

**MINUTES
of the
INTERIM LEGISLATIVE ETHICS COMMITTEE**

**June 24, 2019
State Capitol, Room 309
Santa Fe**

The Interim Legislative Ethics Committee was called to order by Representative D. Wonda Johnson, co-chair, on Monday, June 24, 2019, at 10:37 a.m. in Room 309 of the State Capitol in Santa Fe.

Present

Rep. D. Wonda Johnson, Co-Chair
Sen. Linda M. Lopez, Co-Chair
Rep. Phelps Anderson
Rep. Gail Armstrong
Sen. Pete Campos
Rep. Kelly K. Fajardo
Sen. Stuart Ingle
Rep. Greg Nibert
Sen. Mary Kay Papen
Sen. William H. Payne
Rep. Debra M. Sariñana
Sen. Peter Wirth

Absent

Rep. Joanne J. Ferrary
Rep. Javier Martínez
Sen. Steven P. Neville
Sen. William E. Sharer

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Jon Boller, Senior Staff Attorney, LCS
Diego Jimenez, Research Assistant, LCS

Monday, June 24

Welcome and Introductions

Representative Johnson welcomed members of the committee and guests to the meeting. Committee members, staff and members of the public introduced themselves.

Role of Interim Legislative Ethics Committee (ILEC)

Mr. Boller discussed the formation, role and background of the ILEC. He reviewed 2019 Senate Education Committee Substitute for Senate Bill 668 (Laws 2019, Chapter 86), which created the State Ethics Commission, and he described the different roles the State Ethics Commission and the ILEC play with regard to alleged misconduct of legislators. He outlined the changes made in the bill to provisions of Section 2-15-8 NMSA 1978, explaining that the ILEC would continue to issue advisory opinions on the interpretation and enforcement of ethical

principles as applied to the legislature but that the State Ethics Commission would issue advisory opinions on statutes under its purview. The bill also added a provision authorizing the ILEC to investigate referrals made to the committee by the State Ethics Commission and added a provision requiring an annual report of the ILEC's activities, beginning in 2020, he said.

In response to questioning, Mr. Boller explained that, in accordance with the state constitution, each house of the legislature is the sole judge of the members of its respective chamber regarding alleged violations of the policies or rules of that chamber. Only the ILEC and, during legislative sessions, certain standing committees have authority to investigate alleged violations of those policies or rules by legislators. The State Ethics Commission, on the other hand, may investigate alleged violations of certain statutes, whether the alleged violator is a legislator or executive agency officer or employee, he explained. Finally, Mr. Boller outlined the process by which the legislature could opt to refer certain investigations to the State Ethics Commission in accordance with requisite changes to legislative rules.

Consideration of Requests for Advisory Opinions

Mr. Boller informed the committee that the committee had received two requests for advisory opinions, one from a representative and one from a senator, both of whom requested not to be named.

Request Regarding the Appropriate Standard of Ethical Conduct for a Legislator Who Is an Attorney

Members of the committee discussed the draft advisory opinion, noting that the general nature of the question made it difficult to formulate a precise response and that without a specific fact pattern, any answer would necessarily be somewhat broad. Also discussed was the difficulty an attorney may have knowing about, and thus disclosing, contracts other attorneys in a firm may have with the state. Committee members suggested revising the draft and delayed adoption until revisions could be made. The committee set a tentative meeting date to consider a revised draft opinion for August 19, 2019.

Request on Whether a Legislator May Film a Political Advertisement in Support of a Candidate in the Legislator's Office in the State Capitol

Members of the committee discussed various scenarios involving the use of video images taken inside the State Capitol, how those video images may end up being used in campaign advertisements or on social media sites and potential violations of ethics standards. The committee discussed the draft advisory opinion and amended the opinion to include a good faith clause. On a motion duly made by Representative Nibert and seconded by Representative Anderson, and with no opposition, the committee adopted the advisory opinion as amended.

Adjournment

There being no further business before the committee, the meeting adjourned at 11:56 a.m.