

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas *As Engrossed: S2/22/23*

2 94th General Assembly

3 Regular Session, 2023

SJR 2

4

5 By: Senator J. Payton

6 By: Representatives Cavanaugh, G. Hodges

7

8

SENATE JOINT RESOLUTION

9 AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE A
10 PROCEDURE FOR THE RECALL OF PERSONS ELECTED TO THE
11 OFFICES OF GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY
12 GENERAL, SECRETARY OF STATE, TREASURER OF STATE,
13 AUDITOR OF STATE, COMMISSIONER OF STATE LANDS, MEMBER
14 OF THE HOUSE OF REPRESENTATIVES, MEMBER OF THE
15 SENATE, CHIEF JUSTICE OF THE SUPREME COURT, JUSTICE
16 OF THE SUPREME COURT, CHIEF JUDGE OF THE COURT OF
17 APPEALS, JUDGE OF THE COURT OF APPEALS, CIRCUIT
18 JUDGE, DISTRICT JUDGE, PROSECUTING ATTORNEY, COUNTY
19 JUDGE, JUSTICE OF THE PEACE, SHERIFF, CIRCUIT CLERK,
20 COUNTY CLERK, ASSESSOR, CORONER, TREASURER, COUNTY
21 SURVEYOR, COLLECTOR OF TAXES, OR CONSTABLE.

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24

Subtitle

25

*A CONSTITUTIONAL AMENDMENT TO CREATE A
PROCEDURE FOR THE RECALL OF CERTAIN
ELECTED OFFICIALS.*

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30 BE IT RESOLVED BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE
31 STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
32 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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34

THAT the following is proposed as an amendment to the Constitution of
35 the State of Arkansas, and upon being submitted to the electors of the state
36 for approval or rejection at the next general election for Representatives



1 and Senators, if a majority of the electors voting thereon at the election
2 adopt the amendment, the amendment shall become a part of the Constitution of
3 the State of Arkansas, to wit:

4
5 SECTION 1. The Arkansas Constitution is amended to add an additional
6 amendment to read as follows:

7 § 1. Definitions.

8 As used in this amendment:

9 (1) "Elected official" means a person elected or appointed to
10 one (1) of the following offices:

11 (A) Governor;

12 (B) Lieutenant Governor;

13 (C) Attorney General;

14 (D) Secretary of State;

15 (E) Treasurer of State;

16 (F) Auditor of State;

17 (G) Commissioner of State Lands;

18 (H) Member of the House of Representatives;

19 (I) Member of the Senate;

20 (J) Chief Justice of the Supreme Court;

21 (K) Justice of the Supreme Court;

22 (L) Chief Judge of the Court of Appeals;

23 (M) Judge of the Court of Appeals;

24 (N) Circuit court judge;

25 (O) District court judge;

26 (P) Prosecuting attorney;

27 (Q) County judge;

28 (R) Justice of the peace;

29 (S) Sheriff;

30 (T) Circuit clerk;

31 (U) County clerk;

32 (V) Assessor;

33 (W) Coroner;

34 (X) Treasurer;

35 (Y) County surveyor;

36 (Z) Collector of taxes; or

1 (AA) Constable.

2 (2) "Recall" means the voting by the electors of the state or a
3 district, circuit, county, or township, as the case may be, to ascertain
4 whether or not it is the desire of the majority of the electors to allow an
5 elected official to remain in that office for the duration of his or her
6 elected term; and

7 (3) "Recall petition" means one (1) or more sheets of signatures
8 of qualified electors demanding the recall of an elected official.

9
10 § 2. Petition.

11 (a) The qualified electors of the state or a district, circuit,
12 county, or township, as the case may be, may petition for the recall of an
13 elected official by filing a recall petition demanding the recall of the
14 elected official.

15 (b)(1)(A) The recall petition for the recall of an elected official
16 elected statewide shall be signed by qualified electors of the state in a
17 number of at least twenty-five percent (25%) of the votes cast for Governor
18 at the last general election at which a Governor was elected.

19 (B) At least ten percent (10%) of the number of statewide
20 signatures of qualified electors collected under subdivision (b)(1)(A) of
21 this section shall be from at least fifty (50) different counties of the
22 state.

23 (2) The recall petition for an elected official elected by a
24 district shall be signed by qualified electors of the district in which the
25 elected official is serving in a number of at least twenty-five percent (25%)
26 of the votes cast for Governor within the district at the last general
27 election at which a Governor was elected.

28 (3) The recall petition for an elected official elected by
29 a circuit shall be signed by qualified electors of the circuit in which the
30 elected official is serving in a number of at least twenty-five percent (25%)
31 of the votes cast for Governor within the circuit at the last general
32 election at which a Governor was elected.

