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HOUSE JOINT RESOLUTION 5  
**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY  
Joseph Cervantes

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

A JOINT RESOLUTION  
PROPOSING AN AMENDMENT TO ARTICLE 6, SECTION 35 OF THE  
CONSTITUTION OF NEW MEXICO TO ALLOW A PRIMARY ELECTION AND A  
GENERAL ELECTION TO BE HELD FOR CERTAIN JUDICIAL OFFICES FILLED  
BY APPOINTMENT BY REQUIRING AN APPOINTED JUDGE TO SERVE AT  
LEAST ONE FULL YEAR ON THE BENCH BEFORE AN ELECTION IS HELD TO  
FILL THAT OFFICE.

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

Section 1. It is proposed to amend Article 6, Section 35  
of the constitution of New Mexico to read:

"There is created the "appellate judges nominating  
commission", consisting of: the chief justice of the supreme  
court or the chief justice's designee from the supreme court;  
two judges of the court of appeals appointed by the chief judge  
of the court of appeals; the governor, the speaker of the house

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1 of representatives and the president pro tempore of the senate,  
2 who shall each appoint two persons, one of whom shall be an  
3 attorney licensed to practice law in this state and the other  
4 who shall be a citizen who is not licensed to practice law in  
5 any state; the dean of the university of New Mexico school of  
6 law, who shall serve as [~~chairman~~] chair of the commission and  
7 shall vote only in the event of a tie vote; four members of the  
8 state bar of New Mexico, representing civil and criminal  
9 prosecution and defense, appointed by the president of the  
10 state bar and the judges on [~~this committee~~] the commission.

11 The appointments shall be made in such manner that each of the  
12 two largest major political parties, as defined by the Election  
13 Code, shall be equally represented on the commission. If  
14 necessary, the president of the state bar and the judges on  
15 [~~this committee~~] the commission shall make the minimum number  
16 of additional appointments of members of the state bar as is  
17 necessary to make each of the two largest major political  
18 parties be equally represented on the commission. These  
19 additional members of the state bar shall be appointed such  
20 that the diverse interests of the state bar are represented.  
21 The dean of the university of New Mexico school of law shall be  
22 the final arbiter of whether such diverse interests are  
23 represented. Members of the commission shall be appointed for  
24 terms as may be provided by law. If a position on the  
25 commission becomes vacant for any reason, the successor shall

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1 be selected by the original appointing authority in the same  
2 manner as the original appointment was made and shall serve for  
3 the remainder of the term vacated.

4 The commission shall actively solicit, accept and evaluate  
5 applications from qualified lawyers for the position of justice  
6 of the supreme court or judge of the court of appeals and may  
7 require an applicant to submit any information it deems  
8 relevant to the consideration of [~~his~~] the application.

9 Upon the occurrence of an actual vacancy in the office of  
10 justice of the supreme court or judge of the court of appeals,  
11 the commission shall meet within thirty days and within that  
12 period submit to the governor the names of persons qualified  
13 for the judicial office and recommended for appointment to that  
14 office by a majority of the commission.

15 Immediately after receiving the commission nominations,  
16 the governor may make one request of the commission for  
17 submission of additional names, and the commission shall  
18 promptly submit such additional names if a majority of the  
19 commission finds that additional persons would be qualified and  
20 recommends those persons for appointment to the judicial  
21 office. The governor shall fill a vacancy or appoint a  
22 successor to fill an impending vacancy in the office of justice  
23 of the supreme court or judge of the court of appeals within  
24 thirty days after receiving final nominations from the  
25 commission by appointing one of the persons nominated by the

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1 commission for appointment to that office. If the governor  
2 fails to make the appointment within that period or from those  
3 nominations, the appointment shall be made from those  
4 nominations by the chief justice or the acting chief justice of  
5 the supreme court. Any person appointed shall serve until the  
6 next general election following one full year of service in the  
7 judicial office. That person's successor shall be chosen at  
8 such election and shall hold the office until the expiration of  
9 the [~~original~~] term in effect on January 1 following the  
10 general election."

11 Section 2. The amendment proposed by this resolution  
12 shall be submitted to the people for their approval or  
13 rejection at the next general election or at any special  
14 election prior to that date that may be called for that  
15 purpose.

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