

## Chapter X. Legislator Conduct.

**S. X-10. Scope of chapter.** This chapter governs ethics investigations in the Senate. The sources of this chapter are the Montana Constitution, the code of ethics (Title 2, chapter 2, part 1, MCA), rules of the Montana Legislature, committee rules of the 2025 Senate Ethics Committee, rules of the Idaho, Nevada, North Dakota, and Texas legislatures, rules of the federal House of Representatives, and Mason's Manual of Legislative Procedure (2020), which is based on accrued parliamentary law.

**S. X-20. The Senate.** The people of Montana are sovereign and established the constitution of 1972.<sup>1</sup> The constitution vests a portion of the people's legislative power in the Senate.<sup>2</sup> Divided by district, the people populate the Senate from among themselves at periodic elections.<sup>3</sup>

**S. X-30. Purpose of ethics rules – purpose of decorum.** (1) Serving in the Senate is a public trust created by the confidence the electorate reposes in their legislators.<sup>4</sup> Senators serve for the benefit of the people of the state.<sup>5</sup> Ethics rules promote public trust in the Senate and in Senators as they exercise legislative power. Rules of decorum promote the Senate's ability to function as a deliberative body.

(2) (a) The Senate always seeks a high reputation whereby its members are public officers of integrity and dedication who maintain high standards of ethical conduct. If public confidence in the Senate is to be maintained and enhanced, it is not enough that members avoid acts of misconduct. Senators must also avoid acts that may create an appearance of misconduct.<sup>6</sup>

(b) The people of Montana have the right to expect and demand that Senators adhere to the highest standards of ethical behavior founded upon principles of dignity, decorum, civility, and respect because these ethical standards are essential to ensure and enhance the people's faith, trust, and confidence in the integrity of the legislative process.<sup>7</sup>

(3) Exercising the legislative power requires an opportunity to debate—for Senators to express their opinions and to hear the opinions of others.<sup>8</sup> This deliberative process may be spirited but must be collegial.

(a) Senators must not be permitted by their conduct to deny to others that which they claim for themselves.<sup>9</sup> It is the duty of all senators to conduct themselves in a manner that does not obstruct the rights of other members.<sup>10</sup> Senators should treat others as they themselves wish to be treated.

---

<sup>1</sup> Article II, section 1; Article II, section 2.

<sup>2</sup> Article II, section 1; Article III, section 1; Article V, section 1.

<sup>3</sup> Article V, section 3.

<sup>4</sup> 2-2-103, MCA.

<sup>5</sup> 2-2-103, MCA.

<sup>6</sup> North Dakota Legislative Manual, Section 1001(1) and (7).

<sup>7</sup> Nevada Legislative Code of Ethics, Rule 37.

<sup>8</sup> Mason's 42(6).

<sup>9</sup> Mason's 120.

<sup>10</sup> Mason's 120.

(b) Freedom of speech in the Senate involves obedience to all the rules of debate.<sup>11</sup> The language used by senators during debate should be temperate, decorous, and respectful.<sup>12</sup> No one is to speak impertinently.<sup>13</sup> No person may indulge in personalities, impugn motives of members, use indecent or profane language, or participate in conduct that disrupts or disturbs the orderly proceedings of the body.<sup>14</sup> It is not allowable to impugn the motives of a member, but the nature or consequences of a proposal may be condemned in strong terms.<sup>15</sup>

**S. X-40. Powers and privileges of the Senate.** (1) As stated in the constitution, the Senate may punish or expel a member for good cause shown with the concurrence of two-thirds of its members.<sup>16</sup>

(2) In addition to the powers specified in the constitution, the Senate, as a legislative body, possesses inherent powers and privileges.

(3) Privileges of the Senate include the comfort of members and freedom from disturbance. The disorderly conduct of a Senator, and expelling or punishing a Senator are questions of privilege of the Senate. The process to expel or punish a Senator is, under ordinary circumstances, for the Senate Ethics Committee to conduct an investigation, hold a due process hearing, and submit a report and resolution to the Senate for the Senate's consideration.