33 (4) The recall petition for an elected official elected by
34 a county shall be signed by qualified electors of the county in which the
35 elected official is serving in a number of at least twenty-five percent (25%)
36 of the votes cast for Governor within the county at the last general election

1 at which a Governor was elected.

2 (5) The recall petition for an elected official elected by
3 a township shall be signed by qualified electors of the township in which the
4 elected official is serving in a number of at least twenty-five percent (25%)
5 of the votes cast for Governor within the township at the last general
6 election at which a Governor was elected.

7 (c) If an elected official's position requires performing the duties
8 of more than one (1) office under § 1(1) of this amendment, a single recall
9 petition is required which shall encompass all offices.

10
11 § 3. Recall of elected officials.

12 (a)(1)(A) The recall of an elected official shall be initiated by
13 filing a notice of intent to circulate a recall petition with the Secretary
14 of State.

15 (B) If the Secretary of State is the subject of the recall
16 petition, the notice of intent shall be filed with the Attorney General.

17 (2) No recall petition shall be circulated before the notice of
18 intent is filed.

19 (3) The notice of intent to circulate a recall petition shall
20 state the reason the elected official should be recalled.

21 (4) The filer of the notice of intent to circulate a recall
22 petition shall within five (5) calendar days after filing the notice of
23 intent notify the elected official who will be the subject of a recall
24 petition by certified mail with return receipt requested.

25 (b)(1) Each sheet of a recall petition shall contain signatures from
26 only one (1) county.

27 (2) The sheets of a recall petition shall be organized by county
28 to facilitate voter identification.

29 (c)(1) The recall petition shall be filed with the Secretary of State
30 not less than sixty (60) calendar days nor more than eighty (80) calendar
31 days after the filing of the notice of intent to circulate a recall petition.

32 (2) If the Secretary of State is the subject of the recall
33 petition, the recall petition shall be filed with the Attorney General.

34 (d)(1)(A) Within thirty (30) calendar days after the recall petition
35 is filed, the Secretary of State shall determine whether the recall petition
36 is sufficient and, if the recall petition is sufficient, shall state the

1 sufficiency in a letter to the filer of the notice of intent.

2 (B) If the Secretary of State is the subject of the recall
3 petition, the Attorney General shall determine whether the recall petition is
4 sufficient and, if the recall petition is sufficient, shall state the
5 sufficiency in a letter to the filer of the notice of intent.

6 (2)(A) If the recall petition is found to be insufficient, the
7 letter shall state the reasons creating the insufficiency.

8 (B)(i) The recall petition may be amended to correct or
9 amend an insufficiency within thirty (30) calendar days after the original
10 determination of insufficiency.

11 (ii) An amended or corrected recall petition shall
12 be filed with the Secretary of State or, if the Secretary of State is the
13 subject of the recall petition, the Attorney General.

14 (C) For a statewide recall petition, correction or
15 amendment of an insufficient recall petition shall be permitted only if:

16 (i) The recall petition contains valid signatures of
17 qualified electors equal to at least seventy-five percent (75%) of the number
18 of statewide signatures of qualified electors required; and

19 (ii) At least ten percent (10%) of the number of
20 statewide signatures of qualified electors submitted on the recall petition
21 are from at least fifty (50) counties of the state.

22 (3)(A) Within fifteen (15) calendar days after the filing of an
23 amended recall petition, the Secretary of State shall examine the recall
24 petition again to determine sufficiency and shall state the sufficiency of
25 the amended recall petition in a letter to the filer of the notice of intent
26 to circulate a recall petition.

27 (B) If the Secretary of State is the subject of the recall
28 petition, then within fifteen (15) calendar days after the filing of an
29 amended recall petition the Attorney General shall examine the recall
30 petition again to determine sufficiency and shall state the sufficiency of
31 the amended recall petition in a letter to the filer of the notice of intent
32 to circulate a recall petition.

33 (e)(1)(A) Immediately upon finding an original or amended recall
34 petition sufficient, the Secretary of State shall notify the Governor who
35 shall immediately call a special election for the purpose of submitting the
36 recall proposal to the appropriate electors.

1 (B) If the Secretary of State is the subject of the recall
2 petition, the Attorney General shall notify the Governor immediately upon
3 finding an original or amended recall petition sufficient.

4 (C) If the Governor is the subject of the recall petition,
5 the Secretary of State shall notify the Lieutenant Governor, who shall
6 immediately call a special election.

7 (2)(A) The special election for the purpose of submitting the
8 recall proposal to the appropriate electors shall be held within ninety (90)
9 calendar days after the call for a special election.

10 (B) However, if the next following general election is to
11 be held within one hundred twenty (120) calendar days of the original or
12 amended recall petition being found sufficient, the recall proposal shall be
13 submitted at the next following general election.

