

**MINUTES OF THE  
ETHICS INTERIM COMMITTEE**

Wednesday, November 18, 2009 – 9:00 a.m. – Room 450 State Capitol

**Members Present:**

Sen. Sheldon L. Killpack, Senate Chair  
Rep. John Dougall, House Chair  
Sen. Patricia W. Jones, Senate Cochair  
Rep. Rebecca Chavez-Houck, House Cochair  
Rep. Tim M. Cosgrove  
Rep. Kevin S. Garn  
Sen. Scott K. Jenkins  
Rep. Brian S. King  
Rep. Bradley G. Last  
Sen. Scott D. McCoy  
Rep. Carol Spackman Moss  
Sen. Ross I. Romero  
Sen. Dennis E. Stowell

**Members Absent:**

Rep. Brad L. Dee  
Sen. Karen Mayne  
Sen. John L. Valentine

**Staff Present:**

Mr. Michael E. Christensen, Director  
Mr. John L. Fellows, General Counsel  
Mr. Eric N. Weeks, Deputy General Counsel  
Ms. Chelsea Barrett, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Task Force Business**

Chair Killpack called the meeting to order at 9:15 a.m.

Rep. Dee and Sen. Mayne were excused from the meeting.

**MOTION:** Sen. McCoy moved to approve the minutes of the September 16, 2009 and October 21, 2009 meetings. The motion passed unanimously. Sen. Jones and Sen. Stowell were absent for the vote.

Chair Killpack distributed and explained a letter from the Office of the Lieutenant Governor addressing an inquiry regarding the incompatibility of the Campaign Disclosure website with other popular web browsers and the use of state-issued computers to enter campaign disclosure reports.

**2. Ethics Legislation - Eric Weeks**

Mr. Weeks distributed and discussed 2010 General Session draft legislation, "Joint Resolution on Ethics Complaint Procedures." He explained that the draft legislation is based on the Committee's discussion from the October 21, 2009 meeting.

Sen. McCoy inquired about whether the commission or the committee will dismiss an ethics complaint if a legislator resigns from their elected position. Mr. Weeks and Mr. Fellows noted that the legislation, as drafted, outlines that the complaint process will continue until the accused legislator resigns or their term of service expires.

Sen. McCoy questioned if unopposed candidates could be excluded from the 60-day time filing requirement. Chair Killpack requested that Sen. McCoy work with staff to develop language to be added to page 18, lines 543 through 545 of the draft legislation.

Chair Killpack explained that several inquiries were raised regarding the deliberation section of the draft legislation. He noted that the evidentiary standard criteria and the voting requirements for an allegation should be further considered by the Committee.

Rep. King and Sen. McCoy noted their concerns with the clear and convincing evidentiary standard as written in the draft legislation on page 27, line 818. They expressed concern that this may be too high of a bar to achieve for the commission. They noted their support for a preponderance of the evidence standard and to make the voting requirement three out of five, instead of four out of five as written.

Rep. Garn noted that the issues raised by Rep. King and Sen. McCoy are the main points to consider in the draft legislation. He requested that staff define a clear and convincing versus a preponderance of the evidence.

Mr. Fellows explained that for a preponderance of the evidence, the facts in question are more likely than not to be proven, whereas with a clear and convincing the standard is higher, but not as high as beyond a reasonable doubt. Mr. Fellows explained that depending on the standard used, the ethics committee will see more or less violations in which they must adjudicate.

Sen. Jenkins noted his support for the clear and convincing evidentiary standard, as outlined in the draft legislation.

The Committee discussed the evidentiary standard for the draft legislation.

**MOTION:** Rep. Last moved to change page 27, line 818 to read "proven by a preponderance of the evidence." The motion passed with Sen. Jenkins, Rep. Chavez-Houck, and Rep. Dougall voting in opposition. Sen. Stowell and Rep. Cosgrove were absent for the vote.

Chair Killpack asked for public comment.

Mr. Kim Burningham, Chairman, and Ms. Dixie Huefner, Director of Communications, Utahns for Ethical Government (UEG), expressed their appreciation for the Committee's work, but also listed their concerns with the draft legislation.

Rep. Garn responded to Mr. Burningham's comments. He expressed concerns with the ethics initiative that UEG proposed.

Sen. McCoy inquired about the citizen participation issues that UEG brought forward to the Committee. Mr. Burningham noted that he would like to see more public participation in the ethics commission.

Ms. Huefner responded to Rep. Garn's comments. She commented that the initiative has been misconstrued in many ways and hopes the Committee will consider their reservations with the draft legislation.

**MOTION:** Rep. Garn moved to adopt 2010 General Session draft legislation, "Joint Resolution on Ethics Complaint Procedures," as a committee bill with the amendments approved in the meeting. The motion passed unanimously. Sen. Stowell was absent for the vote.

Mr. Stan Rasmussen, the Sutherland Institute, commended the Committee on the draft legislation and noted that the Sutherland Institute will produce an official statement on UEG's proposed ethics initiative. He encouraged the Committee to consider ways to incorporate advice and education for the legislators regarding ethical behavior.

### **3. Other Items / Adjourn**

**MOTION:** Sen. Jenkins moved to adjourn the meeting. The motion passed unanimously. Sen. Stowell and Rep. Cosgrove were absent for the vote.

Chair Killpack adjourned the meeting at 11:32 a.m.