at the hearing, and a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(3) No subpoena shall be issued to compel the testimony of the respondent. If the respondent elects not to testify, that fact shall not be noted in the record, nor shall it be considered by the committee in drawing any of its conclusions.

E10-60. Adjudicatory hearing procedures. (1) Any witness desiring to read a prepared or written statement at the adjudicatory hearing shall file a copy of the statement with the committee staff attorney.

(2) Each witness shall be permitted to present a brief oral opening statement of no more than 5 minutes duration, if he or she desires to do so.

(3) Each witness shall first be questioned by the party who called the witness or by that party's counsel. The chair may allow a party or counsel to question a witness without going through the chair.

(4) Each witness shall be subject to cross-examination by the party who did not call the witness or by that party's counsel.

(5) Following witness questioning and cross-examination, members of the committee will be allowed to ask questions of the witness.

(6) Each witness may have counsel present. There is no obligation for counsel to be present for any party or witness.

(7) A witness fulfills his or her obligation to testify, whether obtained through a commitment to fully participate or through a subpoena, upon conclusion of questioning, cross-examination, and committee questioning.

(8) When the committee has called its witnesses, the respondent may ask the committee to call witnesses who are on the list of proposed witnesses exchanged prior to the hearing pursuant to E10-50(2).

E10-70. Admissibility of testimony and documents. (1) The object of the hearing shall be to establish facts in order for the committee to outline its factual findings for the Senate.

(2) Rules of evidence may provide guidelines for this legislative procedure but are expressly not adopted and shall not be applied strictly.

(3) Objections by members of the committee and counsel shall be ruled on by the chair. Members of the committee may appeal the chair's decision to the committee. The question must be stated as, "shall the ruling of the chair be upheld?"

(4) To the extent possible, admissibility of witness testimony shall be determined prior to the adjudicatory hearing. Testimony is admissible unless a majority of the committee deems it inadmissible. Exhibits shall be admitted subject to a vote of the committee after the close of testimony.

E10-80. Referring to people and organizations by name. (1) To promote clarity in the committee's fact-finding process, the legislative practice of avoiding referring to people and organizations by name is not operative.

(2) People should generally be referred to by last name, with an appropriate salutation (Mr., Ms., Dr., etc.) or with the person's elective or appointive title (Senator, Director, etc.).

E10-90. Oath or affirmation. (1) In conformity with 5-5-112, MCA, witnesses may elect to sign a written oath or affirmation to tell the truth. The committee shall provide a form for witnesses to sign in advance of the adjudicatory hearing on request, and at the adjudicatory hearing.

(2) A person who files a written statement with the committee may elect to attach a declaration that conforms to 1-6-105, MCA.

E.10-100. Mason's Manual. In conformity with JR60-20 and S60-20, Mason's Manual of Legislative Procedure (2020) provides additional rules in all cases not covered by rules.



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On February 28, 2025, the respondent submitted an initial response in compliance with Rule E10-30 of this investigation. The response included objections divided into 14 headings. They are ruled upon below. A member of the committee may appeal any ruling.

1. Respondent's objection regarding authority to adopt E10-10 through E10-100:

Committees are able to vote on and adopt motions that govern their course of conduct and that affect nonmember participants in the committee's proceedings, e.g. the Senate Select Committee on Judicial Oversight and Reform voted on a motion to change the language on the visitor sign-in sheet to make it a solemn oath to tell the truth, the whole truth, and nothing but the truth at its August 20, 2024, meeting.

The objection is OVERRULED.

2. Respondent's objection that E10-10 through E10-100 violate SJ 1:

For the reason stated in 1, the objection is OVERRULED.

3. Respondent's objection that E10-10 through E10-100 violate SR 1:

E10-10 through E10-100 are rules of the Senate Ethics Committee applicable to this investigation, not rules of the Senate. For that reason and for the reason stated in 1, the objection is OVERRULED.

4. Respondent's objection to E10-10(2):

A second notice letter was sent to the respondent to reflect the interaction of the January 27, 2025, floor motion, the February 6, 2025, floor motion, and communication to and from the Attorney General. The record of the committee reflects the procedural history of floor motions and communication to and from the Attorney General.

The objection is OVERRULED.

5. Respondent's objection regarding the 5th Amendment to the U.S. Constitution:

Right against self-incrimination:

The committee has recognized the right against self-incrimination and will not draw an adverse inference. Rule E10-50(3), currently in effect, states: "*If the respondent elects not to testify, that fact shall not be noted in the record, nor shall it be considered by the committee in drawing any of its conclusions.*"

Citation to case law:

Keating v. Office of Thrift Supervision, 45 F.3d 322, states:

"[t]he Constitution does not ordinarily require a stay of civil proceedings pending the outcome of criminal proceedings." Although it has not been demonstrated that Keating applies to

a legislative proceeding, it is interesting that the case does not require a stay of civil proceeding when criminal proceedings are pending.

The court in Keating further states:

The decision whether to stay civil proceedings in the face of a parallel criminal proceeding should be made "in light of the particular circumstances and competing interests involved in the case." Molinaro, 889 F.2d at 902. This means the decisionmaker should consider "the extent to which the defendant's fifth amendment rights are implicated." Id. In addition, the decisionmaker should generally consider the following factors: (1) the interest of the plaintiffs in proceeding expeditiously with this litigation or any particular aspect of it, and the potential prejudice to plaintiffs of a delay; (2) the burden which any particular aspect of the proceedings may impose on defendants; (3) the convenience of the court in the management of its cases and the efficient use of judicial resources; (4) the interests of persons not parties to the civil litigation; and (5) the interest of the public in the pending civil and criminal litigation.

Again, it has not been demonstrated that Keating applies to a legislative proceeding. Accepting Keating as instructive for the sake of argument, the extent to which the respondent's fifth amendment rights are implicated is diminished by E10-50(3). Regarding the additional factors:

(1) while no one stands in the position of "plaintiff" in this fact-finding investigation, there is a strong interest in proceeding expeditiously for the body of the Senate, which initiated the investigation. The Legislature may only be in session for 90 legislative days, and if the allegations against the respondent are well founded, the body of the Senate will lose its ability to act deliberatively on them with each passing legislative day and will lose entirely its ability to act on them at the expiration of legislative day 90.

(2) during the Senate Ethics Committee's investigation, the respondent (who is not a defendant in this legislative investigation) has attended all meetings of his own volition and has spoken on multiple occasions without being called to testify. In several instances the respondent spoke prior to recognition from the chair. It does not appear to be burdensome to the respondent to participate.

(3) it is convenient for the committee (which is not a court) to proceed as scheduled;

(4) it may be of strong interest to persons designated as potential witnesses to testify sooner rather than later in this investigation (which is not a civil proceeding) so they can be finished with their role in this fact-finding investigation; and

(5) this legislative proceeding (which is not civil or criminal litigation) implicates the public's confidence in the integrity of the Legislature. It is of interest that the investigation proceed expeditiously.

It is recognized that on the fifth factor, the Keating court explained:

Governmental entities are frequently aware of the need to reassure the public that they are taking prompt action in response to a crisis. In such high visibility situations, it is especially necessary to guard the rights of defendants, and concern for the public deterrence value of an enforcement proceeding must not be allowed to override the individual defendant's due process rights.

The fifth factor supports moving forward expeditiously but is not being given undue credit. The first four factors also support moving forward expeditiously. Additionally, the due process that is required is notice, formal charges, and a public hearing with the right to cross-examine witnesses. Asserting the right against self-incrimination does not impact any of those components of due process.

Motions by the respondent:

Pursuant to S30-70(13), only members of the committee may make motions, except that under S30-40(2), ex officio nonvoting members may also make motions. The respondent is not a member of the committee or an ex officio nonvoting member of the committee.

Consideration of relevant factors applicable to due process and fair proceedings:

The objection is not sufficiently stated.

The objection is OVERRULED.

6. Respondent's objection regarding state and federal due process:

The objections under this heading are not sufficiently stated and are OVERRULED.

7. Respondent's objection regarding state civil rights pursuant to section 49-1-202, MCA:

Section 49-1-202, MCA, states: *Every elector is eligible to the office for which the elector is an elector except where otherwise specially provided.*

This statute is about eligibility for office. The catchline “**Right to hold elected office**” is not relevant, pursuant to section 1-11-103(5), MCA, which states:

Unless specifically and expressly adopted as part of the law by the legislature, annotations, code commissioner notes, catchlines, or other editorial material included in the Montana Code Annotated may not be construed as part of the legislative text but are only for the purpose of convenience, orderly arrangement, and information.

The objection is OVERRULED.

8. Respondent's objection regarding E10-70:

For the reason stated in 1, the objection is OVERRULED.

9. Respondent's objection regarding JR10-60:

Scope of JR10-60:

JR10-60 does govern disclosures of conflicts related to “*measures and bills proposed or pending before the legislature*” but does not form or constrain the basis of the investigation.

The allegation is that the respondent violated provisions of section 2-2-112, MCA. That statute was passed by the Legislature in 1977 and provides an independent disclosure requirement for conflicts unrelated to “measures and bills.”

Section 2-2-112, MCA, begins: *(1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.* The statute by its own terms provides that it is a rule. The statute along with other provisions of the

Code of Ethics applicable to legislators, the Joint Rules, the Senate Rules, and the House Rules together form a synthetic body of rules applicable to the Legislature, its members, and their conduct. Legislators must conform their conduct to it. The fact that this statutory rule for legislator conduct is in the Code of Ethics and may only be amended or repealed through bicameralism and presentment demonstrates the importance attached to it.