(4) The Senate possesses inherent powers of self-protection.<sup>17</sup> The inherent power of self-protection includes the authority to maintain the order and dignity becoming the body of the Senate.<sup>18</sup> The Senate has the right to regulate its own halls.<sup>19</sup>

**S. X-50. Categories of actions.** (1)(a) The presiding officer is responsible for maintaining decorum and may:

(i) call to order any senator who is in violation of the rules of debate or of decorum; and

(ii) make quick judgments to maintain order in an emergency.

(b) A call to order directs a senator to adhere to the rules of debate or of decorum. The presiding officer should succinctly state the rule violated. A senator called to order must yield the floor and take the senator's seat.

(d) A senator called to order, or the majority or minority leader, may appeal the call to the rules committee.

---

<sup>11</sup> Mason's 120.

<sup>12</sup> Mason's 120.

<sup>13</sup> Mason's 122(1).

<sup>14</sup> Mason's 122(2).

<sup>15</sup> Mason's 124(3).

<sup>16</sup> Article V, section 10.

<sup>17</sup> Mason's 561(2).

<sup>18</sup> Mason's 805(1) and (2).

<sup>19</sup> Mason's 805(5).

(2)(a) A two-thirds majority may punish a senator.

(b) Punishment imposes conditions on a senator and may consist of:

(i) censure, during which the censured senator shall stand at the senator's desk or in front of the dais during the reading of a censure resolution;

(ii) specified restrictions on conduct; and

(iii) payment of fines or restitution.

(c) Punishment may not result in an inability to vote remotely during second and third reading.

(3)(a) A two-thirds majority may expel a senator.

(b) Expulsion ousts a person from membership in the senate and from elective office, resulting immediately in a legislative vacancy to be filled as provided by law. A person expelled from the Senate loses floor privileges and is not entitled to further compensation.

**S. X-60. Good cause.** (1) Good cause to punish or expel a Senator includes:

(a) conduct unbecoming a Senator that is detrimental to the integrity of the Senate as a legislative body;<sup>20</sup>

(b) disclosure of information that is confidential as provided in statute or rule;<sup>21</sup>

(c) conduct constituting a felony under any state law, or which violates any state law relating to the use of public office for private pecuniary gain;<sup>22</sup>

(d) a violation of any state law or Senate Rule relating to conflicts of interest involving legislative duties;<sup>23</sup> or

(e) a violation of any state law or Senate Rule that brings discredit to the Senate or that constitutes a breach of the public trust.<sup>24</sup>

(2) Regarding conduct that constitutes a violation of law or a felony, it is not necessary that the Senator be charged or convicted for the Senate to believe that good cause exists to punish or expel. Information that Senators deem credible is sufficient to show good cause.

**S. X-70. Ethics committee – organizational meeting.** (1) The Senate Ethics Committee shall educate Senators concerning the code of ethics and may consider conflicts between public duty and private interest.<sup>25</sup> The Senate Ethics Committee consists of two members of the majority

---

<sup>20</sup> Idaho House rule 45(2)(b)(i).

<sup>21</sup> Idaho House rule 45(2)(b)(ii).

<sup>22</sup> Idaho House rule 45(2)(b)(iii).

<sup>23</sup> Idaho House rule 45(2)(b)(iv).

<sup>24</sup> Idaho House rule 45(2)(b)(v).

<sup>25</sup> 2-2-135, MCA.

party and two members of the minority party.<sup>26</sup> One alternate member from the majority party and one alternate member from the minority party must also be identified. In the event of a recusal, the alternate member from the recused member's party shall become a member of the committee. Alternate members may participate ex officio in organizational and educational meetings.

(2) The Senate Ethics Committee may meet during the legislative session and during the interim.<sup>27</sup>

(3) The chair of the Senate Ethics Committee shall schedule an organizational meeting as early as practical and the Committee shall:

(a) develop a plan to educate Senators concerning the code of ethics;<sup>28</sup> and

(b) retain special counsel.

