

IN THE SENATE

SENATE RESOLUTION NO. 107

BY JUDICIARY AND RULES COMMITTEE

A SENATE RESOLUTION

STATING FINDINGS OF THE SENATE AND AMENDING RULE 53 OF THE RULES OF THE SENATE  
RELATING TO A COMMITTEE ON ETHICS.

Be It Resolved by the Senate of the State of Idaho:

WHEREAS, the Senate deems it necessary and desirable that Rule 53 of the Rules of the Senate be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate, assembled in the Second Regular Session of the Sixty-first Idaho Legislature, that Rule 53 of the Rules of the Senate shall be amended to read as follows:

RULE 53

Committee on Ethics. -- (A) The President Pro Tempore shall receive ~~written, signed~~ 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 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;

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

4       (E) The committee shall notify the ~~person~~ Senator complained against  
 5 whom of the complaint was brought and shall provide such person with the  
 6 Senator a copy of the complaint. The ~~person~~ Senator complained against may  
 7 submit a written answer to the committee. The committee shall make a pre-  
 8 liminary investigation of the complaint. Notwithstanding the provisions  
 9 of Senate Rule 20, such investigatory meetings shall be held in executive  
 10 session. If, after investigation, the committee determines no probable  
 11 cause exists that a violation has occurred, the committee shall dismiss the  
 12 complaint ~~shall be dismissed~~ and notify the complaining Senator and the Sen-  
 13 ator complained against. All proceedings of the committee, pursuant to this  
 14 subsection (E), including the complaint and the appointment of the committee  
 15 shall remain confidential.

16       (F) If, after investigation, the committee determines probable cause  
 17 exists that a violation may have occurred, the committee shall so notify the  
 18 ~~person complained against~~ complaining Senator and the Senator complained  
 19 against. At that time, the written complaint and the formation of the com-  
 20 mittee shall no longer be confidential, but shall become a public document.  
 21 Such ~~person~~ The Senator complained against may request a hearing before the  
 22 committee, before which he shall be entitled to appear, present evidence,  
 23 cross-examine witnesses, and be represented by counsel. The committee shall  
 24 have the power to take testimony under oath and to issue subpoenas and sub-  
 25 poenas duces tecum in the manner provided in ~~Section 67-407~~ Chapter 4, Title  
 26 67, Idaho Code.

27       ~~(C)~~ After the hearing, tThe committee may make recommendations to the  
 28 Senate based upon the investigations conducted and hearings held pursuant  
 29 to this rule. The committee may recommend dismissal of the charges, reprimand,  
 30 censure, or expulsion. Expulsion of a Senate member shall require the  
 31 affirmative vote of two-thirds of the members elected to the Senate, as pro-  
 32 vided by Section 11 of Article III of the Constitution. Reprimand or censure  
 33 of a member shall require the affirmative vote of a majority of the members  
 34 elected to the Senate. Action of the Senate pursuant to this rule is final  
 35 and not subject to court review.

36       (EG) The committee may retain such counsel and may hire such investiga-  
 37 tors as it deems necessary for the performance of its duties under this rule,  
 38 or may request an advisory opinion from the Attorney General. All expen-  
 39 ditures incurred pursuant to this subsection (EG) shall be approved by the  
 40 President Pro Tempore and paid by vouchers and warrants drawn as provided by  
 41 law from appropriations made to the Legislative Account.

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

46       (FI) If the ~~written signed~~ complaint concerns misconduct of the Presi-  
 47 dent Pro Tempore, then the duties of the President Pro Tempore in this rule  
 48 shall be the duties of the floor leader of the same party as the President Pro  
 49 Tempore.