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HOUSE JOINT RESOLUTION 23
52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY
John L. Zimmerman and Rick Little

A JOINT RESOLUTION
PROPOSING AN AMENDMENT TO ARTICLE 5 OF THE CONSTITUTION OF NEW
MEXICO TO CREATE AN INDEPENDENT STATE ETHICS COMMISSION WITH
JURISDICTION TO INVESTIGATE AND ISSUE ADVISORY OPINIONS
CONCERNING STANDARDS OF CONDUCT NOT COVERED BY AN EXISTING
STATE STATUTE OR TRIBUNAL.

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

SECTION 1. It is proposed to amend Article 5 of the
constitution of New Mexico by adding a new section to read:

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

(1) three commissioners appointed by the
governor, none of whom shall be of the same political party and

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1 with one commissioner appointed from each congressional
2 district;

3 (2) one commissioner appointed by the
4 president pro tempore of the senate;

5 (3) one commissioner appointed by the minority
6 floor leader of the senate;

7 (4) one commissioner appointed by the speaker
8 of the house of representatives;

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

11 (6) two commissioners appointed by the chief
12 justice of the supreme court, who shall be licensed attorneys
13 and who shall not be of the same political party and shall not
14 be appointed from the same congressional district.

15 B. At the time of appointment, a commissioner
16 shall:

17 (1) be a qualified elector of the state; and

18 (2) not have changed political party
19 affiliation within the previous five years. The legislature
20 may provide by law for further restrictions on appointees to
21 the commission.

22 C. Commissioners shall be appointed for staggered
23 terms of four years beginning July 1, 2017. The initial
24 appointees shall draw lots to determine which three
25 commissioners will serve an initial term of two years, which

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1 three commissioners shall serve an initial term of three years
2 and which three commissioners will serve an initial term of
3 four years. Thereafter, all commissioners shall be appointed
4 for four-year terms. Members shall serve until their
5 successors are appointed and qualified.

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

10 E. No action shall be taken by the state ethics
11 commission unless at least six members concur.

12 F. The commission shall meet no more than six times
13 per calendar year.

14 G. A commissioner may be removed for incompetence,
15 neglect of duty, malfeasance in office or partisanship. A
16 proceeding for the removal of a commissioner may be commenced
17 by the state ethics commission, the attorney general upon the
18 request of the commission or by a resident of the state. The
19 supreme court shall preside over proceedings to remove
20 commissioners, and its decision shall be final. A commissioner
21 shall be given notice of hearing and an opportunity to be heard
22 before the commissioner is removed.

23 H. The operating budget for the state ethics
24 commission shall be set by the legislature.

25 I. The state ethics commission may employ an

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1 executive director, whose minimum qualifications shall be set
2 by the legislature.

3 J. The state ethics commission:

4 (1) shall receive and may, if sufficient cause
5 exists, investigate complaints alleging violations of standards
6 of ethical conduct not covered by any laws concerning
7 governmental conduct or personnel matters or by legislative or
8 judicial ethical codes. The commission has no jurisdiction
9 over laws or codes that are eligible for a hearing in an
10 existing tribunal;

11 (2) shall dismiss complaints regarded as
12 frivolous or outside of the jurisdiction of the commission.
13 The commission shall make available as a public record any
14 complaints that have been dismissed and the reason for the
15 dismissal;

16 (3) shall, if it has jurisdiction, upon the
17 presentation of clear and convincing evidence to the commission
18 in a public hearing:

19 (a) decide complaints alleging ethics
20 violations and may impose such penalties and sanctions as
21 established by the legislature; or

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 promulgate rules necessary to
2 implement and administer the provisions of this section;

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

6 (7) may have such other powers and duties and
7 administer or enforce such other acts as the legislature by law
8 so provides.

9 K. State ethics commission determinations may be
10 appealed to the district courts, and in all such appeals, trial
11 shall be de novo unless otherwise provided by law.

12 L. All complaints received by the state ethics
13 commission shall be signed and not anonymous. The commission
14 shall maintain as confidential the complaint and the response
15 until such time as the response is filed or the date the
16 response is due to be filed, whichever is earlier.

17 M. The state ethics commission may award attorney
18 fees and costs against the filers of frivolous complaints. The
19 commission may levy penalties for the filing of complaints
20 intended as harassment, if provided by law.

21 N. The state ethics commission may recommend a
22 matter to the legislature for consideration for impeachment
23 proceedings."

24 **SECTION 2.** The amendment proposed by this resolution
25 shall be submitted to the people for their approval or

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1 rejection at the next general election or at any special
2 election prior to that date that may be called for that
3 purpose.

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