

1 SENATE JOINT RESOLUTION 10

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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10 A JOINT RESOLUTION

11 PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO TRANSFER  
12 THE ADMINISTRATION OF STATE ELECTIONS TO A NONPARTISAN OFFICE  
13 OF ELECTIONS WHOSE OPERATION IS OVERSEEN AND WHOSE DIRECTOR IS  
14 APPOINTED BY AN INDEPENDENT ELECTION COMMISSION.

15  
16 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "A. The "office of elections" is created as a  
20 nonpartisan independent office in the executive branch as of  
21 July 1, 2015. The office of elections shall be responsible for  
22 conducting and overseeing state elections, performing duties  
23 pertaining to the state administration of elections and  
24 performing related duties as provided by law. The director of  
25 the office of elections shall be the chief election officer of

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1 the state and shall be appointed by the election commission.  
2 The duties and qualifications of the director shall be as  
3 provided by law.

4 B. The "election commission" is created as an  
5 independent elections oversight commission that shall consist  
6 of the following members, no more than three of whom may be  
7 members of the same political party:

8 (1) one election director from the county  
9 clerk offices of the five most populous counties, appointed by  
10 majority vote of the county clerks;

11 (2) one election director from the county  
12 clerk offices of the remaining counties, appointed by majority  
13 vote of the county clerks; and

14 (3) five public members, who shall have  
15 expertise in the area of elections, appointed by the governor  
16 from a list of nominees submitted to the governor by the  
17 majority and minority leaders of the senate and the house of  
18 representatives.

19 C. Members of the commission shall be appointed for  
20 staggered terms of six years, beginning January 1 of the year  
21 of their appointment. Upon initial appointment of the  
22 commission, which shall occur no later than March 1, 2015, the  
23 members shall draw lots to determine which two members shall  
24 serve initial terms of two years, which two members shall serve  
25 initial terms of four years and which two members shall serve

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1 initial terms of six years; thereafter, all members shall serve  
2 six-year terms.

3 D. A vacancy on the commission shall be filled by  
4 appointment by the original appointing authority for that  
5 member's unexpired term, using the process by which that member  
6 was originally appointed. A member shall be removed only for  
7 incompetence, neglect of duty or malfeasance in office. The  
8 state supreme court has exclusive jurisdiction over proceedings  
9 to remove a commission member, and its decision shall be final.  
10 A member shall be given notice of hearing for removal, which  
11 notice shall state the grounds for removal, and be given an  
12 opportunity to be heard before the member is removed.

13 E. The election commission shall:

- 14 (1) appoint the director of elections;  
15 (2) formulate policies for the operation and  
16 conduct of the office of elections;  
17 (3) generally supervise the activities of the  
18 office of elections;  
19 (4) approve the annual budget of the office of  
20 elections to be submitted to the legislature; and  
21 (5) prepare an annual report for the governor  
22 and the legislature on the state of election law and the  
23 conduct of elections in the state.

24 F. Members of the commission are entitled to  
25 receive per diem and mileage at internal revenue service per

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1 diem rate for the city of Santa Fe and the internal revenue  
2 service standard mileage rate for travel while engaged in the  
3 performance of their official duties for the commission."

4 SECTION 2. It is proposed to amend Article 4, Section 1  
5 of the constitution of New Mexico to read:

6 "A. The legislative power shall be vested in a  
7 senate and house of representatives, which shall be designated  
8 the legislature of the state of New Mexico, and shall hold its  
9 sessions at the seat of government.

10 B. The people reserve the power to disapprove,  
11 suspend and annul any law enacted by the legislature, except  
12 general appropriation laws; laws providing for the preservation  
13 of the public peace, health or safety; for the payment of the  
14 public debt or interest thereon, or the creation or funding of  
15 the same, except as in this constitution otherwise provided;  
16 for the maintenance of the public schools or state  
17 institutions; and local or special laws. Petitions  
18 disapproving any law other than those above excepted, enacted  
19 at the last preceding session of the legislature, shall be  
20 filed with the ~~[secretary of state]~~ office of elections not  
21 less than four months prior to the next general election. Such  
22 petitions shall be signed by not less than ten ~~[per centum]~~  
23 percent of the qualified electors of each of three-fourths of  
24 the counties and in the aggregate by not less than ten ~~[per~~  
25 ~~centum]~~ percent of the qualified electors of the state, as

