

HOUSE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
SIXTY-FIFTH LEGISLATURE

TWELFTH LEGISLATIVE DAY
FRIDAY, JANUARY 18, 2019

House of Representatives

The House convened at 8 a.m., the Speaker in the Chair.

Roll call showed 66 members present.

Absent and excused - Barbieri, Boyle, Moon, and Shepherd.

Total - 4.

Total - 70.

Prayer was offered by Chaplain Tom Dougherty.

The Pledge of Allegiance was led by Bradley Chrysler, Page.

3RD ORDER

Approval of Journal

January 18, 2019

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Eleventh Legislative Day and recommend that same be adopted as corrected.

DAYLEY, Chairman

Mr. Dayley moved that the report be adopted. Seconded by Mr. Gannon. Report adopted.

There being no objection, the House advanced to the Fifth Order of Business.

5TH ORDER

Report of Standing Committees

January 18, 2019

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES AND ADMINISTRATION, report that we have printed [H 23](#), [H 24](#), [H 25](#), [H 26](#), and [H 27](#).

DAYLEY, Chairman

[H 23](#) and [H 24](#) were referred to the Transportation and Defense Committee.

[H 25](#) was referred to the Local Government Committee.

[H 26](#) was referred to the Environment, Energy and Technology Committee.

[H 27](#) was referred to the Revenue and Taxation Committee.

January 17, 2019

Mr. Speaker:

We, your COMMITTEE ON RESOURCES AND CONSERVATION, report that we have had under consideration [H 1](#) and recommend that it do pass.

GIBBS, Chairman

[H 1](#) was filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

7TH ORDER

Motions, Memorials, and Resolutions

HOUSE RESOLUTION NO. 1

BY JUDICIARY, RULES AND ADMINISTRATION

COMMITTEE

A HOUSE RESOLUTION

STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND REPEALING RULE 76 OF THE RULES OF THE HOUSE OF REPRESENTATIVES; AND STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE ADDITION OF A NEW RULE 76 TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

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

WHEREAS, the House of Representatives deems it necessary and desirable to repeal Rule 76 of the Rules of the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives, assembled in the First Regular Session of the Sixty-fifth Idaho Legislature, that Rule 76 of the Rules of the House of Representatives, be, and the same is hereby repealed.

WHEREAS, the House of Representatives deems it necessary and desirable to add a new Rule 76 to the Rules of the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives, assembled in the First Regular Session of the Sixty-fifth Idaho Legislature, that the Rules of the House of Representatives shall be amended by the addition thereto of a new Rule 76 to read as follows:

RULE 76

Committee on Ethics. – (1) Committee Established.

(a) Before the end of the twelfth day of the first regular session of each Legislature, an Ethics Committee shall be organized, and its membership shall be determined. The Ethics Committee shall consist of five members of the House, three of whom shall be members of the majority party and two of whom shall be members of the minority party. House members holding leadership positions shall not serve on the Ethics Committee. Committee Chairmen may serve on the Ethics Committee. Ethics Committee members shall not have been previously sanctioned by the House for an ethics violation pursuant to any House ethics rule.

(b) The Caucus Chairman of each party shall conduct the election of Ethics Committee members as follows:

(i) Phase I: At a designated caucus meeting, each Caucus Chairman shall receive from members of their respective caucus a silent ballot nominating for membership on the Ethics Committee up to

three members who have previously served at least one full term. Each Caucus Chairman and the two elected at-large Legislative Council members for the caucus shall prepare a ballot of nominees consisting respectively of the five nominees by the majority party and the four nominees by the minority party receiving the most nominating votes.

(ii) Phase II: By silent ballot, each member of the majority party shall vote for three nominees, and of the minority party for two nominees, on their respective ballots. The Caucus Chairman and the two elected at-large Legislative Council members for the caucus shall count the votes and prioritize the members from greatest to least number of votes received. The three members of the majority party and the two members of the minority party receiving the highest number of votes shall be the members of the Ethics Committee for the term of the Legislature. Others receiving votes shall serve in order of priority as Committee alternates for their respective party.

(c) Committee members may be reelected to a subsequent Committee. A vacancy on the Committee shall be filled with the highest priority alternate available to the party entitled to fill the vacancy. When no elected 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. Except as otherwise provided in subsection (6) of this rule, a member filling a vacancy shall serve for the remainder of the unexpired term.

(d) The Speaker of the House shall appoint one of the members of the Committee as Chairman of the Committee.

