

LFC Requester:	Connor Jorgensen
-----------------------	-------------------------

**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 02/25/2015
Original **Amendment** **Bill No:** HJR 15CA
Correction **Substitute**

Sponsor: Zachary J. Cook and Peter Wirth **Agency Code:** 30500
Short State Ethics Commission **Person Writing** Rick Word, AAG
Title: _____ **Phone:** 827-6070 **Email** rword@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Joint Resolution 15 proposes an amendment to the New Mexico Constitution to create a State Ethics Commission. In particular, HJR 15 proposes to amend Article V of the Constitution by adding a new section creating an independent state agency, the State Ethics Commission. HJR 15 provides that the proposed constitutional amendment be placed on the next general election or any special election prior to that date called for that purpose.

Under the proposed Amendment, the Ethics Commission would be comprised of eleven members, with no more than five being members of the same political party. The Governor would appoint five members, with four members appointed by the majority and minority floor leaders of the New Mexico legislature, and two by the chief justice of the Supreme Court.

HJR 15 provides that the Commission could take no action unless at least six members concur. HJR 15 also provides that the Commission or the Attorney General can seek removal of a Commissioner only for incompetence, neglect of duty, or malfeasance in office. The Supreme Court has exclusive jurisdiction over any action to remove a commissioner.

Under the proposed Amendment, the Commission would be empowered to “take, initiate and investigate complaints alleging violations” of certain laws described generally in Section 1(H)(1) of the Joint Resolution. Section 1(H)(2) further provides that the Commission shall “administer the provisions” of these laws. The proposed Amendment would also authorize the Commission to promulgate rules, issue subpoenas, and to “administer and enforce such other acts as the legislature by law so provides.”

FISCAL IMPLICATIONS

It is not clear from the text of HJR 15 if the Attorney General’s office would provide general counsel and administrative prosecutor services for the Commission, as the Office does for many Boards and Commissions. That could be specified in the implementation legislation that will need to be enacted if this Constitutional Amendment is adopted by the voters.

SIGNIFICANT ISSUES

Whether New Mexico should join the reportedly 42 other States that have independent Ethics Commissions, and whether New Mexico should do so through adoption of a Constitutional Amendment.

PERFORMANCE IMPLICATIONS

See Fiscal Implications above.

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 115 would create a similar independent State Ethics Commission by statute rather than a Constitutional Amendment.

TECHNICAL ISSUES

There may be some level of ambiguity regarding the authority of the Commission to impose sanctions or take other administrative enforcement action when an investigation determines a violation of applicable ethics laws has occurred, and a statute authorizes administrative penalties. Section 1(H)(2) provides that the Commission shall “administer the provisions” of certain laws regulating the conduct of officials, candidates, lobbyist, and state contractors. Section 1(H)(5) provides that the legislature can enact laws authorizing the Commission to “administer and enforce” other acts. Presumably, any potential ambiguities like this can be addressed in the implementing legislation that will be required if this Constitutional Amendment is adopted.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A