

1 SENATE JOINT RESOLUTION 6

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

3 INTRODUCED BY

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10 A JOINT RESOLUTION

11 PROPOSING AN AMENDMENT TO ARTICLES 5 AND 6 OF THE CONSTITUTION  
12 OF NEW MEXICO TO CREATE A STATE ETHICS COMMISSION WITH THE  
13 POWER TO INVESTIGATE AND ADJUDICATE ALLEGED VIOLATIONS OF  
14 ETHICAL CONDUCT COMMITTED BY ELECTED OFFICIALS, APPOINTED  
15 OFFICIALS AND EMPLOYEES OF THE STATE AND ITS POLITICAL  
16 SUBDIVISIONS AND TO ABOLISH THE JUDICIAL STANDARDS COMMISSION.

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

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

21 "A. The "state ethics commission" is created,  
22 consisting of the following eight commissioners:

23 (1) one commissioner appointed by the majority  
24 floor leader of the senate;

25 (2) one commissioner appointed by the majority

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1 whip of the senate;

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

4 (4) one commissioner appointed by the minority  
5 whip of the senate;

6 (5) one commissioner appointed by the majority  
7 floor leader of the house of representatives;

8 (6) one commissioner appointed by the majority  
9 whip of the house of representatives;

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

12 (8) one commissioner appointed by the minority  
13 whip of the house of representatives.

14 B. All commissioners shall be residents of New  
15 Mexico. No more than four commissioners shall be registered  
16 members of the same political party and no person whose party  
17 registration changed in the year prior to appointment shall be  
18 appointed to the state ethics commission. In making the  
19 appointments, the appointing authorities shall give due  
20 consideration to achieving geographical representation from  
21 across the state.

22 C. Commissioners shall be appointed for staggered  
23 terms of four years. Upon initial appointment of the state  
24 ethics commission, the commissioners shall draw lots to  
25 determine which two commissioners shall serve an initial term

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1 of one year, which two commissioners shall serve an initial  
2 term of two years, which two commissioners shall serve an  
3 initial term of three years and which two commissioners shall  
4 serve an initial term of four years; thereafter, all  
5 commissioners shall serve four-year terms. A person shall not  
6 serve as a commissioner for more than two consecutive four-year  
7 terms.

8 D. The state ethics commission shall select a chair  
9 and other officers as it deems necessary. A commissioner shall  
10 not serve as chair for more than one year during the  
11 commissioner's term; and, for a commissioner who serves two  
12 consecutive terms, at least three years shall intervene between  
13 the commissioner's service as chair. Six commissioners  
14 constitute a quorum for the transaction of business. No action  
15 shall be taken unless at least six commissioners concur. The  
16 commission shall meet as necessary to carry out its duties  
17 pursuant to this section.

18 E. A vacancy on the state ethics commission shall  
19 be filled by appointment of the appointing authority for that  
20 commissioner's position for the remainder of the unexpired  
21 term. A commissioner may only be removed for incompetence,  
22 neglect of duty or malfeasance in office. A proceeding for the  
23 removal of a commissioner may be commenced only by the  
24 commission or by the attorney general upon the request of the  
25 commission. The supreme court of New Mexico has exclusive

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1 jurisdiction over proceedings to remove commissioners, and its  
2 decision shall be final. A commissioner shall be given notice  
3 of hearing and an opportunity to be heard before the  
4 commissioner is removed.

5 F. During a commissioner's service and for a period  
6 of three calendar years immediately preceding a commissioner's  
7 term and following the expiration of the commissioner's term or  
8 following the resignation or removal of the commissioner, the  
9 commissioner shall not:

10 (1) hold or seek an elective or appointed  
11 office of the state or a political subdivision of the state;

12 (2) hold or seek an elective office in a  
13 political party;

14 (3) be an employee of the state or a political  
15 subdivision of the state; or

16 (4) be a lobbyist required to register with  
17 the secretary of state pursuant to law.

18 G. The state ethics commission shall draft an  
19 ethics code, including penalties for violations of the code,  
20 that governs ethical conduct of all elected officials,  
21 appointed officials and employees of the state and its  
22 political subdivisions. The ethics code shall be subject to  
23 enactment by the legislature, provided that two-thirds of all  
24 members elected to each house voting separately vote in favor,  
25 and veto by the governor. Any subsequent revisions or

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1 amendments to the code shall also require that two-thirds of  
2 all members elected to each house voting separately vote in  
3 favor. Upon the code becoming law, the commission shall  
4 receive and investigate, when it deems appropriate, complaints  
5 for alleged violations of the ethics code by elected officials,  
6 appointed officials and employees of the state and its  
7 political subdivisions. The commission may also initiate a  
8 complaint upon receipt of evidence deemed sufficient by the  
9 commission of an alleged violation of the ethics code. The  
10 commission shall have subpoena power for purposes of its  
11 investigations.

12 H. In accordance with this section, any elected  
13 official, appointed official or employee of the state or a  
14 political subdivision of the state may be disciplined, removed  
15 or retired for a violation of the ethics code. The state  
16 ethics commission may, after investigation, order a hearing to  
17 be held before it concerning the discipline, removal or  
18 retirement of an official or an employee. After a hearing, the  
19 commission may order the discipline, removal or retirement of  
20 the official or employee. The commission shall not remove an  
21 elected official from office unless all eight commissioners  
22 concur.

23 I. Upon an order by the state ethics commission for  
24 the retirement of any elected official, appointed official or  
25 employee, the official or employee participating in a statutory

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1 retirement program shall be retired with the same rights as if the  
2 official or employee had retired pursuant to the retirement  
3 program. Upon an order for removal, the official or employee  
4 shall thereby be removed from office, and the official's or  
5 employee's salary shall cease from the date of the order.

6 J. This section is alternative to, and cumulative  
7 with, the removal of state officers, justices, judges and  
8 magistrates by impeachment and the original superintending control  
9 of the supreme court.

10 K. All papers filed with the state ethics commission  
11 and proceedings before the commission are confidential; except  
12 that the commission shall issue a report upon the final  
13 disposition of a complaint. The commission shall promulgate rules  
14 establishing procedures for hearings under this section.

15 L. The state ethics commission may issue advisory  
16 opinions on matters relating to the commission's ethics code.  
17 Unless amended or revoked, an advisory opinion shall be binding on  
18 the commission.

19 M. The state ethics commission shall receive an annual  
20 appropriation by the legislature sufficient to enable it to  
21 perform its duties as set forth in this section. Commissioners  
22 are entitled to receive per diem expense and mileage as provided  
23 by law and shall receive no other compensation, perquisite or  
24 allowance. The commission shall employ an executive director and  
25 other staff, including attorneys, necessary to fulfill its duties.

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1 The executive director shall receive a salary that is equal to the  
2 salary of a district court judge.

3 N. The state ethics commission shall submit an annual  
4 report of its activities, including any recommendations regarding  
5 the ethics code, other state ethics laws or the scope of the  
6 commission's powers and duties, in December of each year to the  
7 governor and the legislature.

8 O. The transition from the judicial standards  
9 commission to the state ethics commission shall be provided by  
10 law."

11 Section 2. It is proposed to amend Article 6 of the  
12 constitution of New Mexico by repealing Section 32.

13 Section 3. The amendment proposed by this resolution shall  
14 be submitted to the people for their approval or rejection at the  
15 next general election or at any special election prior to that  
16 date that may be called for that purpose.