14 (f) If the Attorney General performs one (1) or more duties of the
15 Secretary of State under this section due to the Secretary of State being the
16 subject of the recall petition, the Attorney General may employ outside legal
17 counsel to defend a legal challenge regarding the sufficiency of a recall
18 petition.

19
20 § 4. Form of recall petition.

21 (a) The recall petition regarding an elected official shall be in
22 substantially the following form:

23 "PETITION FOR RECALL

24 To the Secretary of State [or the Attorney General, if the Secretary of State
25 is the subject of the recall petition]:

26 We, the undersigned qualified electors of
27 _____

28 (Arkansas or District, Circuit,

29 County, or Township)

30 respectfully order that _____

31 (Name of Elected Official)

32 be referred to the people of _____

33 (Arkansas or District, Circuit, County,

34 or Township)

35 to the end that the recall of the elected official may be approved or

36 rejected by the vote of the qualified electors at an election to be held for

1 this purpose; and each of us for himself or herself says: I have personally
2 signed this petition; I am a qualified elector of (Arkansas or District,
3 Circuit, County, or Township), and my printed name, date of birth, residence,
4 city or town of residence, and date of signing this petition are correctly
5 written after my signature.”

6 (b)(1) Each sheet of each recall petition containing the signatures
7 shall be verified by the person who circulated the sheet of the recall
8 petition by his or her affidavit attached to the recall petition.

9 (2) The affidavit shall be in substantially the following form:

10 "STATE OF ARKANSAS)

11 COUNTY)

12 I, _____, under oath, state that the above-listed persons
13 signed this sheet, and each of them signed his or her name on this sheet in
14 my presence. I believe that each has correctly stated his or her name, date
15 of birth, residence, city or town of residence, and date of signing the
16 petition.

17 Signature _____

18 Address _____

19 Subscribed and sworn to before me this the _____ day of _____, _____.

20 Signature _____

21 Notary Public

22 My Commission Expires: _____."

23 (c) A petition shall be sufficient if it substantially follows the
24 format of this section, disregarding clerical and technical errors.

25
26 § 5. Ballot.

27 (a) At the election the recall proposal shall be printed on the ballot
28 in substantially the following form:

29 Name: _____ Office: _____

30 “For Permitting _____ to
31 continue to serve the term of office for which elected /_/_

32
33 Name: _____ Office: _____

34 Against Permitting _____ to
35 continue to serve the term of office for which elected /_/_.”

36 (b)(1) If at the election a majority of the qualified electors voting

1 on the recall proposal vote against permitting the elected official to
2 continue to serve the term of office to which he or she was elected, an
3 immediate vacancy shall exist in the office, and the vacancy shall be filled
4 in the manner prescribed by law.

5 (2) If at the election a majority of the qualified electors
6 voting on the recall proposal vote for permitting the elected official to
7 continue to serve the term of office for which he or she elected, the elected
8 official shall serve the full term for which he or she was elected.

9
10 § 6. Frequency of recall.

11 After one (1) recall petition and election, no further recall petition
12 shall be filed against the same elected official during the same term of
13 office.

14
15 § 7. Recall expenses.

16 All expenses of an election for the recall of an elected official shall
17 be paid for in the same manner and from the same source as provided by
18 applicable law for election expenses.

19
20 § 8. Ballot question.

21 (a) A recall proposal shall be considered a ballot question for
22 purposes of applicable laws on measures referred to voters.

23 (b) An elected official, any person or entity acting on behalf of an
24 elected official, or any other person or entity who receives contributions or
25 makes expenditures for the purpose of attempting to influence the
26 qualification, passage, or defeat of a recall petition or recall proposal
27 shall be considered a ballot question committee and shall comply with
28 applicable laws on measures referred to voters.

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30 SECTION 2. EFFECTIVE DATE. This amendment shall be effective on and
31 after January 1, 2025.

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33 SECTION 3. BALLOT TITLE AND POPULAR NAME. When this proposed
34 amendment is submitted to the electors of this state on the general election
35 ballot:

36 (1) The title of this Joint Resolution shall be the ballot

1 title; and

2 (2) The popular name shall be "A Constitutional Amendment to
3 Create a Procedure for the Recall of Persons Elected to the Offices of
4 Governor, Lieutenant Governor, Attorney General, Secretary of State,
5 Treasurer of State, Auditor of State, Commissioner of State Lands, Member of
6 the House of Representatives, Member of the Senate, Chief Justice of the
7 Supreme Court, Justice of the Supreme Court, Chief Judge of the Court of
8 Appeals, Judge of the Court of Appeals, Circuit Judge, District Judge, County
9 Judge, Justice of the Peace, Sheriff, Circuit Clerk, County Clerk, Assessor,
10 Coroner, Treasurer, County Surveyor, Collector of Taxes, or Constable".

11
12 /s/J. Payton
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