Scope of investigation:

The Senate Ethics Committee does not propose to investigate the respondent's conduct. Rather, the committee has been instructed to investigate by a floor motion voted on by the body of the Senate. The respondent spoke in favor of the motion and voted in favor of the motion.

The objection is OVERRULED.

10. Respondent's objection regarding section 2-2-112, MCA:

Official action:

Both notice letters specifically use the language "official action."

It remains to be demonstrated whether the respondent violated the provisions of section 2-2-112, MCA.

References to subsections (2) and (5) of section 2-2-112, MCA:

Section 2-2-112(3), which is cited in the second notice to the respondent, references subsections (2) and (5).

The objection is OVERRULED.

11. Respondent's objection regarding section 5-5-106, MCA:

Burden of proof:

Mason's Manual of Legislative Procedure (2020), Section 562(5) states:

The oath of each individual member of a house, and that member's duty under it to act conscientiously for the general good, is the only safeguard to the fellow members against an unjust and causeless expulsion. This is the only practical rule that can be adopted as to those unrestricted governmental powers that are necessary to the exercise of governmental functions and that must be lodged somewhere. Each branch of government is necessarily vested with some power that is beyond the supervision of any other branch, and in such cases the only protection against abuse is the conscience of the individual in whom the power is vested.

Presumption of constitutionality:

Section 5-5-106(1)(c) states "*The presumption of constitutionality of legislative actions applies to legislative investigations.*" This provision provides a presumption of constitutionality to the conduct legislative investigations, not to the subject of legislative investigations. Additionally, it is not alleged that the respondent's actions were unconstitutional. It is alleged that the respondent's actions were unethical.

The objection is OVERRULED.

12. Respondent's objection regarding insufficient time to respond:

The Senate Ethics Committee has not withheld documents. The respondent counsel's massive public records request has resulted in an extensive disclosure of documents. The objection is **OVERRULED**.

13. Respondent's objection regarding extension of time:

The respondent has had adequate time to request the committee issue subpoenas and has not made such a request. The respondent counsel's massive public records request has resulted in an extensive disclosure of documents. The request for an extension of time is **DENIED**.

14. Respondent's objection regarding reservation of rights:

The respondent's statement regarding reservation of the right to amend preliminary disclosure does not seem like an objection and is acknowledged without further comment or a ruling.

SIGNED this 6th day of March, 2025.

A handwritten signature in black ink, appearing to read "Forrest Mandeville", written over a horizontal line.

Forrest Mandeville, Chair, Senate Ethics Committee

-end-

Nevada

A. Nevada legislative code of ethics

B. Nevada Assembly, rule 23

6. Any decisions to approve, deny, suspend or revoke the accreditation of a member of a bona fide news medium, or discipline such a member for violations of any rules or policies, is at the sole discretion of the Majority Leader of the Senate and the Speaker of the Assembly.

7. The Legislative Counsel Bureau shall act as the administrative liaison between any applicants or accredited members of a bona fide news medium and the Senate and Assembly for purposes of accepting and processing applications for accreditation, preparing and regulating identification badges and administering any other matters necessary to carry out the provisions of this Rule, but such actions by the Legislative Counsel Bureau do not affect the authority of the Senate and Assembly to govern their own chambers or otherwise determine privileges of the floor.

8. A person is disqualified and barred from being accredited as a member of a bona fide news medium if the person registers as a lobbyist or engages in any lobbying activities that would require the person to register as a lobbyist during any regular or special session pursuant to chapter 218H of NRS, regardless of whether the person properly registers or fails to register as a lobbyist as required by that chapter. If a person is accredited as a member of a bona fide news medium and thereafter registers as a lobbyist or engages in any lobbying activities that would require the person to register as a lobbyist during any regular or special session pursuant to chapter 218H of NRS, regardless of whether the person properly registers or fails to register as a lobbyist as required by that chapter, the person shall be deemed to have forfeited the person's accreditation, and the person must return the person's identification badge as a member of a bona fide news medium to the Legislative Counsel Bureau.

9. As used in this Rule, "bona fide news medium" means a commercial or non-profit news outlet providing:

- (a) Print journalism, such as newspapers or magazines;
- (b) Broadcast journalism, such as radio or television;
- (c) Wire or news services for redistribution to other news organizations; or
- (d) Online news services using electronic dissemination rather than conventional print or broadcast distribution.

[Assembly Concurrent Resolution No. 1 of the 2025 Session (File No. 7)]

Rule No. 26. Reserved.

Rule No. 27. Reserved.

Rule No. 28. Reserved.

Rule No. 29. Reserved.

LEGISLATIVE CODE OF ETHICAL STANDARDS

Rule No. 30. Short Title; Applicability; Relation to Other Ethical Standards.

1. [Joint Standing Rules Nos. 30 to 39](#), inclusive, may be cited as the Legislative Code of Ethical Standards.

2. The Legislative Code of Ethical Standards applies to:

- (a) All Legislators at all times.
- (b) All members of legislative staff when performing or exercising their legislative assignments, tasks, duties, responsibilities or powers.

(c) All lobbyists when they:

(1) Appear in person in the Legislative Building or any other building in which the Legislature or any of its legislative committees hold meetings during a regular or special session or the interim between sessions, including, without limitation, any building in which a meeting is held by teleconference or videoconference; or

(2) Represent the interests of any lobbying client to a Legislator or a member of legislative staff, regardless of whether such representation occurs during a regular or special session or the

interim between sessions and regardless of the location where such representation occurs or the means of communication used to provide such representation.

3. The Legislative Code of Ethical Standards is intended to supplement all other ethical standards recognized by rules and laws governing ethics and does not limit the application of such other ethical standards but is cumulative thereto, so that the application or attempted application of any one of the ethical standards does not bar the application or attempted application of any other, except in circumstances where Section 6 of Article 4 of the Nevada Constitution invests each House with plenary and exclusive constitutional powers.

4. The Legislative Code of Ethical Standards does not create any private right of action or enforceable legal rights in any person.

[Statutes of Nevada 2017, 4601; A 2019, 4529; 2023, 3684]

Rule No. 31. Purpose and Construction.

1. The purpose of the Legislative Code of Ethical Standards is to:

(a) Establish the highest standards of ethical behavior founded upon principles of dignity, decorum, civility and respect;

(b) Prohibit any conduct that creates the appearance of impropriety; and

(c) Prohibit any improper, inappropriate or dishonorable conduct that is unbecoming to the legislative process or is inconsistent with or undermines the people's faith, trust and confidence in the integrity of the legislative process.

2. The Legislative Code of Ethical Standards must be construed:

(a) Liberally to carry out and achieve its purposes; and

(b) Strictly against any person alleging that his or her conduct is not subject to its provisions, so that any doubt or uncertainty as to the application of its provisions must be resolved against such a person and in favor of removing unethical behavior from the legislative process.

[Statutes of Nevada 2017, 4602]

Rule No. 32. Definitions.

As used in the Legislative Code of Ethical Standards, unless the context otherwise requires, the words and terms defined in [Joint Standing Rules Nos. 33 to 36](#), inclusive, have the meanings ascribed to them in those rules.

[Statutes of Nevada 2017, 4603; A 2023, 3685]

Rule No. 33. "Legislative Committee" Defined.

1. "Legislative committee" means any legislative committee or commission appointed to conduct or perform legislative business during a regular or special session or the interim between sessions.

2. The term includes, without limitation:

(a) Any joint, standing, temporary, special or select committee;

(b) Any committee of the whole;

(c) Any interim committee; or

(d) Any subcommittee.

[Statutes of Nevada 2017, 4603]

Rule No. 34. "Lobbying Client" Defined.

1. "Lobbying client" means a person who employs, retains, contracts for or otherwise uses or engages the services of a lobbyist to represent the interests of the person to one or more Legislators or members of legislative staff, whether or not any compensation is paid for the services.

2. The term includes, without limitation, a client that is a government, governmental agency or political subdivision of a government.

[Statutes of Nevada 2017, 4603; A 2019, 4531]

Rule No. 35. “Lobbyist” Defined.

1. “Lobbyist” means a person who:
 - (a) Is required to register as a lobbyist during a regular or special session pursuant to chapter 218H of NRS, regardless of whether the person properly registers or fails to register as a lobbyist as required by that chapter; or
 - (b) Represents the interests of any lobbying client to a Legislator or a member of legislative staff, regardless of whether such representation occurs during a regular or special session or the interim between sessions and regardless of the location where such representation occurs or the means of communication used to provide such representation.
2. The term does not include a person who is excluded from the term “lobbyist” as defined in NRS 218H.080.
[Statutes of Nevada 2017, 4603]

Rule No. 36. “Member of Legislative Staff” Defined.

1. “Member of legislative staff” means any member of a Legislator’s staff or any officer, employee, assistant or other person employed with reference to the legislative duties of a Legislator or the Legislative Branch, regardless of whether they are paid or otherwise compensated to serve in their positions.
2. The term includes, without limitation, any officers, employees, attaches, interns or other staff of:
 - (a) The Legislature or either House;
 - (b) Any legislative committee;
 - (c) Any legislative office or caucus;
 - (d) Any division of the Legislative Counsel Bureau; or
 - (e) Any other agency, body, office, organization or unit of the Legislative Branch.
[Statutes of Nevada 2017, 4603]

Rule No. 37. Ethical Standards; Prohibited Conduct.