(2) Powers and Duties of Committee. The Committee shall have the power and duty to:

(a) Determine its own rules of procedure that provide for the orderly conduct of Committee meetings, investigations, and hearings. Such rules shall be consistent with this rule and other applicable rules and statutes.

(b) Function without regard to recess periods or adjournments.

(c) Retain such counsel and investigators as it deems necessary for the performance of its duties under this rule.

(d) Take testimony under oath.

(e) Incur expenditures. The Chairman shall approve all expenditures incurred by the Committee, which shall be paid by vouchers and warrants drawn as provided by law from appropriations made to the Legislative Account.

(f) Issue subpoenas and subpoenas duces tecum.

(g) Discover evidence relevant to an allegation. Formal rules of evidence are not applicable; however, evidence shall be weighed according to its reliability.

(h) Consult with the Office of the Idaho Attorney General for guidance as needed.

(i) Enlist a staff person to perform needed administrative tasks.

(j) Maintain a permanent record of all complaints and corresponding Committee investigations, hearings, letters, and other actions which may be kept in a confidential file within the Chief Clerk's office. Permanent records shall include:

- (i) Date complaint was received by the Ethics Committee;
- (ii) Name and contact information of complainant;
- (iii) Name of accused member;
- (iv) Summary of the allegation(s);
- (v) Any evidence gathered and reviewed by the Committee;

(vi) All records of Committee action; and

(vii) Final disposition of all complaint(s).

(k) Initiate its own complaint on an affirmative vote of four-fifths of the Ethics Committee. Committee complaints may be initiated by the Committee as a result of a Committee investigation or as a result of receipt of any complaint or other information that does not meet the requirements of this rule regarding the form of a complaint, but which contains allegations that would form the basis of a valid complaint.

(3) Confidentiality of Proceedings. Except as provided in this rule, all proceedings before the Committee shall constitute extraordinary circumstances, shall be held in Executive Session, and shall be exempt from public disclosure pursuant to House Rule 57, and Sections 74-207 and 74-106(1), Idaho Code. The complainant, the subject, and all Committee members and staff involved in a complaint shall maintain strict confidentiality unless otherwise provided in this rule. Any breach may be grounds for its own ethics investigation.

(4) Complaints, Form and Filing of. All complaints shall:

(a) Be in writing;

(b) State the name and contact information of the member submitting the complaint;

(c) State the name of the member or members alleged to be in violation of law, rule, or legislative policy;

(d) Set forth the date or time frame of the violation. The conduct providing the basis of the complaint must have occurred within three years of the date of filing;

(e) Describe the allegation(s) outlining the behavior that, if true, would be a violation of state law, House rule, or legislative policy;

(f) Identify the factual data in the complainant's possession at the time of submission supporting the allegation. Opinions are not facts. Evidence is not to include hearsay that would be inadmissible in a court proceeding; any evidence of this type will be dismissed; and

(g) Be signed under oath by the complainant stating the allegations in the complaint are true and correct to the best of the complainant's knowledge and belief.

(5) Complaints, Who May File. The Chairman of the Committee shall receive complaints from any member of the House. Also:

(a) Referrals and/or investigations from the Respectful Workplace Committee.

(b) Ethics Committee-initiated complaints.

(6) Complaints Against Committee Members. If a Committee member is the subject of a written and signed complaint, that Committee member is disqualified and shall not serve on the Committee for any purpose relating to the complaint. Under such circumstances, the vacancy shall be filled by an alternate, in accordance with the provisions of subsection (1)(b)(ii) of this rule, which vacancy shall be filled only for purposes relating to such complaint.

(7) Complaints, Initial Intake. The Committee Chairman and the ranking minority member shall review each complaint and supporting information to ensure that it meets the requirements as to form. Deficient complaints may be returned to the complainant with a description of the deficiency to be corrected. After intake of the completed complaint, it shall be forwarded to the full Committee for review. At this time, the Speaker of the House shall be notified of the receipt of a complaint; provided, however, if the Speaker is the subject of the complaint, the Majority and Minority Leaders shall be notified instead. Upon notification by the Committee, any person in leadership notified is held to the standard of confidentiality stated in subsection (3) of this rule.

