

HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS COMMITTEE
SUBSTITUTE FOR
HOUSE JOINT RESOLUTION 9

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

A JOINT RESOLUTION

PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR THE CREATION OF AN INDEPENDENT REDISTRICTING COMMISSION TO DEVELOP REDISTRICTING PLANS FOR CONGRESSIONAL DISTRICTS, STATE LEGISLATIVE DISTRICTS AND THE DISTRICTS OF OTHER DISTRICTED STATE OFFICES.

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

SECTION 1. It is proposed to amend Article 4, Section 3 of the constitution of New Mexico to read:

"A. Senators shall not be less than twenty-five years of age and representatives not less than twenty-one years of age at the time of their election. If any senator or representative permanently removes ~~[his]~~ the senator's or representative's residence from or maintains no residence in the district from which ~~[he]~~ the senator or representative was

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underscored material = new
~~[bracketed material]~~ = delete

1 elected, then [he] the senator or representative shall be
2 deemed to have resigned, and [his] a successor shall be
3 selected as provided in Article 4, Section 4 of this [article]
4 constitution. No person shall be eligible to serve in the
5 legislature who, at the time of qualifying, holds any office of
6 trust or profit with the state, county or national governments,
7 except notaries public and officers of the militia who receive
8 no salary.

9 B. The senate shall be composed of no more than
10 forty-two members elected from single-member districts.

11 C. The house of representatives shall be composed
12 of no more than seventy members elected from single-member
13 districts.

14 ~~[D. Once following publication of the official~~
15 ~~report of each federal decennial census hereafter conducted,~~
16 ~~the legislature may by statute reapportion its membership.]"~~

17 SECTION 2. It is proposed to amend Article 20 of the
18 constitution of New Mexico by adding a new section to read:

19 "A. By August 15 of each year ending in the number
20 zero, a redistricting commission shall be established to
21 prepare and provide for the redistricting of congressional
22 districts, state legislative districts and the districts of
23 other districted state offices.

24 B. The redistricting commission shall consist of
25 seven commissioners, no more than three of whom shall be

1 members of the same political party. Each commissioner shall
2 be a registered qualified elector of New Mexico who has not
3 changed political party registration within the five years
4 immediately preceding appointment. A commissioner shall not be
5 a former federal, state or local elected official; provided
6 that the chair of the redistricting commission shall be a
7 retired district court judge, appellate court judge or justice
8 of the supreme court. A commissioner shall not have been a
9 candidate for public office, an employee or contractor for a
10 candidate, campaign committee or political action committee, a
11 registered paid lobbyist, a direct relative or employee of a
12 federal, state or local elected official, an officer of a
13 political party or a paid political consultant for the ten
14 years immediately preceding the opening of the selection
15 process.

16 C. Through a public application process,
17 established in rule by the state ethics commission, the state
18 ethics commission shall solicit, accept and evaluate
19 applications from registered qualified electors who are
20 qualified to serve as commissioner and committed to conducting
21 the redistricting process in an honest, independent and
22 impartial fashion. The state ethics commission shall select at
23 least thirty-eight nominees from the applicants who are
24 representative of the various geographic regions of the state;
25 provided that no more than twelve of whom shall be members of

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1 the same political party. The state ethics commission shall
2 submit the selected nominees to the legislature by July 1 of
3 each year ending in the number zero. The president pro tempore
4 of the senate, the senate minority floor leader, the speaker of
5 the house and house minority floor leader may each strike up to
6 three applicants from the pool of applicants.

7 D. No later than July 21 of each year ending in the
8 number zero, the legislative leadership shall submit the list
9 of applicants they want stricken from eligibility for
10 appointment to the state ethics commission.

11 E. The state ethics commission shall appoint six
12 commissioners from the remaining pool of applicants, ensuring
13 geographic, racial and gender balance among the appointees.
14 The appointees shall include two appointees each from the two
15 political parties with the largest number of registered voters
16 affiliated with the party in the state and two members who are
17 affiliated with other political parties or who are unaffiliated
18 voters. The state ethics commission shall also appoint from
19 the remaining pool of applicants a retired district court
20 judge, appellate court judge or justice of the supreme court to
21 serve as chair of the redistricting commission. All
22 appointments shall be made on or before August 15 of each year
23 ending in the number zero.

24 F. A vacancy on the redistricting commission shall
25 be filled by the state ethics commission from the remaining

1 pool of qualified applicants. A commissioner shall be deemed
2 to have resigned from the redistricting commission and a
3 vacancy created if, after the day of appointment, the
4 commissioner changes party registration in such a way as to
5 cause one political party to have more than three members on
6 the commission.

