

HOUSE JOINT RESOLUTION 12

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

INTRODUCED BY

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A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 20 OF THE CONSTITUTION OF NEW
MEXICO TO ALLOW THE RECALL OF PUBLIC OFFICERS ELECTED TO A
CONSTITUTIONALLY CREATED ELECTIVE OFFICE IN THE EXECUTIVE OR
LEGISLATIVE BRANCH OF GOVERNMENT.

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

SECTION 1. It is proposed to amend Article 20 of the
constitution of New Mexico by adding a new section to read:

"A. Registered qualified electors may petition for
the recall of an incumbent elective officer elected to a
constitutionally created office in the executive or legislative
branch of state government by filing a petition with the
secretary of state demanding the recall of the incumbent. The
secretary of state shall date stamp the recall petition when
received.

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1 B. The petition for recall shall cite the grounds
2 for recall based upon acts or failures to act or a violation of
3 the oath of office occurring during the current term of the
4 officer sought to be recalled. The registered qualified
5 electors shall be the sole and exclusive judges of the
6 legality, reasonableness and sufficiency of the grounds for
7 recall, and the grounds shall not be open to review.

8 C. The recall petition shall be:

- 9 (1) circulated for no more than:
10 (a) one hundred eighty days if the
11 officer sought to be recalled holds a statewide office; or
12 (b) ninety days if the officer sought to
13 be recalled holds a non-statewide office; and

- 14 (2) signed by registered qualified electors:
15 (a) of the state if the officer sought
16 to be recalled was elected on a statewide basis or of the
17 district from which the officer sought to be recalled was
18 elected; and
19 (b) not fewer in number than twenty-five
20 percent of the number of persons who voted in the election for
21 the office in the last preceding general election at which the
22 office was voted upon.

23 D. After the recall petition has been circulated,
24 the petition shall be filed with the secretary of state for
25 verification of the signatures, as to both number and

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1 qualifications of the persons signing. Only the petition or
2 copies of the petition with the legible, original date stamp of
3 the secretary of state shall be considered. If the requisite
4 number of signatures of registered qualified electors appears
5 on the petition, the secretary of state shall certify the
6 recall petition to the governor, and the question of recall of
7 the officer shall be placed on the ballot for a special
8 election, which shall allow in-person and absentee voting, to
9 be called and held within ninety days or at the next occurring
10 general election if that election is to be held within ninety
11 days.

12 E. If the officer subject to recall resigns within
13 five days after the secretary of state certifies the recall
14 petition, the vacancy caused by the resignation shall be filled
15 as provided by law. If the officer does not resign within five
16 days after the certification of the recall petition, the
17 secretary of state shall make or cause to be made publication
18 of notice for the holding of the election, and officers charged
19 by law with duties concerning elections shall make all
20 arrangements for the election.

21 F. On the official ballot for the recall election,
22 there shall be printed:

23 (1) in not more than two hundred words, the
24 grounds for recall, and in not more than three hundred words,
25 if desired by the officer, the officer's justification of the

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1 officer's course of action in office;

2 (2) the words, "Shall (name of person against
3 whom the recall petition is filed) be recalled from the office
4 of (title of the office)?" and following the question, the
5 words "Yes" and "No" on separate lines, with an appropriate
6 target next to each word, for the voter to indicate the voter's
7 vote; and

8 (3) the names of the people who have been
9 nominated and certified as candidates to succeed the person
10 sought to be recalled; provided that a vote cast shall not be
11 counted for any candidate for the office, unless the voter also
12 voted for or against the recall of the incumbent elective
13 officer. The name of the person subject to the recall shall
14 not be listed as a candidate for the office.

15 G. If a majority of those voting on the question of
16 the recall of any incumbent from office votes "no", the
17 incumbent shall continue in the office; if a majority votes
18 "yes", the incumbent shall be deemed removed from office upon
19 the qualification of the officer's successor.

20 H. If the officer is removed from office in the
21 recall election, the candidate who received the highest number
22 of votes for the office vacated shall be declared elected for
23 the remainder of the term, and a certificate of election shall
24 be issued to the candidate.

25 I. Candidates for the office subject to the recall

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1 election may be nominated by petition, as provided by law, and
2 the nominating petition shall be filed no later than the fifty-
3 sixth day before the recall election in the office in which
4 petitions for nomination to the office are required by law to
5 be filed. The person subject to the recall is ineligible to be
6 a candidate for the office in the recall election.

7 J. A recall election shall not be conducted after
8 May 1 in a calendar year in which an election is to be held for
9 the office for which the recall is sought if the official
10 sought to be recalled is a candidate for reelection to the
11 office. A petition for recall shall not be circulated or filed
12 against an officer until the officer has held office for at
13 least six months, except a recall petition may be filed against
14 a member of the state legislature at any time after five days
15 from the convening and organizing of the legislature after the
16 member's election. After one recall petition and election, no
17 further recall election shall be held against the same officer
18 during the term for which the officer was elected, unless the
19 signatures of the recall petition equal at least fifty percent
20 of the votes cast at the last preceding general election for
21 all of the candidates of the office subject to recall.

22 K. If the secretary of state is sought to be
23 recalled, the attorney general shall perform the duties of the
24 secretary of state pursuant to this section and the secretary
25 of state shall not participate in the administration of the

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1 recall election. If the governor is sought to be recalled, the
2 secretary of state shall certify the recall petition to the
3 lieutenant governor.

4 L. The provisions of this section shall be in
5 addition to any other provisions for the removal of state
6 officers as provided by law."

7 SECTION 2. 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.