(8) **Complaints, Committee Review.** Complaints found to meet the standard of form will be forwarded to the full Committee for review. The Committee shall review each claim to determine if there is a valid allegation and will determine if probable cause exists that an ethics violation may have taken place. By way of example, an allegation of an ethics violation may take the form of, but is not limited to, one or more of the following:

- (a) Use of public office for private pecuniary gain;
- (b) Violation of rule or legislative policy of the House;
- (c) Disclosure of information that is confidential, as provided in House rule or policy;
- (d) Acts that the Committee finds may constitute a felony under state or federal law;
- (e) Violation of the Respectful Workplace policy; and
- (f) Conduct violating the norms of the House or betrayal of the public trust.

(9) **Complaints, Notifications.** Upon receipt, review, and acceptance of a valid complaint, the Committee shall notify the member who is the subject of the complaint. The member shall be provided with a copy of the complaint and any evidence provided in support of the complaint.

(10) **Complaints, Dismissal.** At any time, a complaint found by a majority vote of the Committee to be baseless, frivolous, retaliatory in nature, or without merit shall be dismissed without further consideration. Upon dismissal by the Committee, the Chairman shall provide a letter of dismissal to the following:

- (a) The complainant;
- (b) The subject of the complaint; and
- (c) The Speaker of the House; except, however, if the Speaker is the subject of the complaint, then to the Majority and Minority Leaders instead.

(11) **Complaints, Response to the Complaint by the Subject.** Upon review and determination by the Ethics Committee that there is probable cause to believe a violation of the ethics rule may have taken place, the Committee shall allow the subject of the complaint to provide a written response and corresponding evidence to support their position to the Committee. The member may provide a written answer with supporting documentation to the Chairman of the Committee no later than 14 days from receipt of the copy of the complaint.

(12) **Investigatory Phase.** Any complaint not dismissed by the Committee, and notwithstanding the receipt of a response from the accused within the provided 14 days, shall undergo a full and thorough investigation using the prescribed powers and duties of the Committee.

(a) The investigation period shall be timely in fashion, with an initial 30-day deadline. The Committee may, upon a majority vote of the entire Committee, extend the period for an additional 30 days should it be deemed necessary. If the Committee is unable to complete the investigation within the 60-day period allowed, it may at its discretion extend the deadline additionally, again by a majority vote of the full Committee. Documentation outlining the cause for the extension shall be provided in the permanent record.

(b) Investigations done by or on behalf of the Respectful Workplace Committee and transmitted to the Ethics Committee may be used in whole or in part by the Ethics Committee to complete its investigation of the complaint.

(c) The Committee may issue confidential updates to House majority and minority leadership as to the progress of an investigation.

(d) If the pendency of a proceeding before the Committee is generally known to the public, through independent sources, and the subject matter thereof is of public interest or speculation, and public confidence in the administration

of the ethics guidelines may be threatened because of lack of information concerning the status of the proceeding and the requirements of due process, the Committee may, on its own motion, issue brief statements as it deems appropriate in order to confirm the existence of an investigation, to clarify the procedural aspects of a proceeding, and to explain that all members are entitled to fair and equal treatment under this rule.

(13) **Investigatory Phase, Conclusion.** At the conclusion of its investigation, the Committee shall make a determination whether a violation has occurred, based on a preponderance of evidence.

(a) If an allegation is determined to be baseless, without merit, frivolous, or retaliatory in nature, the allegation shall be dismissed. Upon dismissal, a written statement of the dismissal shall be forwarded to the complainant, the subject of the complaint, and the Speaker; provided, however, if the Speaker is the subject of the complaint, then to the Majority and Minority Leaders instead.

(b) If the Committee determines by a preponderance of the evidence that misconduct has occurred, the Committee shall notify in writing both parties and the full House membership of its intention to hold a public hearing.

(14) **Public Hearings by the Ethics Committee.** Any public hearing conducted under this rule shall be done so in a timely manner after written notice is provided to the full House. The Committee may hold public hearings at any time, including legislative interim periods.

(a) The complainant, or an authorized agent of the complainant, shall first present the complaint, supporting evidence, and testimony to the Committee.

(b) The member complained against shall be entitled to appear, present evidence, cross-examine witnesses, be represented by counsel, and raise objection to any evidence presented. The accused may defer presentation of any defense until all the evidence has been presented in support of the complaint. The accused shall have a full and fair opportunity to obtain and review all of the evidence in support of the complaint.

(c) At its sole discretion, the Committee may designate another member or a third party to present the complaint, supporting evidence, and testimony to the Committee, or to assist the complainant in doing so.

