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HOUSE JOINT RESOLUTION 5

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

FRANK BIRD

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 6 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR APPOINTMENT OF JUSTICES AND JUDGES FOR A SINGLE TERM AND INCREASING QUALIFICATIONS FOR JUSTICES AND JUDGES.

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

Section 1. It is proposed to amend Article 6, Section 8 of the constitution of New Mexico to read:

"No person shall be qualified to hold the office of justice of the supreme court unless that person is at least thirty-five years old and has been in the actual practice of law for at least [~~ten~~] fifteen years preceding that person's assumption of office and has resided in this state for at least three years immediately preceding that person's assumption of office. The actual practice of law shall

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1 include a lawyer's service upon the bench of any court of this
2 state. The increased qualifications provided by this [1988]
3 1998 amendment shall not apply to justices and judges serving
4 at the time this amendment passes or elected at the general
5 election in [1988] 1998. "

6 Section 2. It is proposed to amend Article 6, Section 14
7 of the constitution of New Mexico to read:

8 "The qualifications of the district judges shall be the
9 same as those of justices of the supreme court [~~except that~~
10 ~~district judges shall have been in the actual practice of law~~
11 ~~for at least six years preceding assumption of office~~]. Each
12 district judge shall reside in the district for which the
13 judge was [~~elected or~~] appointed. The increased
14 qualifications provided by this [1988] 1998 amendment shall
15 not apply to district judges serving at the time this
16 amendment passes or elected at the general election in [1988]
17 1998. "

18 Section 3. It is proposed to amend Article 6, Section 16
19 of the constitution of New Mexico to read:

20 "The legislature may increase the number of district
21 judges in any judicial district, and they shall be [~~elected~~
22 ~~or~~] appointed as other district judges for that district. At
23 any session after the publication of the census of the United
24 States in the year nineteen hundred and twenty, the
25 legislature may rearrange the districts of the state, increase

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1 the number [~~thereof~~] of judges and make provision for a
2 district judge for any additional district. "

3 Section 4. It is proposed to amend Article 6, Section 28
4 of the constitution of New Mexico to read:

5 "The court of appeals shall consist of not less than
6 seven judges who shall be chosen as provided in this
7 constitution, whose qualifications shall be the same as those
8 of justices of the supreme court and whose compensation shall
9 be as provided by law. The increased qualifications provided
10 by this [~~1988~~] 1998 amendment shall not apply to court of
11 appeals judges serving at the time this amendment passes or
12 elected at the general election in [~~1988~~] 1998.

13 Three judges of the court of appeals shall constitute a
14 quorum for the transaction of business, and a majority of
15 those participating must concur in any judgment of the court.

16 When necessary, the chief justice of the supreme court
17 may designate any justice of the supreme court, or any
18 district judge of the state, to act as a judge of the court of
19 appeals, and the chief justice may designate any judge of the
20 court of appeals to hold court in any district, or to act as a
21 justice of the supreme court. "

22 Section 5. It is proposed to amend Article 6, Section 33
23 of the constitution of New Mexico to read:

24 "A. Each justice of the supreme court, judge of
25 the court of appeals, district judge or metropolitan court

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1 judge shall ~~[have been elected to that position in a partisan~~
2 ~~election prior to being eligible for a nonpartisan retention~~
3 ~~election. Thereafter, each such justice or judge shall be~~
4 ~~subject to retention or rejection on a nonpartisan ballot.~~
5 ~~Retention of the judicial office shall require at least fifty-~~
6 ~~seven percent of the vote cast on the question of retention or~~
7 ~~rejection.~~

8 B. ~~Each justice of the supreme court or judge of~~
9 ~~the court of appeals shall be subject to retention or~~
10 ~~rejection in like manner at the general election every eighth~~
11 ~~year.~~

12 C. ~~Each district judge shall be subject to~~
13 ~~retention or rejection in like manner at the general election~~
14 ~~every sixth year.~~

15 D. ~~Each metropolitan court judge shall be subject~~
16 ~~to retention or rejection in like manner at the general~~
17 ~~election every fourth year.~~

18 E. ~~Every justice of the supreme court, judge of~~
19 ~~the court of appeals, district judge or metropolitan court~~
20 ~~judge holding office on January 1 next following the date of~~
21 ~~the election at which this amendment is adopted shall be~~
22 ~~deemed to have fulfilled the requirements of Subsection A of~~
23 ~~this section and the justice or judge shall be eligible for~~
24 ~~retention or rejection by the electorate at the general~~
25 ~~election next preceding the end of the term of which the~~

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1 ~~justice or judge was last elected prior to the adoption of~~
2 ~~this amendment]~~ be appointed by the governor with the advice
3 and consent of the senate. The term of each appointment is
4 ten years plus any additional time necessary to ensure that
5 the term expires on December 31. A justice or judge cannot
6 serve more than one term, except as otherwise provided in this
7 section. A person may be appointed to serve in a judgeship
8 superior or inferior to the one to which he was previously
9 appointed; the term of the new appointment is ten years plus
10 any additional time necessary to ensure that the term expires
11 on December 31. If a vacancy in a judgeship occurs, a
12 qualified person, who may be a judge holding a superior or
13 inferior judgeship, shall be appointed by the governor and
14 confirmed by the senate to fill the vacancy. The person
15 appointed to fill the vacancy shall serve one ten-year term
16 plus any additional time necessary to ensure that the term
17 expires on December 31.

18 B. Every justice of the supreme court, judge of
19 the court of appeals, district judge or metropolitan court
20 judge holding or taking office on January 1, 1999 shall serve
21 out the term for which elected or retained and, thereafter,
22 shall be eligible for appointment for one full ten-year term
23 plus any additional time necessary to ensure that the term
24 expires on December 31. When a vacancy occurs in a term
25 extant on January 1, 1999, the term shall be considered

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1 expired, and the governor shall appoint a qualified person to
2 fill a full ten-year term. "

3 Section 6. It is proposed to amend Article 6 of the
4 constitution of New Mexico by repealing Sections 10, 34, 35,
5 36 and 37.

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

1 **FORTY-THIRD LEGISLATURE**

2 **SECOND SESSION, 1998**

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6 **February 5, 1998**

7
8 **Mr. Speaker:**

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10 **Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to**
11 **whom has been referred**

12
13 **HOUSE JOINT RESOLUTION 5**

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15 **has had it under consideration and reports same with**
16 **recommendation that it DO PASS, and thence referred to the**
17 **JUDICIARY COMMITTEE.**

18 **Respectfully submitted,**

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22 _____
23 **Lynda M. Lovejoy, Chairman**

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 8

4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 4 For 1 Against

11 Yes: 4

12 No: Lovejoy

13 Excused: Beam, Taylor, J. P.

14 Absent: None

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