1. The people of the State of Nevada have the right to expect and demand that each Legislator, member of legislative staff or lobbyist adheres to the highest standards of ethical behavior founded upon principles of dignity, decorum, civility and respect because such ethical standards are essential to ensure and enhance the people’s faith, trust and confidence in the integrity of the legislative process.
2. Each Legislator, member of legislative staff or lobbyist has a solemn and unerring responsibility and duty to do everything in his or her power to:
 - (a) Behave properly, appropriately and honorably with each other and with members of the public who participate in the legislative process; and
 - (b) Encourage, promote and secure an atmosphere in which ethical behavior is the highest priority and is practiced unceasingly and without fail.
3. Each Legislator, member of legislative staff or lobbyist shall not engage in or attempt, offer, or agree to engage in, or assist or induce another person to engage in:
 - (a) Any conduct that creates the appearance of impropriety; or
 - (b) Any improper, inappropriate or dishonorable conduct that is unbecoming to the legislative process or is inconsistent with or undermines the people’s faith, trust and confidence in the integrity of the legislative process.
4. The conduct prohibited by this Rule includes, without limitation, any conduct that:
 - (a) Is intended to threaten, harass, intimidate or improperly influence another person who is participating in the legislative process.
 - (b) Creates a hostile work environment for another person who is participating in the legislative process.
 - (c) Causes harm or serious emotional distress, or the reasonable apprehension thereof, to another person who is participating in the legislative process.
 - (d) Involves impolite, disrespectful or disorderly behavior that results in unreasonable or harmful interference with another person who is participating in the legislative process.

(e) Involves false or misleading accusations or allegations against another person who is participating in the legislative process.

(f) Involves dishonesty, fraud, deceit or misrepresentation.

(g) Is intended to assist or induce another person to violate or attempt to violate the Legislative Code of Ethical Standards.

[Statutes of Nevada 2017, 4604; A 2019, 4531]

Rule No. 38. Complaints.

1. A person may file a complaint alleging a breach of the Legislative Code of Ethical Standards in accordance with the Standing Rules of each House, except that a person may not file a complaint alleging the same or substantially similar conduct with more than one House.

2. If the complaint alleges an ethical breach by or against a Legislator or the ethical breach otherwise involves a particular Legislator, the complaint must be filed with the Legislator's House, even if the complaint also alleges an ethical breach by or against a member of legislative staff or a lobbyist.

[Statutes of Nevada 2017, 4605; A 2019, 4532]

Rule No. 39. Authority of Senate and Assembly to Adopt Ethical Standards, Require Training and Prohibit and Sanction Ethical Breaches.

1. The Senate and Assembly hereby find and declare that:

(a) Section 6 of Article 4 of the Nevada Constitution invests each House with plenary and exclusive constitutional powers to govern, control and regulate its membership and its internal organization, affairs and management, expressly providing that: "Each House shall judge of the qualifications, elections and returns of its own members, choose its own officers (except the President of the Senate), determine the rules of its proceedings and may punish its members for disorderly conduct, and with the concurrence of two thirds of all the members elected, expel a member." (*Heller v. Legislature*, 120 Nev. 456 (2004); *Commission on Ethics v. Hardy*, 125 Nev. 285 (2009); *Mason's Manual of Legislative Procedure* §§ 2-3 and 560-564 (2010) (*Mason's Manual*))

(b) Section 7 of Article 4 of the Nevada Constitution invests each House with plenary and exclusive constitutional powers to govern, control and regulate any person who is not a member but who is guilty of disrespect to the House by disorderly or contemptuous behavior in its presence, and each House also has inherent powers, according to the common parliamentary law, to prohibit and sanction all offensive behavior committed against it by any person who is not a member. (*Mason's Manual* §§ 805-806; Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 690-695 (1856) (*Cushing's Legislative Assemblies*))

(c) In addition to its other powers, each House possesses certain inherent powers of institutional self-protection and self-preservation to govern, control and regulate its membership and its internal organization, affairs and management. (*In re Chapman*, 166 U.S. 661, 668 (1897); *Mason's Manual* § 2; *Cushing's Legislative Assemblies* § 533)

(d) The inherent powers of each House are considered "so essential to the authority of a legislative assembly, that it cannot well exist without them; and they are consequently entitled to be regarded as belonging to every such assembly as a necessary incident." (*Cushing's Legislative Assemblies* § 533)

(e) The inherent powers of each House authorize it to take all necessary and proper institutional actions that are "recognized by the common parliamentary law." (*Cushing's Legislative Assemblies* § 684)

(f) Thus, it is well established that each House is "vested with all the powers and privileges which are necessary and incidental to a free and unobstructed exercise of its appropriate functions. These powers and privileges are derived not from the Constitution; on the contrary, they arise from the very creation of a legislative body, and are founded upon the principle of self-preservation." (*Ex parte McCarthy*, 29 Cal. 395, 403 (1866))

2. The Senate and Assembly hereby exercise their constitutional and inherent powers and privileges and adopt the Legislative Code of Ethical Standards in the Joint Standing Rules to:

(a) Establish ethical standards to regulate the behavior and conduct of persons who participate in the legislative process; and

(b) Prohibit and sanction ethical breaches.

3. The Majority Leader of the Senate and the Speaker of the Assembly, respectively, may require Legislators to attend training relating to the ethical standards required, and the behaviors prohibited, by the Legislative Code of Ethical Standards and sanction a Legislator for failure to attend such a training.

[Statutes of Nevada 2017, 4605; A 2019, 4532; Assembly Concurrent Resolution No. 1 of the 2025 Session (File No. 7)]

CONTINUATION OF RULES

Rule No. 40. Continuation of Joint Standing Rules During the Interim Between Regular Sessions.

The Joint Standing Rules set forth herein shall remain in full force and effect throughout the interim between regular sessions of the Legislature and until new Joint Standing Rules of the Senate and Assembly are adopted as part of the organization of a newly-constituted Legislature at the commencement of a session, unless a conflict exists with a rule adopted by the Senate and Assembly for a special session occurring between regular sessions.

[Statutes of Nevada 2019, 4533]

III. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then the member shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

Rule No. 21. Portable Electronic Communication Devices.

1. A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call, shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.

Rule No. 22. Reserved.

Rule No. 23. Select Committee on Ethics; Legislative Ethics.

1. The Select Committee on Ethics consists of:

(a) Two members of the Assembly appointed by the Speaker from the majority political party;

(b) One member of the Assembly appointed by the Minority Leader from the minority political party; and

(c) Three qualified electors of the State, two of whom are appointed by the Speaker and one who is appointed by the Minority Leader, and none of whom is a present member of the Legislature or employed by the State of Nevada.

2. The Speaker shall appoint the Chair and Vice Chair of the Committee. The Vice Chair shall serve as the acting Chair if the



Chair is unable to serve for any reason during the consideration of a specific question.

3. The Speaker shall appoint an alternate member with the qualifications set forth in paragraph (a) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. The Minority Leader shall appoint an alternate member with the qualifications set forth in paragraph (b) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. If a member of the Committee is unable to serve for any reason during the consideration of a specific question, the alternate appointed with the qualifications from the same paragraph in subsection 1 shall serve as a member of the Committee during the consideration of the specific question.

4. A member of the Committee is disqualified to serve during the consideration of a specific question if:

(a) The member is the requester of advice concerning the question of ethics or conflict of interest, or the member is the subject of the complaint concerning the specific question; or

(b) A reasonable person in the member's situation could not exercise independent judgment on the matter in question.

5. The members of the Committee shall perform any duty required in the period between the time of their appointment after the general election and the organization of the next succeeding regular session, or until the Speaker or the Speaker Designate or the Minority Leader or Minority Leader Designate appoint new members to the Committee, whichever occurs first.

6. The tenure of the members of the Committee shall extend during the interim between regular sessions of the Legislature.

7. The Committee:

(a) May hear requests brought by members of the Assembly for advice on specific questions of potential breaches of ethics and conflicts of interest; and

(b) Shall hear complaints brought by members of the Assembly and others on specific questions of alleged breaches of ethics and conflicts of interest, including, without limitation, alleged breaches of the Legislative Code of Ethical Standards in the Joint Standing Rules.

8. All proceedings held by the Committee to consider the character, alleged misconduct, professional competence or physical or mental health of any person on matters of ethics or conflicts of interest and all materials related to those proceedings are confidential, unless the person who is the subject of the



proceedings requests a public hearing or discloses the content of the proceedings or materials.

9. An individual may file a complaint which alleges a breach of ethics or a conflict of interest, including, without limitation, an alleged breach of the Legislative Code of Ethical Standards in the Joint Standing Rules. If the alleged breach of ethics or conflict of interest involves the conduct of more than one person, separate complaints must be filed regarding each person. A complaint must be:

(a) Made in writing on a form provided by the Legislative Counsel;

(b) Signed and verified under penalty of perjury by the individual making the allegation; and

(c) Filed with the Legislative Counsel who shall review the complaint and any other relevant information and consult with the Chair of the Committee or, if the Chair is the subject of the complaint, with the Vice Chair, to evaluate whether the Committee has jurisdiction and whether an investigation is warranted in the matter. If it is determined that the Committee:

(1) Does not have jurisdiction or that an investigation is not warranted in the matter, the Legislative Counsel shall send written notice of the determination to the individual who filed the complaint.

