

HOUSE JOINT RESOLUTION 11

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

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 CONGRESSIONAL OFFICE OR 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. The qualified electors of a congressional district or district of a constitutionally created elective office in the executive or legislative branch of government may petition for the recall of an incumbent elective officer by filing a petition with the filing officer with whom the declaration of candidacy for the office is filed, demanding the recall of the incumbent.

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1 B. Subject to the provisions of Subsection C of
2 this section, a petition for a recall election shall cite
3 grounds of malfeasance or misfeasance in office or violation of
4 the oath of office by the official concerned. The cited
5 grounds shall be based upon acts or failures to act occurring
6 during the current term of the official sought to be recalled.
7 The recall petition shall be signed by registered qualified
8 electors not fewer in number than twenty-five percent of the
9 number of persons who voted in the election for the office in
10 the last preceding general election at which the office was
11 voted upon:

12 (1) of the state if the official sought to be
13 recalled was elected on a statewide basis; or

14 (2) of the district from which the official
15 sought to be recalled was elected.

16 C. Prior to and as a condition of circulating a
17 petition for recall pursuant to the provisions of Subsections A
18 and B of this section, the factual allegations supporting the
19 grounds of malfeasance or misfeasance in office or violation of
20 the oath of office stated in the petition shall be presented to
21 the state supreme court. The petition shall not be circulated
22 unless, after a hearing in which the proponents of the recall
23 effort and the official sought to be recalled are given an
24 opportunity to present evidence, the court determines that
25 probable cause exists for the grounds for recall.

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1 D. After the requirements of Subsection C of this
2 section are fulfilled, the petition shall be circulated and
3 filed with the chief election officer of the state for
4 verification of the signatures, as to both number and
5 qualifications of the persons signing. If the requisite number
6 of signatures of registered qualified electors appears on the
7 petition, the question of recall of the official shall be
8 placed on the ballot for a special election to be called and
9 held within ninety days or the next occurring general election
10 if that election is to be held within less than ninety days. If
11 at the election a majority of the votes cast on the question of
12 recall is in favor of recall, the official who is the subject
13 of the recall is recalled from the office, and a vacancy
14 exists. That vacancy shall be filled in the manner provided by
15 law for filling vacancies for that office.

16 E. A recall election shall not be conducted after
17 May 1 in a calendar year in which an election is to be held for
18 the office for which the recall is sought if the official
19 sought to be recalled is a candidate for reelection to the
20 office. No petition for recall of an elected official shall be
21 submitted more than once during the term for which the official
22 is elected."

23 Section 2. The amendment proposed by this resolution
24 shall be submitted to the people for their approval or
25 rejection at the next general election or at any special

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1 election prior to that date that may be called for that
2 purpose.

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