(4) Legislative Services Division shall assist the committee by developing and periodically updating a list of attorneys licensed in Montana who are willing and able to serve as special counsel. The committee shall retain an attorney from the list provided by the Legislative Services Division. The committee may give preference to a retired judge.

**S. X-80 Filing ethics complaint.** (1) (a) A senator may file an ethics complaint with any member of the Senate Ethics Committee at any time during a legislative session or during the interim.

(b) It is the duty of a member who receives a complaint to:

(i) initially treat the complaint as confidential; and

(ii) to consult as soon as possible, preferably within 5 days, with the Legislative Branch Human Resources Manager or Chief Legal Counsel to determine whether the Legislator Conduct Panel should exercise initial jurisdiction over the complaint.

(c)(i) If the complaint is in the initial jurisdiction of the Legislative Conduct Panel, it is the duty of the Legislative Branch Human Resources Manager or the Chief Legal Counsel to follow Appendix A of the Joint Rules.

(ii) If the complaint is not in the initial jurisdiction of the Legislative Conduct Panel, it is the duty of the Legislative Branch Human Resources Manager or the Chief Legal Counsel to provide copies of the complaint to all members of the Senate Ethics Committee and the subject of the complaint, and it is the duty of the chair to schedule a hearing for the committee's initial review of the complaint.

(2) A complaint must be in writing<sup>29</sup> and include one or more allegations showing good cause to

---

<sup>26</sup> 2-2-135, MCA.

<sup>27</sup> 5-2-205, MCA.

<sup>28</sup> See 2-2-135, MCA.

<sup>29</sup> Idaho House rule 45(2)(b).

punish or expel a Senator.<sup>30</sup>

(3) The complaint must be specific and provide:

(a) the name of the Senator alleged to be in violation;<sup>31</sup>

(b) identification of any third parties involved;<sup>32</sup>

(c) reference to Senate Rules or applicable state law supporting the alleged violation;<sup>33</sup> and

(d) a description of the facts and circumstances supporting each alleged violation.<sup>34</sup>

(4) The complaint must include as an attachment the evidence the complainant has at the time of making the complaint supporting the facts and violation alleged in the complaint.<sup>35</sup>

**S. X-90. Initial review.** (1) The committee shall make an initial review of a complaint and may reject any complaint that:<sup>36</sup>

(a) lacks a basis for believing good cause exists to punish or expel a Senator;<sup>37</sup>

(b) does not comply with S. X-80;<sup>38</sup> or

(c) alleges:

(i) a breach of decorum from a previous session;

(ii) failure to disclose a conflict of interests two or more years ago;

(iii) non-felonious cause that occurred five or more years ago;

(iv) cause constituting a felony for which an applicable statute of limitations has run.

(2) If a complaint is not dismissed, the committee shall refer the matter to the committee's special counsel,<sup>39</sup> and may authorize the chair to issue subpoenas for witnesses and for the production of records.<sup>40</sup>

(3) If a complaint relates to a breach of decorum and is not dismissed, the committee may ask the Senator who submitted the complaint and the Senator who is the subject of the complaint if they are amenable to mediation with the goal of reconciliation. If the senators are so amenable they may seek to resolve the situation informally with a mutually agreeable mediator. Any current or

---

<sup>30</sup> Idaho House rule 45(2)(b).

<sup>31</sup> Idaho House rule 45(2)(c)(i).

<sup>32</sup> Idaho House rule 45(2)(c)(ii).

<sup>33</sup> Idaho House rule 45(2)(c)(iii).

<sup>34</sup> Idaho House rule 45(2)(c)(iv).

<sup>35</sup> Idaho House rule 45(2)(c)(v).

<sup>36</sup> Idaho House Rule 45(4)(a).

<sup>37</sup> Idaho House Rule 45(4)(a)(i)

<sup>38</sup> Idaho House Rule 45(4)(a)(ii)

<sup>39</sup> Texas housekeeping resolution 9.03(f).