(2) Has jurisdiction and an investigation is warranted in the matter, the Legislative Counsel shall send written notice of the determination and a copy of the complaint to the person who is the subject of the complaint.

10. Each Legislator is subject, at all times, to the Legislative Code of Ethical Standards in the Joint Standing Rules and, in addition, must determine whether he or she has a conflict of interest upon any matter in question before the Legislator. In determining whether the Legislator has such a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his or her situation upon the matter in question would be materially affected by the Legislator's:

(a) Acceptance of a gift or loan;

(b) Private economic interest; or

(c) Commitment to a member of his or her household or immediate family.

↪ In interpreting and applying the provisions of this subsection, it must be presumed that the independence of judgment of a reasonable person in the Legislator's situation would not be



materially affected by the Legislator's private economic interest or the Legislator's commitment to a member of his or her household or immediate family where the resulting benefit or detriment accruing to the Legislator, or if the Legislator has a commitment to a member of his or her household or immediate family, accruing to those other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter.

11. Except as otherwise provided in subsection 12, if a Legislator knows he or she has a conflict of interest pursuant to subsection 10, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, as applicable. Such a disclosure must be entered:

(a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting.

(b) If the Legislator makes the disclosure on the floor of the Assembly, in the Journal.

12. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.

13. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 10, the Legislator should consider whether:

(a) The conflict impedes his or her independence of judgment; and

(b) His or her interest is greater than the interests of an entire class of persons similarly situated.

14. The provisions of this Rule do not under any circumstances and regardless of any conflict of interest:

(a) Prohibit a Legislator from requesting or introducing a legislative measure; or

(b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.

15. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he or she will abstain from voting because of the requirements of this



Rule, the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.

16. The standards and procedures set forth in this Rule which govern whether and to what extent a member of the Assembly has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the member has a conflict of interest pursuant to subsection 10:

(a) Are exclusive and are the only standards and procedures that apply to members of the Assembly with regard to such matters; and

(b) Supersede and preempt all other standards and procedures with regard to such matters,

↪ except that this subsection does not exempt any members of the Assembly from the Legislative Code of Ethical Standards in the Joint Standing Rules.

17. For purposes of this Rule, “immediate family” means a person who is related to the Legislator by blood, adoption or marriage within the first degree of consanguinity or affinity.

The next rule is 30.

IV. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any proposal, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker’s name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.



North Dakota

A. North Dakota Legislative Manual, Chapter X. Legislative Ethics

B. North Dakota Constitution, Article XIV

C. Montana Session Law, 1995, Chapter 562

68th
Legislative Assembly
State of North Dakota

Senate and House

LEGISLATIVE MANUAL

2023-24



**Officers, Members, Employees
and State Officials**

2023

Chapter X. Legislative Ethics

1001. Legislative ethics policy.

1. The Legislative Assembly always seeks a high reputation for progressive accomplishment where its members are public officers of integrity and dedication, maintaining high standards of ethical conduct.
2. The public interest is best served by attracting and retaining in the Legislative Assembly citizens of high caliber and attainment. The public interest will suffer if unduly stringent requirements deprive government of the services of well-qualified citizens.
3. Membership in the Legislative Assembly is not a full-time occupation and is not compensated on that basis. Continued membership is on an elected-term basis, requiring each member to recognize and contemplate that election will not provide any career tenure. These characteristics ensure that each member is rooted to a community and that legislation reflects the needs and values of citizens.
4. A member such as a teacher, administrator, state employee, farmer, labor leader, lawyer, independent business person, or any salaried employee must look to a source of income from other than legislative compensation for sustenance and support; moreover, every member must plan for return to that individual's regular employment, business, or profession.
5. The increasing complexity of public policy at all levels, with intervention into private affairs, makes conflicts of interest almost inevitable for every part-time public official, and particularly for a member who must vote on measures affecting the life of every citizen or resident of the state. Consequently, the adoption of standards of ethics does not impugn a member's integrity or dedication; rather, it recognizes the increasing complexity of government and private life and provides members with helpful advice and guidance when confronted with difficult problems in that gray area involving action that is neither clearly right nor clearly wrong.
6. Ethical conduct is expected of all who participate in the legislative process, including lobbyists, legislative staff, government employees, interest groups, the media, and others. All participants in the legislative process should recognize the importance of their role to support each member's ethical duty to make independent judgments.
7. If public confidence in the Legislative Assembly is to be maintained and enhanced, it is not enough that members avoid acts of misconduct. They also must avoid acts that may create an appearance of misconduct.

1002. Recognition of ethical standards. The resolution of ethical problems must rest largely in the individual conscience. The Legislative Assembly may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety. Unless otherwise provided by law, no criminal penalty applies to a member who engages in conduct that is inconsistent with this section. However, in striving to maintain ethical standards, each member should recognize the importance of:

1. Complying with all other rules relating to ethics, including Joint Rule 901 regarding workplace harassment and Senate and House Rules 321 regarding disclosure of personal or private interest when voting.
2. Acknowledging that the public trust requires each member to make a consistent effort to be well-informed about legislative issues and legislative proposals and to resist influences that may bias the member's independent judgment.
3. Acknowledging that accountability requires members to maintain communication with constituents, to remain open to constructive comment, and to exercise leadership in helping constituents understand legislative issues.
4. Acknowledging that institutional responsibility requires members to remain committed to the integrity and maintenance of the legislative branch.
5. Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
6. Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.

1003. Recognition of constitutional and statutory provisions. Members should apprise themselves of constitutional provisions and statutes that prohibit conduct for which criminal penalties may apply, including Article IV, Section 9, of the Constitution of North Dakota, which prohibits vote trading; Article IV, Section 10, of the Constitution of North Dakota, which provides for expulsion for corruption, bribery, perjury, or other infamous crimes; Article IV, Section 12, of the Constitution of North Dakota, which prohibits contempt or disorderly behavior; North Dakota Century Code Chapter 12.1-12, which prohibits bribery and unlawful influence of public servants; North Dakota Century Code Section 12.1-13-01, which prohibits disclosure of confidential information; North Dakota Century Code Section 12.1-13-02, which prohibits acquisition of a pecuniary interest in property or an enterprise in contemplation of official action or in reliance on information accessed as a public servant; North Dakota Century Code Section 12.1-13-03, which prohibits a public servant from becoming interested individually in the sale or lease of property or a contract for which the public servant is authorized to transact; North Dakota Century Code Sections 12.1-14-02 and 12.1-14-03, which prohibit interference with voting; North Dakota Century Code Sections 12.1-23-03 and 12.1-23-05, which prohibit theft to obtain services while a public servant; North Dakota Century Code Section 12.1-23-07, which relates to the use of property entrusted to a public

servant; North Dakota Century Code Chapter 16.1-08.1, which relates to campaign contributions and campaign contributing statements; North Dakota Century Code Chapter 16.1-09, which relates to statements of interest; North Dakota Century Code Chapter 16.1-10, which relates to corrupt practices; North Dakota Century Code Sections 39-01-03 and 39-01-05, which prohibit the private or political use of state motor vehicles; North Dakota Century Code Section 44-08-19, which relates to political activities by public employees; North Dakota Century Code Section 48-01.2-08, which prohibits the interest in public contracts by a member of a governing board; North Dakota Century Code Section 54-02-01, which governs the use of the Great Seal; North Dakota Century Code Chapter 54-05.1, which relates to legislative lobbying; and North Dakota Century Code Section 54-06-12, which prohibits false statements regarding state departments, institutions, or industries.

1004. Legislative ethics classes - Publication of information relating to ethics. During each organizational session and at other times as deemed appropriate, the Legislative Council shall conduct classes on legislative ethics and laws governing the activities and conduct of public officials, including criminal laws, election practices, and conflicts of interest. Before each regular legislative session, the Legislative Council shall distribute a document to all members which includes constitutional provisions, statutes, legislative rules, and other pertinent information regarding ethical conduct in the legislative process.

ARTICLE XIV ETHICS COMMISSION

Section 1.

1. The people of North Dakota need information to choose candidates for office, vote on ballot measures, and ensure that their representatives are accountable. This transparency must be sufficient to enable the people to make informed decisions and give proper weight to different speakers and messages. The people therefore have the right to know in a timely manner the source, quantity, timing, and nature of resources used to influence any statewide election, election for the legislative assembly, statewide ballot-issue election, and state government action. This right is essential to the rights of free speech, assembly, and petition guaranteed by the First Amendment to the Constitution of the United States and shall be construed broadly.
2. The legislative assembly shall implement and enforce this section by enacting, no more than three years after the effective date of this article, laws that require prompt, electronically accessible, plainly comprehensible, public disclosure of the ultimate and true source of funds spent in any medium, in an amount greater than two hundred dollars, adjusted for inflation, to influence any statewide election, election for the legislative assembly, statewide ballot-issue election, or to lobby or otherwise influence state government action. The legislative assembly shall have an ongoing duty to revise these laws as necessary to promote the purposes of this section in light of changes in technology and political practices. The legislative assembly shall vest by law one or more entities with authority to implement, interpret, and enforce this section and legislation enacted thereunder. If the laws or rules enacted or an implementation, interpretation, or enforcement action taken under this section fail to fully vindicate the rights provided in this section, a resident taxpayer may bring suit in the courts of this state to enforce such rights.

Section 2.

