

HOUSE JOINT RESOLUTION 12

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 12, SECTION 13 OF THE
CONSTITUTION OF NEW MEXICO TO ESTABLISH THE FIDUCIARY DUTIES OF
MEMBERS OF BOARDS OF REGENTS OF STATE EDUCATIONAL INSTITUTIONS,
VEST DISTRICT COURTS WITH ORIGINAL JURISDICTION OVER ACTIONS TO
REMOVE BOARD MEMBERS AND PROVIDE THAT THE ATTORNEY GENERAL OR A
MAJORITY OF THE MEMBERS OF A BOARD OF REGENTS MAY SEEK REMOVAL
OF A MEMBER.

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

SECTION 1. It is proposed to amend Article 12, Section 13
of the constitution of New Mexico to read:

"A. The legislature shall provide for the control
and management of each of the institutions, except the
university of New Mexico, by a board of regents for each
institution, consisting of five members, four of whom shall be

.230084.2

underscoring material = new
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underscored material = new
~~[bracketed material] = delete~~

1 qualified electors of the state of New Mexico, one of whom
2 shall be a member of the student body of the institution and no
3 more than three of whom at the time of their appointment shall
4 be members of the same political party; provided, however, that
5 the student body member provision in this subsection shall not
6 apply to the New Mexico school for the deaf, the New Mexico
7 military institute or the New Mexico school for the blind and
8 visually impaired, and for each of those three institutions all
9 five members of the board of regents shall be qualified
10 electors of the state of New Mexico.

11 B. The governor shall nominate and by and with the
12 consent of the senate shall appoint the members of each board
13 of regents for each of the institutions. The terms of
14 nonstudent members shall be for staggered terms of six years,
15 and the terms of student members shall be two years.

16 C. The governor shall select, with the advice and
17 consent of the senate, a student member from a list provided by
18 the president of the institution. In making the list, the
19 president of the institution shall give due consideration to
20 the recommendations of the student body president of the
21 institution. Following the approval by the voters of this 2014
22 amendment and upon the first vacancy of a position on the
23 northern New Mexico state school board of regents, the governor
24 shall nominate and by and with the consent of the senate shall
25 appoint a student member to serve a two-year term.

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underscoring material = new
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1 D. The legislature shall provide for the control
2 and management of the university of New Mexico by a board of
3 regents consisting of seven members, six of whom shall be
4 qualified electors of the state of New Mexico, one of whom
5 shall be a member of the student body of the university of New
6 Mexico and no more than four of whom at the time of their
7 appointment shall be members of the same political party. The
8 governor shall nominate and by and with the consent of the
9 senate shall appoint the members of the board of regents. The
10 present five members shall serve out their present terms. The
11 two additional members shall be appointed in 1987 for terms of
12 six years. Following the approval by the voters of this
13 amendment and upon the first vacancy of a position held by a
14 nonstudent member on the university of New Mexico's board of
15 regents, the governor shall nominate and by and with the
16 consent of the senate shall appoint a student member to serve a
17 two-year term. The governor shall select, with the advice and
18 consent of the senate, a student member from a list provided by
19 the president of the university of New Mexico. In making the
20 list, the president of the university of New Mexico shall give
21 due consideration to the recommendations of the student body
22 president of the university.

23 E. Each member of a board of regents holds a
24 position of trust and owes a fiduciary duty to the institution
25 that the member serves, and the member's control and management

.230084.2

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1 of that institution shall at all times be subject to and
2 limited by the member's adherence to the member's fiduciary
3 duty. The fiduciary duties of each member of a board of
4 regents include a duty of undivided loyalty; a duty of due care
5 and prudent administration of the member's responsibilities; a
6 duty to act in good faith; and an obligation to conduct
7 business in accordance with the laws of the state of New Mexico
8 and the internal policies of the institution that the member
9 serves. The fiduciary duties of a board of regents of an
10 institution extend to any of the institution's administrators
11 to whom the board of regents delegates its authority. The
12 legislature may provide for additional duties for a board of
13 regents and may define the scope of the board of regents'
14 control and management of the institution that the board
15 serves.

16 ~~[E.] F. Members of the board shall not be removed~~
17 ~~except for incompetence, neglect, [of duty] breaches of~~
18 ~~fiduciary duties, breaches of other duties or malfeasance in~~
19 ~~office. [Provided, however, no removal shall be made without~~
20 ~~notice of hearing and an opportunity to be heard having first~~
21 ~~been given such member. The supreme court of the state of New~~
22 ~~Mexico is hereby given exclusive original jurisdiction over~~
23 ~~proceedings to remove members of the board under such rules as~~
24 ~~it may promulgate, and its decision in connection with such~~
25 ~~matters shall be final.] Incompetence, neglect, breach of a~~

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1 fiduciary duty, breach of other duties or malfeasance of a
2 member of a board may be remedied as provided by law or as
3 recognized in a common-law cause of action. A member of a
4 board of regents may be removed from the board of the
5 institution that the member serves by an action seeking removal
6 of the member filed in the district court by the attorney
7 general or by a majority of the other members of the board of
8 regents of the institution that the member serves."

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