<sup>40</sup> 5-5-107, MCA; Senate Ethics Rule E10-20(1)(e), 2025.

former legislator or officer of the legislature may serve as mediator. If mediation proves unsatisfactory to either Senator, that Senator shall inform the committee, and the committee shall then refer the matter to the special counsel. If mediation proves satisfactory, the Senators shall jointly inform the committee of their reconciliation, and the committee shall dismiss the complaint.

**S. X-100. Special counsel investigation.** (1) When the Senate Ethics Committee refers a complaint, the special counsel shall conduct an investigation.

(2) The special counsel may interview the Senator who submitted the complaint, the Senator who is the subject of the complaint, witnesses identified by either of them, and additional witnesses the special counsel believes may have relevant information.

(3) The special counsel may request the production of documents from any person who may possess relevant information.

(4) The special counsel may request the chair of the ethics committee to issue subpoenas and subpoenas for the production of records.

(5) Special counsel interviews are not public meetings. Documents generated or received by the special counsel are not subject to public disclosure during the course of the investigation.<sup>41</sup> Witnesses may assert their federal and state rights that protect against self-incrimination.<sup>42</sup> Witnesses may be accompanied by counsel.<sup>43</sup>

**S. X-110. Special counsel's report – committee consideration.**

(1) The special counsel shall make a report of the investigation with proposed findings of facts. The special counsel shall send the report and supporting documents to the committee and the subject of the investigation simultaneously.<sup>44</sup>

(2) The Senate Ethics Committee shall meet after receiving the special counsel's report. If the committee believes the report shows good cause to punish or expel the subject of the complaint, the committee shall schedule a due process hearing, providing time reasonable under the circumstances for the subject of the complaint to prepare. Alternatively, if the committee believes the report does not show good cause, the committee may dismiss the complaint.

(3) Scheduling a due process hearing constitutes notice to the subject of the complaint that the Senate may punish or expel the Senator.

(4) The committee may issue subpoenas to compel the attendance at the due process hearing of persons identified by the special counsel and the subject of the investigation or the subject's

---

<sup>41</sup> See generally *Nelson v. City of Billings*, 2018 MT 36 regarding integrity of government operations.

<sup>42</sup> See Amendment V, U.S. Constitution; Article II, section 25, Montana Constitution. See *contra* Article V, section 8, for immunity of the subject of the investigation, and 5-5-112, MCA, for immunity of sworn witnesses.

<sup>43</sup> E10-60(6) (2025).

<sup>44</sup> Texas housekeeping resolution, 9.03(g).

counsel.

**S. X-120. Due process hearing.** (1) The due process hearing is a legislative hearing on the special counsel's report and proposed findings of fact. The order of business, unless modified by the ethics committee, shall be:

- (a) opening statement by the special counsel as the "sponsor" of the report;
- (b) testimony of witnesses subpoenaed at the special counsel's request;
- (c) statement by the subject of the investigation or the subject's counsel as the first opponent witness; and
- (d) testimony of witnesses subpoenaed at the subject or subject's counsel's request.

(3) (a) Each witness may make a brief opening statement.

(b) To facilitate the presentation of relevant information, the special counsel may ask questions of witnesses subpoenaed at the special counsel's request, and the subject of the investigation or the subject's counsel may ask questions of a witnesses subpoenaed at their request, while the witness is testifying.

(4) All witnesses may be questioned by members of the committee, the special counsel, and the subject of the investigation or the subject's counsel. If the chair anticipates that the due process hearing will take more than one meeting, the chair shall order that questioning shall occur:

- (a) immediately after a witness testifies;
- (b) after a group of witnesses testifies; or
- (c) at a set time.

(5) The chair may permit questions to be asked through the chair or may require questions to be put in writing for the chair to ask. Rules of evidence shall serve as a guideline but shall not be strictly enforced.

(6) The special counsel and the subject of the investigation or the subject's counsel may advise the chair and the committee of their preferred timing and method for questioning witnesses. Decisions of when and how to question a witness may be made on a case-by-case basis.

