

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION 8

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 25 OF THE CONSTITUTION OF NEW MEXICO TO CREATE AN INDEPENDENT STATE ETHICS COMMISSION WITH JURISDICTION TO INVESTIGATE AND ISSUE ADVISORY OPINIONS CONCERNING, AND JURISDICTION TO ADJUDICATE, CIVIL VIOLATIONS OF LAWS GOVERNING ETHICS, STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS AS PROVIDED BY LAW.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 25 of the constitution of New Mexico to read:

"A. There is created a "state ethics commission" as an independent state agency under the direction of seven commissioners, no more than three of whom may be members of the same political party, appointed as follows:

(1) one commissioner appointed by the

1 governor; and

2 (2) as certified by the chief clerks of the
3 respective chambers:

4 (a) one commissioner appointed by the
5 president pro tempore of the senate;

6 (b) one commissioner appointed by the
7 minority floor leader of the senate;

8 (c) one commissioner appointed by the
9 speaker of the house of representatives;

10 (d) one commissioner appointed by the
11 minority floor leader of the house of representatives; and

12 (e) two commissioners appointed by the
13 four legislatively appointed commissioners, neither of whom
14 shall be members of the same political party.

15 B. A commissioner shall be a qualified elector of
16 the state and have other qualifications as provided by law.

17 C. Commissioners shall be appointed for staggered
18 terms of four years beginning July 1, 2019 as provided by law.
19 The commission shall select one of its commissioners to serve
20 as chair of the commission.

21 D. A person shall not serve as a commissioner for
22 more than two consecutive terms. A vacancy on the state ethics
23 commission shall be filled by appointment by the original
24 appointing authority for the remainder of the unexpired term.

25 E. No action shall be taken by the state ethics

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1 commission unless at least five commissioners concur.

2 F. The state ethics commission shall receive an
3 annual appropriation sufficient to enable it to perform its
4 duties.

5 G. The state ethics commission:

6 (1) may initiate, and shall receive and
7 investigate, and may adjudicate complaints alleging violations
8 of standards of ethical conduct and other standards of conduct
9 and reporting requirements as provided by law for state
10 officers or employees of the executive or legislative branches
11 of government, candidates or other participants in elections,
12 lobbyists or government contractors or seekers of government
13 contracts and other such jurisdiction as provided by law;

14 (2) may dismiss complaints regarded as
15 frivolous or outside of the jurisdiction of the commission.
16 The commission shall make public complaints that have been
17 dismissed without a hearing and the reason for the dismissal;

18 (3) shall:

19 (a) upon the presentation of clear and
20 convincing evidence to the commission in a public hearing,
21 impose such penalties and sanctions as provided by law; and

22 (b) refer to the appropriate
23 prosecutorial authority complaints alleging conduct that may be
24 criminal violations of the law;

25 (4) may issue advisory opinions;

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1 (5) may issue subpoenas requiring the
2 attendance of witnesses or the production of books, records,
3 documents or other evidence relevant to an investigation; and

4 (6) may have such other powers and duties and
5 administer or enforce such other acts as provided by law.

6 H. The state ethics commission shall have
7 jurisdiction over civil violations of law that are within its
8 jurisdiction as provided by law.

9 I. The state ethics commission shall only accept
10 verified complaints. The commission shall maintain as
11 confidential the complaint and the response to the complaint
12 until such time as the response to the complaint is filed or
13 the date the response to the complaint is due to be filed,
14 whichever is earlier.

15 J. Adjudication or investigation by the commission
16 shall not bar investigation or adjudication by the legislature
17 pursuant to Article 4, Section 11 or 35 of the constitution of
18 New Mexico. The commission may recommend a matter to the
19 legislature for consideration for impeachment proceedings.

20 K. The provisions of this amendment take effect on
21 July 1, 2019."

22 SECTION 2. The amendment proposed by this resolution
23 shall be submitted to the people for their approval or
24 rejection at the next general election or at any special
25 election prior to that date that may be called for that

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1 purpose.

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