SENATE JOINT RESOLUTION 1

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 5, SECTION 2 AND ARTICLE 7, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO TO REQUIRE PRIMARY ELECTIONS FOR STATEWIDE OFFICES, LEGISLATIVE OFFICES AND UNITED STATES CONGRESSIONAL OFFICES TO BE CONDUCTED AS NONPARTISAN OPEN PRIMARY ELECTIONS AND TO REQUIRE INSTANT RUNOFFS TO BE USED FOR GENERAL ELECTIONS FOR STATEWIDE OFFICES, LEGISLATIVE OFFICES AND UNITED STATES CONGRESSIONAL OFFICES.

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

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

"The returns of every election for state officers shall be sealed up and transmitted to the secretary of state, who, with the governor and chief justice, shall constitute the state canvassing board, which shall canvass and declare the result of

.221423.2

1 the election. [The joint candidates having the highest number

2 of votes cast for governor and lieutenant governor and the

3 person having the highest number of votes for any other office,

4 as shown by said returns, shall be declared duly elected] If

5 two [or more] candidates, or joint candidates in the case of

6 governor and lieutenant governor, have an equal [and the

7 highest] number of votes for the same office or offices, one of

8 them, or any two for whom joint votes were cast for governor

9 and lieutenant governor respectively, shall be chosen therefor

10 by the legislature on joint ballot."

11   **SECTION 2.** It is proposed to amend Article 7, Section 5

12 of the constitution of New Mexico to read:

13   "A. All elections shall be by ballot.

14   B. Except as provided in this section, the

15 legislature may provide by law for runoff elections for all

16 elections other than municipal [primary or statewide]

17 elections; provided that if the legislature does not provide

18 for runoff elections, the person who receives the highest

19 number of votes for [any] an office, except as provided in

20 Subsections C through F of this section, [and except in the

21 cases of the offices of governor and lieutenant governor] shall

22 be declared elected to that office. [The joint candidates

23 receiving the highest number of votes for the offices of

24 governor and lieutenant governor shall be declared elected to

25 those offices.]

.221423.2

1   C.   Primary elections for statewide offices,

2 legislative offices and United States congressional offices

3 shall be conducted as nonpartisan open primary elections. A

4 qualified elector who is eligible to vote, regardless of

5 political party affiliation or no political party affiliation,

6 shall be allowed to vote in a nonpartisan open primary

7 election.

8   D.   All candidates for an office in a nonpartisan

9 open primary election shall be listed on a single primary

10 election ballot. Candidates for the offices of governor and

11 lieutenant governor shall be considered joint candidates and

12 listed as a ticket. A candidate in a nonpartisan open primary

13 election may choose to have the candidate's political party

14 affiliation or no political party affiliation designated on the

15 ballot. Designation of a political party affiliation by a

16 candidate shall not constitute or imply the nomination,

17 endorsement or selection of the candidate by the political

18 party designated; provided that a political party may choose to

19 have its candidate endorsements indicated on the ballot. The

20 four candidates, or joint candidates in the case of governor

21 and lieutenant governor, that receive the highest numbers of

22 votes cast in a nonpartisan open primary election for a

23 statewide office, legislative office or United States

24 congressional office shall appear on the general election

25 ballot for that office. No other names shall appear on the

.221423.2

general election ballot. If four or fewer candidates, or joint

candidates in the case of governor and lieutenant governor,

qualify for the nonpartisan open primary election, as provided

by law, the nonpartisan open primary election shall not be held

for that office, and those candidates or joint candidates shall

automatically appear on the general election ballot.

E. Instant runoffs shall be used for general

elections for statewide offices, legislative offices and United

States congressional offices. The general election ballot

shall provide the opportunity to mark a first choice, second

choice, third choice and fourth choice for each office

appearing on the ballot, or joint offices in the case of

governor and lieutenant governor, if that many candidates or

joint candidates qualify for the general election ballot. A

qualified elector who is eligible to vote is not required to

mark any choices for an office in a general election, and if

the qualified elector does not mark any choices for an office,

any other votes cast on the qualified elector's ballot shall

not be invalidated.

F. For a general election instant runoff, votes

shall first be counted based on the first-choice votes. If a

candidate, or joint candidates in the case of governor and

lieutenant governor, receive a majority of votes based on the

first-choice votes, that candidate or those joint candidates

shall be declared the winner. If no candidate, or joint

.221423.2

underscored material = new
[bracketed material] = delete

1 candidates in the case of governor and lieutenant governor,

2 receive a majority of votes after all first-choice votes are

3 counted, the candidate or joint candidates with the fewest

4 first-choice votes shall be eliminated, and a first-choice vote

5 for that candidate or those joint candidates shall be

6 reallocated to the qualified elector's second choice, should a

7 second choice be marked. This instant runoff process shall

8 repeat until a candidate, or joint candidates in the case of

9 governor and lieutenant governor, receive a majority of votes,

10 and that candidate or those joint candidates shall be declared

11 the winner.

12 [G.] G. In a municipal election, the candidate that

13 receives the [most] highest number of votes for an office shall

14 be declared elected to that office, unless the municipality has

15 provided for runoff elections. A municipality may provide for

16 runoff elections as follows:

17 (1) a municipality that has not adopted a

18 charter pursuant to Article 10, Section 6 of the constitution

19 of New Mexico may provide by ordinance for runoff elections;

20 (2) a municipality that has adopted a charter

21 pursuant to Article 10, Section 6 of the constitution of New

22 Mexico, and prior to the adoption of this amendment the charter

23 provided for runoff elections, shall hold runoff elections

24 pursuant to the charter; or

25 (3) a municipality that adopts or has adopted

.221423.2

1   a charter pursuant to Article 10, Section 6 of the constitution

2   of New Mexico may, subsequent to the adoption of this

3   amendment, provide for runoff elections as provided in its

4   charter.

5   H. The provisions of Subsections C through F of

6   this section shall be self-executing."

7   **SECTION 3.** 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.

12   - 6 -

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