1. A lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official. A public official may not knowingly accept a gift from a lobbyist. These prohibitions do not apply if the lobbyist is an immediate family member of the public official. "Gift," as used in this subsection, means any item, service, or thing of value not given in exchange for fair market consideration, including gifts of travel or recreation. However, "gift" does not mean any purely informational material, campaign contribution, or, in order to advance opportunities for North Dakota residents to meet with public officials in educational and social settings inside the state, any item, service, or thing of value given under conditions that do not raise ethical concerns, as determined by rules adopted by the ethics commission. Such rules must be adopted within two years after the effective date of this article. So as to allow for the adoption of these rules, these prohibitions shall take effect two years after the effective date of this article. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.
2. An elected public official may not be a lobbyist while holding office or for two years after holding office. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.
3. A lobbyist may not knowingly deliver a campaign contribution made by another individual or entity. "Deliver," as used in this subsection, means to transport, transfer, or otherwise transmit, either physically or electronically. This prohibition does not apply to a person who delivers a campaign contribution to the person's own campaign, or to the campaign of the person's immediate family member. This prohibition shall not be interpreted to prohibit any person from making a campaign

- contribution or from encouraging others to make a campaign contribution or to otherwise support or oppose a candidate. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.
4. A statewide candidate, candidate for the legislative assembly, or public official may not knowingly use a campaign contribution for personal use or enrichment. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.
 5. Directors, officers, commissioners, heads, or other executives of agencies shall avoid the appearance of bias, and shall disqualify themselves in any quasi-judicial proceeding in which monetary or in-kind support related to that person's election to any office, or a financial interest not shared by the general public as defined by the ethics commission, creates an appearance of bias to a reasonable person. The legislative assembly and the ethics commission shall enforce this provision by appropriate legislation and rules, respectively. So as to allow for the adoption of such legislation or rules, this subsection shall take effect three years after the effective date of this article.
 6. Governments of foreign countries, foreign nationals not lawfully admitted for permanent residence in the United States, and corporations organized under the laws of or having their principal place of business in a foreign country, are prohibited from making contributions or expenditures in connection with any statewide election, election for the legislative assembly, or statewide ballot-issue election.

Section 3.

1. In order to strengthen the confidence of the people of North Dakota in their government, and to support open, ethical, and accountable government, the North Dakota ethics commission is hereby established.
2. The ethics commission may adopt ethics rules related to transparency, corruption, elections, and lobbying to which any lobbyist, public official, or candidate for public office shall be subject, and may investigate alleged violations of such rules, this article, and related state laws. The ethics commission shall maintain a confidential whistleblower hotline through which any person acting in good faith may submit relevant information. The legislative assembly shall provide adequate funds for the proper carrying out of the functions and duties of the commission.
3. The ethics commission shall consist of five members, appointed for four-year terms by consensus agreement of the governor, the majority leader of the senate, and the minority leader of the senate. No member of the ethics commission may hold other public office or be a lobbyist, candidate for public office, or political party official.

Section 4.

1. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate, safeguard, or expand, but not to hamper, restrict, or impair, this article. This article shall take effect sixty days after approval.
2. For the purposes of this article, "public office" or "public official" means any elected or appointed office or official of the state's executive or legislative branch, including members of the ethics commission, or members of the governor's cabinet, or employees of the legislative branch, and "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency.
3. If any provision of this article is held to be invalid, either on its face or as applied to any person, entity, or circumstance, the remaining provisions, and the application thereof to any person, entity, or circumstance other than those to which it is held invalid, shall not be affected thereby. In any case of a conflict between any provision

of this article and any other provision contained in this constitution, the provisions of this article shall control.

(3) specifying the form and content of information required by the department in an approved, computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

Section 8. Codification instruction. [Sections 4 through 7] are intended to be codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to [sections 4 through 7].

Section 9. Effective date. [This act] is effective July 1, 1995.

Approved April 26, 1995

CHAPTER NO. 562

[SB 136]

AN ACT GENERALLY REVISING LAWS CONCERNING ETHICS; CHANGING ETHICAL GUIDELINES INTO REQUIREMENTS; REQUIRING LEGISLATORS TO DISCLOSE INTERESTS RAISING THE APPEARANCE OF IMPROPRIETY AND TO VOTE ON MATTERS AS PROVIDED IN LEGISLATIVE RULES; PROVIDING REQUIREMENTS FOR A PUBLIC EMPLOYEE, PUBLIC OFFICER, OR LEGISLATOR TO RECEIVE MORE THAN ONE PUBLIC SALARY FOR OVERLAPPING HOURS OF EMPLOYMENT; PROHIBITING PUBLIC OFFICERS AND PUBLIC EMPLOYEES FROM USING PUBLIC TIME, EQUIPMENT, FACILITIES, SUPPLIES, PERSONNEL, OR FUNDS FOR ANY CAMPAIGN ACTIVITY; RESTRICTING EMPLOYMENT BY CURRENT AND FORMER PUBLIC OFFICIALS AND EMPLOYEES; PROVIDING FOR EDUCATION AND TRAINING ON ETHICAL MATTERS; PROVIDING ENFORCEMENT PROVISIONS FOR ETHICS VIOLATIONS; CREATING AN ETHICS COMMISSION TO PROVIDE REVIEW OF ETHICS DECISIONS IN CASES INVOLVING STATE OFFICERS AND STATE EMPLOYEES; AMENDING SECTIONS 2-2-102, 2-2-103, 2-2-104, 2-2-105, 2-2-111, 2-2-112, 2-2-121, 2-2-125, 2-2-131, 2-2-302, 2-18-102, 5-7-213, AND 13-35-226, MCA; REPEALING SECTION 2-2-132, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article XIII, section 4, of the Montana Constitution is unambiguous in its intent of prohibiting conflict between public duty and private interest for members of the Legislature and for all state and local government officers and employees.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-2-102, MCA, is amended to read:

"2-2-102. Definitions. As used in this part, the following definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, ~~thing of value~~, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself ~~the person~~ or another.

Section 16. Administrative appeal. (1) The ethics commission shall provide a hearing on the record, when requested in writing by a party to an issue that has been decided by the commissioner of political practices. The appeal must be requested within 60 days of a decision by the commissioner.

(2) The hearing is limited to matters contained in the record established before the commissioner. The commission may affirm, modify, or reverse a decision of the commissioner.

(3) A decision is rendered when signed by three or more commission members subscribing to the decision and must be issued within 30 calendar days after submission of the request for an opinion.

(4) If the decision is appealed, as provided in Title 2, chapter 4, part 7, the district court may award costs and fees to the prevailing party.

Section 17. Ethics commission. (1) There is an ethics commission attached to the office of the commissioner of political practices for administrative purposes only.

(2) The commission consists of five members. The members are appointed in the same manner as prescribed in 5-1-102, except that the presiding officer and vice presiding officer must be chosen as provided in subsection (6) of this section. A member of the commission must be a citizen of the United States and a resident of Montana. A member of the commission may not be a:

- (a) public official;
- (b) public employee, except as the fifth member, who must be chosen by consensus of the other members;
- (c) candidate;
- (d) lobbyist or lobbyist's principal; or
- (e) member of the immediate family of an individual listed in subsections (2)(a) through (2)(d).

(3) A member of the commission serves a term of 4 years. However, the initial members of the commission shall serve the following terms:

- (a) One member shall serve a term of 1 year.
- (b) One member shall serve a term of 2 years.
- (c) One member shall serve a term of 3 years.
- (d) Two members shall serve terms of 4 years.

(4) An individual may not serve more than two consecutive terms as a member of the commission. A member of the commission continues in office until a successor is appointed and has qualified.

(5) (a) If a vacancy occurs on the commission, the appointing authority of the vacant position shall appoint a successor.

(b) If at the time that a vacancy occurs the appointing authority is of a different political party than that of the original appointing authority, the majority or minority leader in the same house who is of the same political party as the appointing authority that made the original appointment of the commissioner whose position is vacated shall appoint the successor.

(6) The presiding officer and vice presiding officer of the commission must be elected by a majority of the members of the commission. The presiding officer and vice presiding officer shall serve in those positions for 1 year and may be reelected. The presiding officer presides at meetings of the commission. The vice presiding officer presides in the absence or disability of the presiding officer.

(7) A member of the commission may not receive a salary but is entitled to expenses as provided in Title 2, chapter 18, part 5.

Section 18. Meetings — quorum. The ethics commission shall meet at the call of the presiding officer or a majority of its members when an appeal from a decision of the commissioner of political practices under this part is requested. A quorum consists of three or more members. An affirmative vote of three or more members is necessary for the issuance of a decision.

Section 19. Prohibition on political activity by commission members. A member of the ethics commission may not participate in political activity or in a political campaign during the term of office. A member of the commission may not:

- (1) make a financial contribution to a candidate;
- (2) make a financial contribution to a political committee; or
- (3) knowingly attend a fundraiser held for the benefit of a candidate or political committee.

Section 20. Prohibition on lobbying activity. A member of the ethics commission may not be a registered lobbyist or participate in lobbying activities that would require the individual to register as a lobbyist unless the lobbyist activities are conducted on behalf of the commission and are permitted under state law.

Section 21. Enforcement for local government. (1) Except as provided in subsection (5), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney determines that the complaint alleges a criminal violation, the county attorney shall bring criminal charges against the officer or employee.

