

IN THE HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 11

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) ~~(a) Before the end of the~~
15 ~~twelfth day of~~ In the first regular session of each Legislature, an eEthics
16 and House Policy Ceommittee shall be organized and its membership shall be
17 determined. The eEthics and House Policy Ceommittee shall consist of five
18 members of the House, three of whom shall be selected by members of the major-
19 ity 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 eEthics
21 and House Policy Ceommittee. Committee Chairmen may serve on the eEthics and
22 House Policy Ceommittee. 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 nomi-~~
28 ~~nating to membership on the ethics committee up to three~~ The majority
29 party and minority party may select only members who have previously
30 served at least one full term. ~~Each caucus chairman and the two elected~~
31 ~~at-large legislative council members for the caucus shall prepare a~~
32 ~~ballot of nominees consisting respectively of the five nominees for the~~
33 ~~majority party and the four nominees for the minority party receiving~~
34 ~~the most nominating votes.~~

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

1 ~~votes shall serve in order of priority as~~ Each party shall also select
 2 ~~two~~ committee alternates for their respective party. The committee al-
 3 ternates shall sit and have voting rights when the committee is sitting
 4 to review House policy. When the committee is sitting to consider an
 5 ethics matter, the committee alternates shall serve only in the event of
 6 a vacancy, as provided in paragraph (c).

7 (c) Committee members may be ~~reelected to~~ selected to serve on a sub-
 8 sequent committee. A vacancy on the committee shall be filled with ~~the~~
 9 ~~highest priority an~~ alternate available to and selected by the leader-
 10 ship of the party entitled to fill the vacancy. When no elected alter-
 11 nates are available to fill a vacancy, such vacancy shall be filled by
 12 majority vote of the House members of the party entitled to fill the va-
 13 cancy. Except as otherwise provided in subsection (98) of this rule, a
 14 member filling a vacancy shall serve for the remainder of the unexpired
 15 term.

16 (d) The Speaker of the House shall appoint one of the members of the com-
 17 mittee as chairman of the committee.

18 (32) (a) The chairman of the ~~e~~Ethics and House Policy Ceommittee shall
 19 receive complaints from any member of the House.

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

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

24 (ii) Disclosure of information that is confidential as provided
 25 in House rules;

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

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

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

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

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

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

39 (iii) A description of the facts and circumstances supporting each
 40 alleged violation; and

41 (iv) The evidence the complainant has at the time of making the
 42 complaint supporting the facts and violation alleged in the com-
 43 plaint.

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

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

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

1 (e) Written complaints shall remain confidential until such time as the
2 eEthics and House Policy Ceommittee finds probable cause that such mem-
3 ber has committed misconduct as provided in this rule.

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

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

39 (65) If after investigation and hearings held pursuant to this rule,
40 the committee finds by clear and convincing evidence that a violation of the
41 standards contained in this rule occurred, the committee shall make appro-
42 priate recommendations to the House of Representatives. By four-fifths vote
43 of the committee, the committee shall recommend dismissal of the charges,
44 reprimand, censure or expulsion, provided that a recommendation for expul-
45 sion shall only be based upon a finding beyond reasonable doubt that miscon-
46 duct involves commission of a felony or use of public office for pecuniary
47 gain under subsection (32) (b) (iii) of this rule. The sanction of censure
48 may be with or without conditions or restrictions placed upon the member.
49 The committee shall prepare a report setting forth its findings, recommen-
50 dation and reasons for such recommendation. The House of Representatives

1 shall vote on the recommendation of the committee, as set forth in the re-
 2 port, during the regular session of the Legislature in which the committee
 3 reports. If the committee meets and reports during the interim when the Leg-
 4 islature is not in session, then the House of Representatives shall vote on
 5 the committee recommendation during the next regular session of the Legis-
 6 lature. If the committee does not issue a recommendation within thirty days
 7 of the conclusion of the public hearing, the complaint shall be deemed dis-
 8 missed. Expulsion of a House member shall require the affirmative vote of
 9 two-thirds of the members elected to the House, as provided by Section 11 of
 10 Article III of the Constitution. Reprimand or censure of a member shall re-
 11 quire the affirmative vote of a majority of the members elected to the House.
 12 Action of the House pursuant to this rule is final and not subject to court
 13 review.

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

19 (87) The committee may adopt rules of procedure for the orderly con-
 20 duct of committee meetings, investigations and hearings, which rules shall
 21 be consistent with this rule and other applicable rules and statutes.

22 (98) If the written signed complaint concerns misconduct of a member
 23 of the eEthics and House Policy Ceommittee, or is filed by a member of the
 24 Ethics and House Policy Committee, or both, then that member or members shall
 25 be disqualified and shall not serve on the committee for any purpose relat-
 26 ing to such complaint. A vacancy on the committee created as a result of this
 27 subsection shall be filled by an alternate in accordance with the provisions
 28 of subsection (21) (c) of this rule, except that the fulfillment of any such
 29 vacancy shall only be for purposes relating to such complaint.

30 RULE 76

31 Committee on Rules. -- (A) It shall be the duty of the Sstanding
 32 Ccommittee on Judiciary, Rules and Administration to report and recommend
 33 the adoption of any special rule when the business of the House seems to the
 34 committee to require it.

35 Committee on Ethics and House Policy. -- (B) It shall be the duty of
 36 the standing committee on Ethics and House Policy to report and recommend to
 37 the House, for formal affirmation, current and proposed policies governing
 38 House members.