

IN THE HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 9

BY WAYS AND MEANS COMMITTEE

A HOUSE RESOLUTION

1 STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE  
2 AMENDMENT OF RULE 45 AND RULE 76 OF THE RULES OF THE HOUSE OF REPRESENTA-  
3 TIVES.  
4

5 Be It Resolved by the House of Representatives of the State of Idaho:

6 WHEREAS, the House of Representatives deems it necessary and desirable  
7 that Rule 45 and Rule 76 of the Rules of the House of Representatives be  
8 amended.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the House of Represen-  
10 tatives, assembled in the Second Regular Session of the Sixty-fifth Idaho  
11 Legislature, that Rule 45 and Rule 76 of the Rules of the House of Representa-  
12 tives shall be amended to read as follows:

13 RULE 45

14 Committee on Ethics and House Policy.-- (1) ~~Before the end of the~~  
15 ~~twelfth day of~~ In the first regular session of each Legislature, an ethics  
16 and House policy committee shall be organized and its membership shall be  
17 determined. The ethics and House policy committee shall consist of five mem-  
18 bers of the House, three of whom shall be selected by members of the majority  
19 party and two of whom shall be selected by members of the minority party.  
20 House members holding leadership positions shall not serve on the ethics  
21 and House policy committee. Committee Chairmen may serve on the ethics and  
22 House policy committee. Committee members shall not have been previously  
23 sanctioned by the House for an ethics violation pursuant to this rule.

24 (2) ~~The Caucus Chairman of each party shall conduct the election of~~  
25 ~~ethics committee members as follows:~~

26 (a) ~~Phase I: At a designated caucus meeting, each Caucus Chairman shall~~  
27 ~~receive from members of their respective caucus a silent ballot nom-~~  
28 ~~inating to membership on the ethics committee up to three members who~~  
29 ~~have previously served at least one full term. Each caucus chairman~~  
30 ~~and the two elected at-large legislative council members for the caucus~~  
31 ~~shall prepare a ballot of nominees consisting respectively of the five~~  
32 ~~nominees for the majority party and the four nominees for the minority~~  
33 ~~party receiving the most nominating votes.~~

34 (b) ~~Phase II: By silent ballot, each member of the majority party shall~~  
35 ~~vote for three and of the minority party for two nominees on their re-~~  
36 ~~spective ballots. The caucus chairman and the two elected at-large~~  
37 ~~legislative council members for the caucus shall count the votes and~~  
38 ~~prioritize the members from greatest to least number of votes received.~~  
39 ~~The three members of the majority party and the two members of the mi-~~  
40 ~~nority party receiving the highest number of votes shall be members of~~  
41 ~~the ethics committee for the term of the Legislature. Others receiving~~

1 ~~votes shall serve in order of priority as committee alternates for their~~  
 2 ~~respective party.~~

3 ~~(c) Committee members may be reelected to a subsequent committee. A~~  
 4 ~~vacancy on the committee shall be filled with the highest priority al-~~  
 5 ~~ternate available to the party entitled to fill the vacancy. When no~~  
 6 ~~elected alternates are available to fill a vacancy, such vacancy shall~~  
 7 ~~be filled by majority vote of the House members of the party entitled~~  
 8 ~~to fill the vacancy. Except as otherwise provided in subsection (9) of~~  
 9 ~~this rule, a member filling a vacancy shall serve for the remainder of~~  
 10 ~~the unexpired term.~~

11 ~~(d) The Speaker of the House shall appoint one of the members of the com-~~  
 12 ~~mittee as chairman of the committee.~~

13 (3) (a) The chairman of the ethics and House policy committee shall re-  
 14 ceive complaints from any member of the House.

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

17 (i) Conduct unbecoming a Representative which is detrimental to  
 18 the integrity of the House as a legislative body;

19 (ii) Disclosure of information that is confidential as provided  
 20 in House rules;

21 (iii) Conduct constituting a felony under any state law, or which  
 22 violates any state law relating to the use of public office for  
 23 private pecuniary gain;

24 (iv) A violation of any state law or House rule relating to con-  
 25 flicts of interest involving legislative duties; or

26 (v) A violation of any state law or House rule that brings dis-  
 27 credit to the House of Representatives or that constitutes a  
 28 breach of public trust.

29 (c) The complaint shall be specific and provide:

30 (i) The name of the member of the House of Representatives alleged  
 31 to be in violation;

32 (ii) Reference to the House rule and/or applicable state law sup-  
 33 porting the alleged violation;

34 (iii) A description of the facts and circumstances supporting each  
 35 alleged violation; and

36 (iv) The evidence the complainant has at the time of making the  
 37 complaint supporting the facts and violation alleged in the com-  
 38 plaint.

39 (d) Subject to the provisions of this rule, the committee shall review  
 40 the written complaint. The committee shall dismiss any ethics com-  
 41 plaint that:

42 (i) Does not comply with this rule; or

43 (ii) Alleges violations that occurred either before the accused  
 44 member was first elected to the House of Representatives or for  
 45 which an applicable statute of limitation has run.

46 (e) Written complaints shall remain confidential until such time as the  
 47 ethics and House policy committee finds probable cause that such member  
 48 has committed misconduct as provided in this rule.