(3) If the county attorney declines to bring an action under this section, the person alleging a violation of this part may file a civil action in district court

seeking a civil fine of not less than \$50 or more than \$1,000. In an action filed under this subsection, the court may assess the costs and attorney fees against the person bringing the charges if the court determines that a violation did not occur or against the officer or employee if the court determines that a violation did occur. The court may impose sanctions if the court determines that the action was frivolous or intended for harassment.

(4) The employing entity of a local government employee may take disciplinary action against an employee for a violation of this part.

(5) (a) A local government may establish a three-member panel to review complaints alleging violations of this part by officers or employees of the local government. The local government shall establish procedures and rules for the panel. The members of the panel may not be officers or employees of the local government. The panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated.

(b) In a local government that establishes a panel under this subsection, a complaint must be referred to the panel prior to making a complaint to the county attorney.

(6) For purposes of this section, "local government" means a county, an incorporated city or town, a consolidated government, or a school district.

Section 22. Repealer. Section 2-2-132, MCA, is repealed.

Section 23. Codification instruction. [Sections 14 through 21] are intended to be codified as an integral part of Title 2, chapter 2, part 1, and the provisions of Title 2, chapter 2, part 1, apply to [sections 14 through 21].

Section 24. Code commissioner instruction. The code commissioner shall renumber section 5-7-213 as an integral part of Title 2, chapter 2, part 1.

Section 25. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 26. Effective date. [This act] is effective July 1, 1995.

Approved April 26, 1995

CHAPTER NO. 563

[SB 198]

AN ACT GENERALLY REVISING THE METHOD OF VALUING IRRIGATED AGRICULTURAL LAND; ESTABLISHING A BASE WATER COST FOR COMPUTING NET INCOME FROM IRRIGATED LAND; ESTABLISHING AN ENERGY COST BASE YEAR FOR IRRIGATED LAND; LIMITING ALLOWABLE WATER COSTS TO A MAXIMUM OF \$35 PER ACRE OF IRRIGATED LAND; REVISING THE PHASE IN OF THE TAXABLE VALUE OF AGRICULTURAL LAND; AMENDING SECTIONS 15-7-201 AND

Texas

Housekeeping Resolution, 2023, Article 8

its establishment shall operate under a budget approved by the steering committee and the Committee on House Administration.

ARTICLE 8. SPECIAL PROVISIONS FOR INTERIM

SECTION 8.01. INTERIM COMMITTEE ACTIVITIES. (a) Pursuant to the Legislative Reorganization Act of 1961 (Subchapter B, Chapter 301, Government Code), standing committees of the house established by the rules of the house may hold meetings while the legislature is not in session.

(b) The speaker may grant authority to select committees, interim study committees, subcommittees, or standing committees of the house to hold meetings while the legislature is not in session as the speaker considers necessary and desirable to conduct the business of the house and to assist the speaker in conducting the business of the house, under a pattern of operation and restrictions determined by the rules of the house.

(c) The committee members and employees may either be reimbursed for actual and necessary expenses or receive a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees when conducting such business and attending those meetings when approved by the Committee on House Administration.

SECTION 8.02. POWERS AND DUTIES OF COMMITTEE ON HOUSE ADMINISTRATION DURING INTERIM. (a) When the legislature is not in session, the Committee on House Administration may act as provided by this section.

(b) The committee may call meetings for the transaction of necessary business, and the committee members shall be reimbursed for expenses incurred by them when attending such meetings or when in performance of their duties as members of the Committee on House Administration, the reimbursement to be either actual and necessary expenses or a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees.

(c) The committee may reimburse authorized members and employees for expenses incurred by them when traveling in the performance of their legislative duties and responsibilities within their respective districts or within any county in which any part of their districts lie or from their districts to the State Capitol, the reimbursement to be either actual and necessary expenses or a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees.

(d) The committee may pay for all other reasonable and necessary expenses, including operation of each member's district office, incurred by the members of the house of representatives. The expenses shall be paid from funds appropriated for that purpose, or any other funds appropriated for the use of the house of representatives, on vouchers or other forms approved by the chair of the Committee on House Administration, in accordance with regulations governing such expenditures.

(e) The committee may assign or reassign parking places in the best interest of the house under such terms and conditions as the committee deems necessary.

ARTICLE 9. APPROPRIATE WORKPLACE CONDUCT

SECTION 9.01. PURPOSE. (a) The house finds that early intervention is often the most effective way to resolve incidents of inappropriate behavior and ensure appropriate workplace conduct.

(b) The house encourages the prompt reporting of concerns and complaints, as appropriate, so that constructive action can be taken before the offensive conduct continues, escalates, or affects others, and to ensure that a timely and thorough investigation can

occur if necessary.

(c) This article is adopted to further early intervention and remediation of complaints and implements the house rules.

SECTION 9.02. TRAINING. (a) Each member, officer, and employee is required to complete an interactive training program related to preventing and resolving violations of the house rules, this resolution, and house policy related to appropriate workplace conduct that is approved every two years by the Committee on House Administration. This training may be combined with training on other employment-related topics such as employment discrimination and workplace violence.

(b) The training must include specific information related to the process for reporting violations of a house rule, this resolution, and house policy related to appropriate workplace conduct, for utilizing informal methods of resolving those violations, and for filing formal complaints with the house or another agency designated by law to receive those complaints.

(c) The training required by this section must be completed not later than the 30th day after:

- (1) the member qualifies;
- (2) the officer is appointed; or
- (3) the employee starts employment.

(d) A member, officer, or employee is required to complete a subsequent approved interactive training program not later than each biennial anniversary of the date the individual was initially required to complete the training under Subsection (c) of this section.

(e) The Committee on House Administration shall designate an officer or supervisory administrative employee to keep accurate records of each individual required to complete an approved training program. The officer or employee shall make those records available to the public.

SECTION 9.03. COMPLAINTS; FILING, INVESTIGATION, AND RESOLUTION. (a) An individual claiming to be aggrieved by a violation of the house rules, this resolution, or house policy related to appropriate workplace conduct may file a complaint with:

(1) the chair of the house general investigating committee established under Section 301.017, Government Code, if the individual whose complained-of conduct is an individual other than the chair, the chair's employee, or an individual related to the chair or the chair's employee within the third degree by consanguinity or within the second degree by affinity as determined under Chapter 573, Government Code; or

(2) the vice chair of the committee, if the individual whose complained-of conduct is the chair of the committee, the chair's employee, or an individual related to the chair or the chair's employee within the third degree by consanguinity or within the second degree by affinity as determined under Chapter 573, Government Code.

(b) Any complaint must be substantially similar in form to the requirements of Sections 21.201(b) and (c), Labor Code.

(c) Upon receipt of a complaint that meets the requirements of Subsection (b) of this section, the receiving official may, with the agreement of the parties, endeavor to address the alleged violation by informal, voluntary, and confidential methods of conference and conciliation.

(d) During the pendency of a complaint, the committee may take any appropriate action to reduce the likelihood of a complainant and respondent being in regular contact with each other.

(e) The committee shall conduct an investigation of a complaint, determine whether reasonable cause exists to believe that the respondent violated a house rule, this resolution, or house policy, and attempt to resolve the complaint through informal or formal methods, as provided by committee rule. The committee's

rules must provide for a process substantially similar to the process provided for the administrative review of complaints under Subchapter E, Chapter 21, Labor Code, where applicable, and must include a due process hearing by the committee before a report is prepared under Subsection (h) of this section.

(f) If the respondent is a member of the house, the committee's investigation must be conducted by a competent individual who is not an officer, employee, or annuitant of state government. The prohibition under this subsection does not apply to a retired or former judge subject to assignment under Subchapter C, Chapter 74, Government Code.

(g) The individual employed or compensated by the committee under Subsection (f) of this section shall only perform the investigative functions of determining facts and reporting those facts to the committee and shall not perform any other functions for, or provide other services to, the committee in connection with a complaint.

(h) If the committee cannot resolve the complaint, the committee shall determine whether the respondent violated a house rule, this resolution, or house policy as alleged in a complaint and shall prepare a report containing:

(1) the committee's findings of fact and conclusions of law to support its final determination; and

(2) if the committee finds that the respondent violated a house rule, this resolution, or house policy, a recommendation for any discipline or remedial action, in proportion to the seriousness of the conduct, necessary to prevent the violation from occurring again.

(i) No committee report shall be made unless ordered by two-thirds of the membership of the committee. If a committee report is ordered, any member of the committee dissenting from the views of the majority may file a minority report, which is not subject to House Rule 4, Section 28. The minority report shall be included with the majority report at each distribution. If the committee is unable to agree on a recommendation for action or has an insufficient number of votes to adopt the report prepared by the committee, it shall submit a statement of this fact as its report. The committee shall deliver a copy of its report to the complainant and respondent and, if the respondent is:

(1) a member of the house, to the speaker and the chief clerk;

(2) an officer of the house, to the speaker; and

(3) an employee of the house, to the employee's employing authority as set out in this resolution.

(j) All proceedings on a complaint are completely confidential, and information related to those proceedings may not be released by any person unless authorized by committee rule or by the house. Notices of committee hearings, minutes, and witness lists required under the house rules shall be prepared as directed by the Committee on House Administration to ensure that no information is provided that would reasonably lead to the identification of a complainant, respondent, or witness. If an individual releases information made confidential by this section without authorization, that individual is subject to sanction by the house as authorized by Section 15, Article III, Texas Constitution, or other law. Any report of the house general investigating committee under this section is confidential until it is ordered printed by the house or ordered released by the committee if the house is not in session.