7 G. A commissioner may be removed by the supreme
8 court for substantial neglect of duty, gross misconduct in
9 office or inability to discharge the duties of office. The
10 supreme court has original jurisdiction over proceedings to
11 remove commissioners. A proceeding for the removal of a
12 commissioner shall be commenced by the attorney general upon
13 the request of the commission.

14 H. The redistricting commission shall develop
15 district plans for congressional districts, state legislative
16 districts and other districted state offices following each
17 federal decennial census. The commission shall develop
18 district plans in accordance with the following provisions:

19 (1) congressional districts shall be as equal
20 in population as practicable;

21 (2) legislative districts and other state
22 office districts shall be substantially equal in population.

23 The commission shall not consider district plans for the
24 legislature and other state offices that have a total deviation
25 of more than plus or minus five percent;

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1 (3) the commission shall use the most recent
2 federal decennial census data generated by the United States
3 census bureau and may use other reliable sources of demographic
4 data as determined by majority vote of the commission;

5 (4) district plans shall comport with the
6 provisions of federal law and shall not dilute a protected
7 minority's voting strength. Race may be considered in
8 developing district plans but shall not be the predominant
9 consideration, and traditional race-neutral redistricting
10 principles shall not be subordinated to racial considerations;

11 (5) district plans shall use only single-
12 member districts and shall not split precincts;

13 (6) districts shall be drawn consistent with
14 traditional redistricting principles;

15 (7) districts shall be composed of contiguous
16 precincts and shall be reasonably compact;

17 (8) to the extent feasible, districts shall be
18 drawn in an attempt to preserve communities of interest and
19 shall take into consideration political and geographic
20 boundaries, including the boundaries of Indian nations, tribes
21 and pueblos and their political subdivisions; and

22 (9) to the extent feasible, the commission may
23 seek to preserve the core of existing districts.

24 I. The redistricting commission may incorporate
25 suggested changes to its proposed district plans in accordance

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1 with public comments and testimonies it receives, but shall not
2 subordinate the requirements of Paragraphs (1) through (9) of
3 Subsection H of this section in doing so.

4 J. When proposing or adopting district plans, the
5 redistricting commission shall not:

6 (1) use, rely upon or reference partisan data,
7 such as voting history or party registration data; provided
8 that voting history in elections may be considered to ensure
9 that the district plan complies with applicable federal law; or

10 (2) consider the voting address of incumbents.

11 K. After release of the necessary federal decennial
12 census data to the state, the redistricting commission shall
13 hold public hearings throughout the state to develop proposed
14 district plans and subsequently to adopt district plans. The
15 commission shall make any adjustments to the proposed plans
16 that it deems necessary to meet the redistricting criteria and
17 establish the final district boundaries. The commission shall
18 file with the secretary of state the commission's approved
19 plans for senate, house of representatives and congressional
20 districts and other districted state offices by October 1 of
21 each year ending in the number one.

22 L. An approved plan shall determine the districts
23 for use in the succeeding primary and general elections for the
24 respective body.

25 M. The legislature shall provide adequate resources

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1 for the operation of the redistricting commission in performing
2 its duties.

3 N. The redistricting commission shall have
4 procurement and contracting authority and may hire staff,
5 consultants and legal counsel as necessary to carry out its
6 duties. The commission shall have standing in legal actions
7 challenging its redistricting plans or process, or the adequacy
8 of resources provided for the operation of the commission. The
9 commission shall have sole authority to determine whether the
10 attorney general or counsel hired or selected by the commission
11 shall represent the state in the legal defense of a
12 redistricting plan.

13 O. Commissioners are eligible for per diem and
14 mileage at the internal revenue service maximum federal per
15 diem rate for the city of Santa Fe and the internal revenue
16 service standard mileage rate for travel on redistricting
17 commission business.

18 P. Commissioners shall disclose by the next public
19 meeting any communication with outside persons or organizations
20 attempting to influence the map-drawing process outside of
21 public meetings and public comment periods. Failure to
22 disclose the communications shall constitute substantial
23 neglect of duty.

24 Q. Each commissioner shall serve until the
25 commissioner's successor is appointed and qualified in July or

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1 August of the next year ending in the number zero following the
2 commissioner's appointment. The redistricting commission shall
3 not meet nor incur expenses after the redistricting process is
4 completed, except:

5 (1) when litigation related to a plan is
6 pending;

7 (2) to revise districts if required by a court
8 decision;

9 (3) to correct partisan bias of any plan
10 declared to be partisan biased by an independent expert
11 retained by the commission; or

12 (4) to maintain and provide public access to
13 records of its proceedings.

14 R. The redistricting commission shall develop and
15 adopt rules at the beginning of each redistricting process.

16 S. The provisions of this section are self-
17 executing."

18 **SECTION 3.** The amendment proposed by this resolution
19 shall be submitted to the people for their approval or
20 rejection at the next general election or at any special
21 election prior to that date that may be called for that
22 purpose.