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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/16
SPONSOR Zimmerman/Little **LAST UPDATED** _____ **HJR** 23

SHORT TITLE State Ethics Commission **SB** _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Ballot Measure		\$104.0		\$104.0	Nonrecurring	General Fund
Commission Operations			\$390.0	\$390.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Joint Resolution 23 amends Article 5 of the New Mexico Constitution to create the state ethics commission. The proposed commission would have nine members selected by the Governor, legislative leadership, and the Chief Justice of the Supreme Court. The commission could not take action unless six of the nine members concur and the commission is prohibited from meeting more than six times per year. HJR 23 states that the commission *may* appoint an executive director who shall receive and investigate complaints.

HJR 23 prohibits the commission from hearing cases that are eligible for a hearing in an existing tribunal. The commission shall, upon the presentation of clear and convincing evidence in a public hearing, decide complaints alleging violations and refer cases to the proper authority if a criminal violation may have occurred. Additionally, the commission may issue advisory opinions, promulgate rules, and issue subpoenas.

Any appeals of commission findings shall be heard at the district court in a trial de novo.

FISCAL IMPLICATIONS

Should this amendment be accepted by voters, the Legislature would need to establish a budget for the commission for fiscal year 18, the first year of operations. Based upon information provided by the Secretary of State’s Office, estimated annual costs for the commission are:

Personal Services / Employee Benefits:	\$230.0
Other Costs:	\$160.0
Total:	\$390.0

The SOS estimate for costs are based on an assumption of 2 FTE, an executive director and general counsel, operational costs, and mileage and per diem for commissioners.

According to the New Mexico constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment, in both Spanish and English; the state shall have sample ballots printed and furnished to the counties; and the expense incurred by the SOS in printing and distribution the ballots shall be paid by the state. The SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. In 2010, the SOS reports the cost of placing a constitutional amendment on the ballot was \$104.0 thousand.

SIGNIFICANT ISSUES

HJR 23 does not specify what state officials or employees are overseen by the commission. It is unclear if the provisions apply to all state employees, elected officials, lobbyists, public and higher educational institutional employees.

The commission may investigate complaints if the alleged violation is not covered by laws concerning governmental conduct or personnel matters, or by legislative or judicial ethical codes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR 23 conflicts with HJR 5, HB 80 and SB 124 which seek to create a state ethics commission.

OTHER SUBSTANTIVE ISSUES

Should this amendment be accepted by voters, the Legislature would need to establish a budget for the commission for fiscal year 18, the first year of operations.

TECHNICAL ISSUES

The resolution short title should be amend to include “CA” at the end of the title.

CJ/jle/al