(k) To the extent of any conflict between this section and Rule 4 of the House Rules, this section prevails.

ARTICLE 10. COMMITTEE GIFTS

SECTION 10.01. COMMITTEE GIFTS. (a) Subject to the limitation in Subsection (b) of this section, a member of the house may not offer, confer, or agree to confer to a committee member one

Idaho

A. Idaho House, rule 45

B. Idaho Senate, rule 52

RULE 44

Adjournment, Decorum at. — When the House adjourns, the members shall keep their seats until the Speaker announces the adjournment.

RULE 45

Committee on Ethics and House Policy. — (1)(a) Within twelve days of the convening of the first regular session of each Legislature, an Ethics and House Policy Committee shall be organized and its membership shall be determined. The Ethics and House Policy Committee shall consist of five members of the House, three of whom shall be selected by members of the majority party and two of whom shall be selected by members of the minority party. Committee members must have served at least one full term in the Legislature and may have served previously on the committee. House members who have been sanctioned by the House for an ethics violation pursuant to this rule or who hold leadership positions shall not serve on the Ethics and House Policy Committee. Committee Chairmen may serve on the Ethics and House Policy Committee.

(b) Each party shall select a first and second committee alternate for its respective party, ranked according to the number of votes each alternate received. In the event of a tie, the ranking shall be determined by a coin toss. The committee alternates shall sit and have voting rights when the committee is sitting to review House policy. When the committee is sitting to consider an ethics matter, the committee alternates shall serve only in the event of a vacancy, for the duration of the vacancy, as provided in paragraph (c) of this subsection.

(c) A vacancy on the committee shall be filled by the first, followed by the second, alternate for the respective party for the duration of the vacancy. When no alternates are available to fill a vacancy, such vacancy shall be filled by majority vote of the House members of the party entitled to fill the vacancy. A member filling a permanent vacancy shall serve for the remainder of the unexpired term. If a complaint concerns misconduct of a member of the Ethics and House Policy Committee, that member shall not serve on the committee for any purpose relating to such complaint.

(d) The committee shall elect one of the majority party members of the committee as chairman of the committee by a four-fifths majority vote. Alternates shall not be entitled to vote for chairman or to serve as chairman unless filling a vacancy.

(2)(a) The chairman of the Ethics and House Policy Committee shall receive complaints from any member of the House and shall be solely responsible for the security and retention of all committee records relating to a complaint, which shall be maintained in a locked box in the office of the chief clerk for the duration of the respondent's service in the Idaho Legislature, regardless of the ultimate disposition of the complaint.

(b) A complaint shall be in writing and contain one or more allegations that may constitute:

- (i) Conduct unbecoming a Representative which is detrimental to the integrity of the House as a legislative body;
- (ii) Disclosure of information that is confidential as provided in House rules;
- (iii) Conduct constituting a felony under any state law, or which violates any state law relating to the use of public office for private pecuniary gain;
- (iv) A violation of any state law or House rule relating to conflicts of interest involving legislative duties; or
- (v) A violation of any state law or House rule that brings discredit to the House of Representatives or that constitutes a breach of public trust.

(c) The complaint shall be specific and provide:

- (i) The name of the member of the House of Representatives alleged to be in violation (the "respondent");
- (ii) Identification of any third parties involved;
- (iii) Reference to the House rule and/or applicable state law supporting the alleged violation;
- (iv) A description of the facts and circumstances supporting each alleged violation; and
- (v) The evidence the complainant has at the time of making the complaint supporting the facts and violation alleged in the complaint.

(3) The committee may, in its discretion and upon an affirmative vote by four-fifths of the committee, resolve and dismiss a complaint at any time. It shall maintain a confidential record of the committee review and dismissal of the complaint, as provided in subsection (2)(a) of this rule. The dismissal may be in the form of a letter to the respondent and the complainant, in that order.

(4) Subject to the provisions of this rule, the committee shall conduct a preliminary investigation of the complaint, beginning with an initial review, as follows:

(a) The committee shall conduct an initial review of the written complaint and, by a four-fifths vote, shall dismiss any ethics complaint that:

- (i) Lacks sufficient evidence of conduct described by subsection (2)(b) of this rule;
- (ii) Does not comply with subsection (2)(c) of this rule; or
- (iii) Alleges violations that occurred either before the accused member was first elected to the House of Representatives or for which an applicable statute of limitation has run.

(b) If a complaint is not dismissed pursuant to paragraph (a) of this subsection following the initial review, the committee shall notify the respondent and shall provide the respondent with a copy of the complaint and all evidence submitted supporting the complaint.

(c) During the initial review and preliminary investigation phase of the process, all proceedings shall be held in executive session and all information regarding the complaint shall remain confidential.

(d) The respondent may submit a written answer to the chairman of the committee no later than fourteen days following the date that the copy of the complaint was provided to the respondent.

(e) Following receipt of the answer from the respondent, or if no answer to the complaint is provided to the chairman within fourteen days, the committee shall meet and continue the preliminary investigation of the complaint.

(f) Following consideration of the evidence presented, if a complaint is not resolved and dismissed pursuant to this rule, the committee may determine, by a four-fifths vote, that the evidence substantiates the alleged facts such that probable cause exists that misconduct may have occurred. At such time, the committee shall notify the respondent, followed by the complainant, that the committee will proceed to a public hearing. The committee shall, within seventy-two hours following such notification, redact the names and other personal identifying information of third parties, when deemed appropriate, from copies of the complaint and response, including any evidence attached to each, redacted as necessary, and such renditions of the written complaint and response shall no longer be confidential but shall become public documents. After such time, the chairman shall notify the body that a public hearing shall be held. The complainant and the respondent are entitled to unredacted copies of the complaint and response and all of the evidence in support of each, which must be held confidential by the complainant and respondent and their representatives.

(5)(a) Following a finding of probable cause and in a timely fashion, the committee shall conduct a public hearing before which the respondent shall be entitled to appear, present evidence, cross-examine witnesses, and be represented by counsel. The complainant or authorized agent of the complainant shall first present the complaint and supporting evidence and testimony to the committee. The committee shall have the power to take testimony under oath and to issue subpoenas and subpoenas duces tecum in the manner provided in Section 67-407, Idaho Code, and make inquiry and discover evidence relevant to the allegation. Formal rules of evidence are not applicable; however, evidence shall be weighed according to its reliability, and the respondent may raise objection to any evidence. The respondent may defer presentation of any defense until all of the evidence has been presented in support of the complaint.

(b) The committee may take appropriate measures to protect the identity and privacy of third party witnesses who testify at the public hearing.

(c) If evidence previously unknown to the respondent is presented during the public hearing, the committee chairman may, at the request of the respondent, recess the hearing while the respondent prepares a response.

(d) During the public hearing, the committee may deliberate in executive session.

(e) The committee may consult with and be assisted by the attorney general's office or another attorney or other experts of their choosing.

(f) The respondent shall have access to an attorney or other representative for advice and consultation. The committee may also vote to provide the respondent with financial assistance to employ an attorney to represent the respondent in any proceeding under this rule.

(6) If, after investigation and hearings held pursuant to this rule, the committee finds by clear and convincing evidence that the respondent's conduct alleged in the complaint did in fact occur and that such conduct constitutes a violation of one or more of the standards contained in subsection (2)(b) of this rule, the committee may recommend dismissal of the complaint, or reprimand, censure, or expulsion of the respondent. A reprimand shall carry no sanctions other than the reading of the reprimand into the Journal of the House of Representatives. Censure of a member may include conditions or restrictions placed upon the member, but may not have the effect of expulsion, such as terminating salary or benefits or denying a legislative district representation via floor votes. The committee recommendation must be approved by a four-fifths vote of the committee, except in the case of a recommendation for expulsion, which must be approved by a unanimous vote of the committee.

(7) The committee shall prepare a report listing the complaint that was filed, the committee findings in relation to the facts and evidence relevant to that complaint, the committee's recommendation and the reasons for such recommendation. If the committee does not issue a recommendation within thirty days of the conclusion of the public hearing, the complaint shall be deemed dismissed.

(8) The House of Representatives shall vote on the recommendation of the committee, as set forth in the report, during the regular session of the Legislature in which the committee reports. If the committee meets and reports during the interim when the Legislature is not in session, then the House of Representatives shall vote on the committee recommendation during the next regular session of the Legislature. Expulsion of a House member shall require the affirmative vote of two-thirds of the members of the House, as provided by Section 11 of Article III of the Constitution. Reprimand or censure of a member shall require the affirmative vote of a majority of the members of the House. Action of the House pursuant to this rule is final and not subject to court review.

(9) All expenditures incurred pursuant to subsection (5) of this rule shall be approved by the Chairman and paid by vouchers and warrants drawn as provided by law from appropriations made to the Legislative Account.

(10) The committee may adopt rules of procedure for the orderly conduct of committee meetings, investigations and hearings, which rules shall be consistent with this rule and other applicable rules and statutes.

RULE 46

Journal, Name of Mover on. — In all cases where a bill, motion or resolution shall be entered upon the Journal of the House, the name of the member moving or the committee introducing the same shall be entered on the Journal.

RULE 47

Journal Committee. — The Committee on Judiciary, Rules and Administration shall examine and verify the Journal prior to its approval and certify the correctness thereof to the House.