(15) **Public Hearing, Conclusion of and Committee Report.** If, after investigation and hearings held pursuant to this rule, the Committee finds by clear and convincing evidence that a violation of the standards contained in this rule occurred, the Committee shall make an appropriate recommendation to the House of Representatives. The Committee shall issue its recommendation within 30 days of conclusion of the public hearing. If the Committee does not issue a recommendation within 30 days of conclusion of the public hearing, the charges shall be deemed dismissed. By four-fifths vote of the Committee, the Committee shall recommend one of the following:

(a) Dismissal of the charges;

(b) Written reprimand;

(c) Censure, with or without conditions or restrictions placed upon the member; or

(d) Expulsion from the House of Representatives for good cause (Section 11 of Article III, Idaho Constitution).

(16) **Committee Report to House.** The House of Representatives shall vote on the recommendation of the Ethics Committee during the regular or extraordinary session in which the Committee reports.

(a) 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 or extraordinary session.

(b) Committee recommendations shall be presented to the full House in the form of a House Resolution which, once introduced, shall be referred directly to the second reading calendar. The Resolution shall not be referred further to any Committee and shall not be amendable in any manner after its introduction.

(c) A Resolution of dismissal, reprimand, or censure of a member requires a majority vote of members present for passage.

(d) Expulsion of a member shall require the affirmative vote of two-thirds of all members for passage (Section 11 of Article III, Idaho Constitution).

(17) Final Action. Action taken by the Ethics Committee and the House pursuant to this rule is final and not subject to judicial review.

BE IT FURTHER RESOLVED that, notwithstanding the repeal and reenactment of House Rule 76 pursuant to the passage of this Resolution, the members of the Ethics Committee as determined prior to passage of this Resolution are hereby confirmed and shall continue to serve as members of the Ethics Committee for the Sixty-fifth Legislature.

[HR 1](#) was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

8TH ORDER
Introduction, First Reading, and Reference
of Bills and Joint Resolutions

HOUSE BILL NO. 28
BY APPROPRIATIONS COMMITTEE
AN ACT

RELATING TO APPROPRIATIONS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 29
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO ABORTION COMPLICATIONS; AMENDING SECTION 39-9503, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 39-9504, IDAHO CODE, TO REVISE PROVISIONS REGARDING A CERTAIN REPORT; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 30
BY JUDICIARY, RULES AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO CRIMINAL DEFENDANTS; AMENDING SECTION 18-211, IDAHO CODE, TO PROVIDE FOR CERTAIN NOTIFICATION AND FOR THE APPOINTMENT OR DESIGNATION OF AN EVALUATION COMMITTEE AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 31
BY JUDICIARY, RULES AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO DIVORCE; AMENDING SECTION 32-716, IDAHO CODE, TO REVISE A PROVISION REGARDING WHEN A FINAL DECREE SHALL BE ENTERED.

HOUSE BILL NO. 32
BY JUDICIARY, RULES AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE FOR SUBSTANCE USE DISORDERS SERVICE PROVIDERS AND SUBSTANCE USE DISORDER ASSESSMENTS AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 33
BY JUDICIARY, RULES AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO SEARCH WARRANTS; AMENDING SECTION 19-4404, IDAHO CODE, TO PROVIDE THAT AN ORAL STATEMENT SHALL BE TRANSCRIBED IF REQUESTED AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 34
BY JUDICIARY, RULES AND ADMINISTRATION
COMMITTEE
AN ACT

RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 18-8304, IDAHO CODE, TO REVISE A PROVISION REGARDING APPLICABILITY.

[H 28](#), [H 29](#), [H 30](#), [H 31](#), [H 32](#), [H 33](#), and [H 34](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House advanced to the Tenth Order of Business.

10TH ORDER
Second Reading of Bills and Joint Resolutions

[H 20](#), by Appropriations Committee, was read the second time by title and filed for third reading.

[H 13](#), [H 14](#), [H 15](#), [H 16](#), and [H 17](#), by Revenue and Taxation Committee, were read the second time by title and filed for third reading.

There being no objection, the House advanced to the Fifteenth Order of Business.

15TH ORDER
Announcements

Announcements were made to the body.

**16TH ORDER
Adjournment**

Mr. Moyle moved that the House adjourn until 11 a.m., Monday, January 21, 2019. Seconded by Mr. Erpelding. Motion carried.

Whereupon the Speaker declared the House adjourned at 8:12 a.m.

SCOTT BEDKE, Speaker

ATTEST:

CARRIE MAULIN, Chief Clerk