

1 HOUSE JOINT RESOLUTION 5  
2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY  
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10 A JOINT RESOLUTION  
11 PROPOSING AN AMENDMENT TO ARTICLE 5 OF THE CONSTITUTION OF NEW  
12 MEXICO TO CREATE AN INDEPENDENT STATE ETHICS COMMISSION TO  
13 OVERSEE THE CONDUCT OF EXECUTIVE AND LEGISLATIVE BRANCH STATE  
14 OFFICERS, EMPLOYEES IN THE EXECUTIVE AND LEGISLATIVE BRANCHES  
15 OF GOVERNMENT, GOVERNMENT CONTRACTORS AND LOBBYISTS.  
16

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

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

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

24 (1) three commissioners appointed by the  
25 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;

18 (2) not have changed political party  
19 affiliation within the previous two years; and

20 (3) not be, or within the previous five years  
21 not have been, a state officer or employee in the executive or  
22 legislative branch of government.

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

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

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

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

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

22 G. The state ethics commission shall receive an  
23 annual appropriation by the legislature sufficient to enable it  
24 to perform its duties.

25 H. The state ethics commission shall employ an

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1 executive director, who shall be a licensed attorney in the  
2 state, and other staff as necessary to fulfill its duties. The  
3 executive director shall receive a salary that is equal to the  
4 salary of a district court judge.

5 I. The state ethics commission:

6 (1) may initiate, and shall receive and  
7 investigate, complaints alleging violations:

8 (a) by state officers or employees in  
9 the executive or legislative branch of government of laws  
10 imposing standards of ethical conduct on state officers and  
11 employees;

12 (b) of laws imposing campaign finance  
13 restrictions or reporting requirements for candidates and other  
14 participants in campaigns for state or county elected offices;

15 (c) of registration requirements or  
16 standards of conduct for lobbyists; and

17 (d) of disclosure requirements or  
18 standards of conduct for state contractors or seekers of state  
19 contracts;

20 (2) shall, upon the presentation of clear and  
21 convincing evidence to the commission in a public hearing:

22 (a) adjudicate complaints alleging  
23 violations for which civil penalties or sanctions may be  
24 imposed under the laws described in Paragraph (1) of this  
25 subsection and may impose such penalties and sanctions as

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1 provided by those laws; or

2 (b) refer to the appropriate  
3 prosecutorial authority complaints alleging conduct that may be  
4 criminal violations of the law;

5 (3) may petition the courts for suspension or  
6 other appropriate action pending investigation by the  
7 appropriate enforcement authority for violations of the laws  
8 described in Paragraph (1) of this subsection;

9 (4) may issue advisory opinions;

10 (5) may promulgate rules necessary to  
11 implement and administer the provisions of this section;

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

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

18 J. All complaints received by the state ethics  
19 commission shall be signed and not anonymous. The commission  
20 shall maintain as confidential the complaint and the response  
21 until such time as the response is filed or the date the  
22 response is due to be filed, whichever is earlier.

23 K. For the purposes of this section, "state officer  
24 or employee" means any elected or appointed official or  
25 employee of a state agency, instrumentality or institution of

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1 the state in the executive or legislative branch of  
2 government."

3 SECTION 2. The amendment proposed by this resolution  
4 shall be submitted to the people for their approval or  
5 rejection at the next general election or at any special  
6 election prior to that date that may be called for that  
7 purpose.

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