RULE 48

Engrossed Bills. — All House bills, memorials or resolutions that have been amended by the House shall be referred to the Committee on Judiciary, Rules and Administration, and when properly engrossed shall be placed upon the calendar for first reading of engrossed bills, but shall not be again referred to a committee unless otherwise ordered by the House by a majority vote of the members present. The Committee on Judiciary, Rules and Administration may order the printing of the engrossed instrument in such numbers as necessary to provide copies for the use of the legislative session. No House bill, memorial or resolution shall be engrossed unless amended by the House. No Senate bill shall be engrossed by the House.

RULE 49

General and Special Rules. — If any rule of procedure contained in these rules and having application to a particular situation or action appears to be in conflict with another rule more general in nature, the special rule shall apply in the situation specified.

RULE 48

Matters Not Covered by Rules. — In all cases not herein provided for, and in which they are not inconsistent with these rules or the joint rules of the Senate and House of Representatives, the general rules of parliamentary practice and procedure as set forth in Mason's Manual of Legislative Procedure shall govern the proceedings of the Senate.

RULE 49

Minority Party Assistants. — The minority party shall have assigned to it from personnel of its own choosing, one secretary for each the minority party leader, the assistant minority party leader, and the minority party, and such other assistants as the President Pro Tempore may consent to.

RULE 50

Tobacco Products and Electronic Cigarettes. — (A) The use of tobacco products or electronic cigarettes shall not be allowed on the Senate floor at any time or in the gallery, or in any committee room, or in any of the rooms, passages, and corridors of the Senate, or in the offices used by the Senators, or in the restrooms of the Senate.

Consumption of Food and Beverage. — (B) No food or beverage shall be consumed on the Senate floor or in the gallery while the Senate is in session, except water in containers capable of holding no more than sixteen ounces and with lids capable of being closed.

RULE 51

Distribution of Written or Printed Matter. — All printed matter directed to any Senator through the United States mails shall be deposited in a mail box set aside for each Senator or delivered to his desk by a Senate employee. No written or printed matter shall be distributed to the Senators directly but shall be deposited in appropriate mail or other depository boxes set aside for them, except communications from any member of the legislature or elected state official or state department or agency may be delivered directly to the Senator's desk, and provided further that no written or printed matter except such as may be forwarded through the United States mails, shall be distributed to the Senators in any case unless it shows the name of the person or organization responsible for such distribution. It shall be considered good taste for any person or organization desiring to distribute correspondence or literature of any type to all Senators, or a great number thereof at one time, to first seek permission of the Sergeant at Arms or the President.

RULE 52

Committee on Ethics. — (A) The President Pro Tempore shall receive complaints from any Senator concerning the alleged violation of the Rules of the Senate or the provisions of applicable law by a member of the Senate. Whenever such a complaint is received, the President Pro Tempore shall appoint a committee on ethics of six members, consisting of a chairman and five members, three of whom must be appointed with the concurrence of the leader of the party opposite to the party of the President Pro Tempore.

(B) The complaint shall be in writing, signed, verified and contain one or more of the following allegations:

(1) Substantial conduct unbecoming a Senator;

(2) A material violation of the Rules of the Senate, including: (i) the disclosure of any information that is confidential concerning the preliminary investigation provided in subsection (E) of this Senate Rule; or (ii) the disclosure of any information, preliminary investigation or written complaint, except as provided in subsection (F) of this Senate Rule;

(3) A violation of any state law relating to the use of public office for private pecuniary gain;

(4) A violation of any state law relating to conflicts of interest; or

(5) A violation of any state law that brings discredit or embarrassment to the Senate or that constitutes a breach of public trust.

(C) The complaint shall be specific and supported by competent preliminary evidence of the violation of the Rules of the Senate or the provisions of applicable law, including: (i) the name of the member of the Senate alleged to be in violation; and (ii) the description of the facts and circumstances supporting each alleged violation.

(D) The President Pro Tempore shall provide the written complaint to the chairman of the committee on ethics. Subject to the provisions of this rule, the committee shall review the written complaint. The committee may dismiss any ethics complaint that:

(1) Does not comply with this Senate Rule;

(2) Contains alleged violations that occurred: (i) two years or more before the date on which the complaint was submitted to the committee; or (ii) before the accused Senator was sworn in to the Senate.

(E) The committee shall notify the Senator complained against of the complaint and shall provide the Senator a copy of the complaint. The Senator complained against may submit a written answer to the committee. The committee shall make a preliminary investigation of the complaint. Notwithstanding the provisions of Senate Rule 20, such investigatory meetings shall be held in executive session. If, after investigation, the committee determines no probable cause exists that a violation has occurred, the committee shall dismiss the complaint and notify the complaining Senator and the Senator complained against. All proceedings of the committee, pursuant to this subsection (E), including the complaint and the appointment of the committee shall remain confidential, except that private communications with members of majority or minority leadership shall not be construed as violating this requirement of confidentiality.

(F) If, after investigation, the committee determines probable cause exists that a violation may have occurred, the committee shall so notify the complaining Senator and the Senator complained against. At that time, the written complaint and the formation of the committee shall no longer be confidential, but shall become a public document. The Senator complained against may request a hearing before the committee, before which he shall be entitled to appear, present evidence, cross-examine witnesses, and be represented by counsel. The committee shall have the power to take testimony under oath and to issue subpoenas and subpoenas duces tecum in the manner provided in Chapter 4, Title 67, Idaho Code. After the hearing, the committee may make recommendations to the Senate. The committee may recommend dismissal of the charges, reprimand, censure, or expulsion. Expulsion of a Senate member shall require the affirmative vote of two-thirds of the members elected to the Senate, as provided by Section 11 of Article III of the Constitution. Reprimand or censure of a member shall require the affirmative vote of a majority of the members elected to the Senate. Action of the Senate pursuant to this rule is final and not subject to court review.

(G) The committee may retain such counsel and may hire such investigators as it deems necessary for the performance of its duties under this rule, or may request an advisory opinion from the Attorney General. All expenditures incurred pursuant to this subsection (G) shall be approved by the President Pro Tempore and paid by vouchers and warrants drawn as provided by law from appropriations made to the Legislative Account.

(H) The committee may adopt rules of procedure for the orderly conduct of committee meetings, investigations, and hearings, which rules shall be consistent with this rule and other applicable rules of the Senate and state statutes.

(I) If the complaint concerns misconduct of the President Pro Tempore, then the duties of the President Pro Tempore in this rule shall be the duties of the floor leader of the same party as the President Pro Tempore.

RULE 53

Contest of Election — Procedures. This Rule governs procedures leading up to and including a hearing on the contest of election. It should be read in conjunction with Chapter 21, Title 34, Idaho Code. For purposes of this Rule, the term "Party" means either the CONTESTEE or the CONTESTOR; the term "Parties" means both.

(A) Any proof of the CONTESTEE's or CONTESTOR's legal arguments, including depositions, affidavits, production of papers, and examination of poll books and ballots (herein "Record") that either CONTESTEE or CONTESTOR desires the Senate to consider in adjudication of a Contest must be completed on or before December 29. CONTESTEE and CONTESTOR's Record must be delivered to the Office of the Secretary of State no later than the close of business on the next business day. Any Record or evidence from the CONTESTEE or CONTESTOR not delivered to the Office of the Secretary of State by that day and time will not be considered by the Senate.

(B) The Parties must file a Memorandum that outlines their claims, defenses, legal authority, legislative precedent, proposed form of relief, and a description of witness fees and discovery costs that are incurred. The Memorandum must be filed with the Office of the Secretary of State no later than the close of business four (4) business days following delivery of the Record to the Office of the Secretary of State as provided in paragraph (A). However, CONTESTEE is not required to file a responsive pleading to the Contest.

(C) Any Party may file a Responsive Memorandum. If a Party chooses to file a Responsive Memorandum, it must be filed with the Office of the Secretary of State no later than the close of business on the first day of the next Regular Session.

(D) If an unresolved discovery or Record dispute exists and continues between the CONTESTEE and the CONTESTOR, and on motion duly made, the presiding officer or his designee may rule on the dispute. Neither the CONTESTEE nor the CONTESTOR will be granted any additional time beyond December 29 to develop or deliver his Record.

(E) Committee hearing procedures. If the Senate refers the Contest of Election to a Standing or Special Committee, the Committee Chairman will notify the Parties of the Committee hearing procedures. The following procedures, subject to the discretion of the Committee Chairman, will govern the hearing:

(1) No additional testimony or Record may be presented, taken, or allowed by the Parties beyond the Record delivered to the Office of the Secretary of State as provided in paragraph (A) of this Rule.

(2) Neither CONTESTEE nor CONTESTOR may examine or cross-examine any witness that testifies before the Committee. All examination will be performed by Committee members.

(3) Pursuant to Section 34-2104, Idaho Code, only the named points in the Notice of Contest of Elections may be argued.

(4) The Committee may send for and receive persons, papers, and records, whether written or oral, including from the Office of the Attorney General, other State Elected Officers, State officials, County Elected Officers, County officials, or other witnesses that the Committee determines will reasonably assist the Committee in the performance of its constitutional duty as a "judge of the election, qualifications and returns of its own members," Section 9, Article III, Idaho Constitution.

(5) In all other respects, the Committee will be governed by the rules of the Senate.

(F) The Committee may adopt any of the following as part of the hearing procedures:

(1) Permit the Parties to have counsel present at Committee meeting(s); and

(2) Establish a time limit for the CONTESTEE and CONTESTOR to argue their positions to the Committee.