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1 shown by the total number of votes cast at the last preceding  
2 general election. The question of the approval or rejection of  
3 such law shall be submitted by the ~~[secretary of state]~~ office  
4 of elections to the electorate at the next general election  
5 ~~[and]~~. If a majority of the legal votes cast thereon, and not  
6 less than forty ~~[per centum]~~ percent of the total number of  
7 legal votes cast at such general election, be cast for the  
8 rejection of such law, it shall be annulled and thereby  
9 repealed with the same effect as if the legislature had then  
10 repealed it, and such repeal shall revive any law repealed by  
11 the act so annulled; otherwise, it shall remain in force unless  
12 subsequently repealed by the legislature. If such petition or  
13 petitions be signed by not less than twenty-five ~~[per centum]~~  
14 percent of the qualified electors under each of the foregoing  
15 conditions, and be filed with the ~~[secretary of state]~~ office  
16 of elections within ninety days after the adjournment of the  
17 session of the legislature at which such law was enacted, the  
18 operation thereof shall be thereupon suspended and the question  
19 of its approval or rejection shall be likewise submitted to a  
20 vote at the next ensuing general election. If a majority of  
21 the votes cast thereon and not less than forty ~~[per centum]~~  
22 percent of the total number of votes cast at such general  
23 election be cast for its rejection, it shall be thereby  
24 annulled; otherwise, it shall go into effect upon publication  
25 of the certificate of the ~~[secretary of state]~~ office of

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1 elections declaring the result of the vote thereon. It shall  
2 be a felony for any person to sign any such petition with any  
3 name other than [~~his~~] the person's own, or to sign [~~his~~] the  
4 person's own name more than once for the same measure, or to  
5 sign such petition when [~~he~~] the person is not a qualified  
6 elector in the county specified in such petition; provided that  
7 nothing herein shall be construed to prohibit the writing  
8 thereon of the name of any person who cannot write, and who  
9 signs the same with [~~his~~] the person's mark. The legislature  
10 shall enact laws necessary for the effective exercise of the  
11 power hereby reserved."

12 **SECTION 3.** It is proposed to amend Article 5, Section 2  
13 of the constitution of New Mexico to read:

14 "The returns of every election for state officers shall be  
15 sealed up and transmitted to the [~~secretary of~~] chief election  
16 officer of the state, who, with the governor and chief justice,  
17 shall constitute the state canvassing board, which shall  
18 canvass and declare the result of the election. The joint  
19 candidates having the highest number of votes cast for governor  
20 and lieutenant governor and the person having the highest  
21 number of votes for any other office, as shown by said returns,  
22 shall be declared duly elected. If two or more have an equal,  
23 and the highest, number of votes for the same office or  
24 offices, one of them, or any two for whom joint votes were cast  
25 for governor and lieutenant governor respectively, shall be

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1 chosen therefor by the legislature on joint ballot."

2 SECTION 4. It is proposed to amend Article 19, Section 1  
3 of the constitution of New Mexico to read:

4 "A. An amendment or amendments to this constitution  
5 may be proposed in either house of the legislature at a regular  
6 session, and if a majority of all members elected to each of  
7 the two houses voting separately votes in favor thereof, the  
8 proposed amendment or amendments shall be entered on their  
9 respective journals with the yeas and nays thereon.

10 B. An amendment or amendments may also be proposed  
11 by an independent commission established by law for that  
12 purpose, and the amendment or amendments shall be submitted to  
13 the legislature for its review in accordance with the  
14 provisions of this section.

15 C. The [~~secretary of state~~] office of elections  
16 shall cause any such amendment or amendments to be published in  
17 at least one newspaper in every county of the state, where a  
18 newspaper is published once each week, for four consecutive  
19 weeks, in English and Spanish when newspapers in both of said  
20 languages are published in such counties, the last publication  
21 to be not more than two weeks prior to the election at which  
22 time said amendment or amendments shall be submitted to the  
23 electors of the state for their approval or rejection; and  
24 shall further provide notice of the content and purpose of  
25 legislatively approved constitutional amendments in both

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1 English and Spanish to inform electors about the amendments in  
2 the time and manner provided by law. The [~~secretary of state~~]  
3 office of elections shall also make reasonable efforts to  
4 provide notice of the content and purpose of legislatively  
5 approved constitutional amendments in indigenous languages and  
6 to minority language groups to inform electors about the  
7 amendments. Amendments approved by the legislature shall be  
8 voted upon at the next regular election held after the  
9 adjournment of that legislature or at a special election to be  
10 held not less than six months after the adjournment of that  
11 legislature, at such time and in such manner as the legislature  
12 may by law provide. An amendment that is ratified by a  
13 majority of the electors voting on the amendment shall become  
14 part of this constitution.

15 D. If two or more amendments are initiated by the  
16 legislature, they shall be so submitted as to enable the  
17 electors to vote on each of them separately. Amendments  
18 initiated by an independent commission created by law for that  
19 purpose may be submitted to the legislature separately or as a  
20 single ballot question, and any such commission-initiated  
21 amendments that are not substantially altered by the  
22 legislature may be submitted to the electors in the separate or  
23 single ballot question form recommended by the commission. No  
24 amendment shall restrict the rights created by Sections One and  
25 Three of Article VII hereof, on elective franchise, and

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1 Sections Eight and Ten of Article XII hereof, on education,  
2 unless it be proposed by vote of three-fourths of the members  
3 elected to each house and be ratified by a vote of the people  
4 of this state in an election at which at least three-fourths of  
5 the electors voting on the amendment vote in favor of that  
6 amendment."

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