**S. X-130. Conclusion of ethics process.** (1) At the conclusion of the due process hearing or at a subsequent meeting:

- (a) if the committee believes that good cause exists to punish or expel the subject of the investigation, the committee shall request a Senate Ethics Resolution to be drafted by the Legislative Services Division and shall adopt any or all of the special counsel's proposed findings of fact;
- (b) if the committee believes that misconduct occurred that does not constitute good cause, the

committee may issue an instructional letter regarding the violation that occurred and best practices for future compliance; or

(c) if the committee believes that misconduct did not occur, the committee may report its confidence in the integrity of the senator investigated.

(2) An ethics resolution requested under subsection (1)(a) shall include a preamble that succinctly describes the investigation. The body of the resolution must refer to the adopted findings of fact attached to the resolution and may state the committee's recommendations for expulsion or punishment. The finding of facts adopted by the committee must be attached to the resolution.

(3) If the legislature is not in session when the committee approves an ethics resolution, the legislative services division shall provide copies of the resolution to each member of the legislature along with a ballot requesting a special session and a stamped return envelope.

(4) When an ethics resolution is in the possession of the Senate, it may be debated and amended by the body and may be passed in accordance with Article V, section 10, of the Montana Constitution.

(5) If the committee believes that misconduct has not occurred, the committee may formally report to the Senate its confidence in the integrity of the Senator investigated.

**S. X-140. Amenability of procedure.** In an ethics investigation, the Senate and the Senate Ethics Committee may adopt any procedure and change it at any time and without notice.<sup>45</sup> It is the intention of the Senate that procedure be legislative in style.<sup>46</sup> The mere employment of methods of procedure that resemble those employed or required in judicial proceedings are not to be held to be exercises of a judicial function.<sup>47</sup>

**S. X-150. Modification of legislative practices** (1) (a) To promote clarity in ethics proceedings, the legislative practice of avoiding referring to people and organizations by name does not apply to ethics investigations.<sup>48</sup>

(b) People should generally be referred to by last name, with an appropriate salutation (Mr., Ms., Dr., etc.) or with the person's elective or appointive title (Senator, Director, etc.).<sup>49</sup> Minors may be identified by initials or by other confidential means.

(2) (a) Meetings of the Senate Ethics Committee and documents in its possession are open to the public except when the committee finds that the demand of individual privacy clearly exceeds the merits of public disclosure or another exception to the right to know applies.<sup>50</sup>

(b) An ethics investigation is a matter internal to the body of the senate. The right to participate is

---

<sup>45</sup> Mason's 562(3).

<sup>46</sup> SJ 28 (2025).

<sup>47</sup> See Mason's 798(2).

<sup>48</sup> E10-80(1) (2025).

<sup>49</sup> E10-80(2) (2025).

<sup>50</sup> Article II, section 9.

satisfied by the ability to submit written public comment during the course of the investigation.<sup>51</sup>

**S. X-160. Jurisdiction.** (1) The Legislative Conduct Panel has initial jurisdiction over a discrimination or harassment complaint pursuant to the Joint Rules Appendix.

(2) The Ethics Committee has jurisdiction over:

(a) an ethics complaint filed pursuant to S. X-80, unless it relates to discrimination or harassment; and

(b) issues referred to the committee by:

(i) the Legislative Conduct Panel;

(ii) a motion of the Senate; or

(iii) a Senator seeking a determination pursuant to 2-2-135, MCA.

(3) The Rules Committee has jurisdiction over a point of order referred pursuant to S. X-50(c)(ii).<sup>52</sup>

(4) Civil and criminal law, except as limited by Article V, section 8, of the Montana Constitution, is concurrent with the senate's powers of self protection, to make rules for its proceedings, and to expel or punish a member.

---

<sup>51</sup> Senate Ethics Committee, 2025, memo: Rules governing the Senate ethics investigation.

<sup>52</sup> S20-20(4).