49 (4) The committee shall notify the person against whom the complaint  
 50 was brought and shall provide such person with a copy of the complaint and

1 evidence submitted supporting the complaint. The person complained against  
2 may submit a written answer to the committee. The member complained against  
3 shall provide such written answer to the chairman of the committee no later  
4 than fourteen days following the date that the copy of the complaint was pro-  
5 vided to the member complained against. Following receipt of the answer or  
6 if no answer to the complaint is provided to the chairman within the time pe-  
7 riod provided, the committee shall meet and conduct a preliminary investi-  
8 gation of the complaint. Notwithstanding the provisions of Rule 26, such  
9 meeting shall be held in executive session. At the preliminary investiga-  
10 tion, the committee shall determine, based upon the complaint, other rele-  
11 vant information and the answer to the complaint, whether probable cause ex-  
12 ists that the member committed misconduct as provided in this rule. If, at  
13 the conclusion of the preliminary investigation, the committee determines  
14 no probable cause exists that misconduct has occurred, the complaint shall  
15 be dismissed and the written complaint shall remain confidential. If, at the  
16 conclusion of the preliminary investigation, the committee determines prob-  
17 able cause exists that misconduct may have occurred, the committee shall so  
18 notify the person complained against and the written complaint against the  
19 member shall no longer be confidential but shall become a public document.

20 (5) Following a finding of probable cause and in a timely fashion, the  
21 committee shall conduct a public hearing before which the member shall be en-  
22 titled to appear, present evidence, cross-examine witnesses, and be repre-  
23 sented by counsel. The complainant or authorized agent of the complainant  
24 shall first present the complaint and supporting evidence and testimony to  
25 the committee. The committee shall have the power to take testimony under  
26 oath and to issue subpoenas and subpoenas duces tecum in the manner provided  
27 in Section 67-407, Idaho Code, and make inquiry and discover evidence rel-  
28 evant to the allegation. Formal rules of evidence are not applicable; how-  
29 ever, evidence shall be weighed according to its reliability, and the ac-  
30 cused may raise objection to any evidence. The accused may defer presenta-  
31 tion of any defense until all of the evidence has been presented in support of  
32 the complaint. The accused shall have a full and fair opportunity to obtain  
33 and review all of the evidence in support of the complaint.

34 (6) If after investigation and hearings held pursuant to this rule,  
35 the committee finds by clear and convincing evidence that a violation of the  
36 standards contained in this rule occurred, the committee shall make appro-  
37 priate recommendations to the House of Representatives. By four-fifths vote  
38 of the committee, the committee shall recommend dismissal of the charges,  
39 reprimand, censure or expulsion, provided that a recommendation for expul-  
40 sion shall only be based upon a finding beyond reasonable doubt that mis-  
41 conduct involves commission of a felony or use of public office for pecu-  
42 niary gain under subsection (3) (b) (iii) of this rule. The sanction of cen-  
43 sure may be with or without conditions or restrictions placed upon the mem-  
44 ber. The committee shall prepare a report setting forth its findings, rec-  
45 ommendation and reasons for such recommendation. The House of Representa-  
46 tives shall vote on the recommendation of the committee, as set forth in the  
47 report, during the regular session of the Legislature in which the committee  
48 reports. If the committee meets and reports during the interim when the Leg-  
49 islature is not in session, then the House of Representatives shall vote on  
50 the committee recommendation during the next regular session of the Legis-

1 lature. If the committee does not issue a recommendation within thirty days  
2 of the conclusion of the public hearing, the complaint shall be deemed dis-  
3 missed. Expulsion of a House member shall require the affirmative vote of  
4 two-thirds of the members elected to the House, as provided by Section 11 of  
5 Article III of the Constitution. Reprimand or censure of a member shall re-  
6 quire the affirmative vote of a majority of the members elected to the House.  
7 Action of the House pursuant to this rule is final and not subject to court  
8 review.

9 (7) The committee may retain such counsel and may hire such investiga-  
10 tors as it deems necessary for the performance of its duties under this rule.  
11 All expenditures incurred pursuant to this subsection shall be approved by  
12 the Chairman and paid by vouchers and warrants drawn as provided by law from  
13 appropriations made to the Legislative Account.

14 (8) The committee may adopt rules of procedure for the orderly con-  
15 duct of committee meetings, investigations and hearings, which rules shall  
16 be consistent with this rule and other applicable rules and statutes.

17 (9) If the written signed complaint concerns misconduct of a member of  
18 the ethics and House policy committee, then that member shall be disquali-  
19 fied and shall not serve on the committee for any purpose relating to such  
20 complaint. A vacancy on the committee created as a result of this subsection  
21 shall be filled by ~~an alternate in accordance with the provisions of subsec-~~  
22 ~~tion (2)(c) of this rule~~ a member selected by the party of the disqualified  
23 member, except that the fulfillment of any such vacancy shall only be for  
24 purposes relating to such complaint.

25 RULE 76

26 Committee on Rules. -- (A) It shall be the duty of the Standing Commit-  
27 tee on Judiciary, Rules and Administration to report and recommend the adop-  
28 tion of any special rule when the business of the House seems to the committee  
29 to require it.

30 Committee on Ethics and House Policy. -- (B) It shall be the duty of the  
31 Standing Committee on Ethics and House Policy to report and recommend to the  
32 House body, for formal affirmation, current and proposed policies governing  
33 House members.