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S. WARD  
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Colorado Secretary of State

ORIGINAL DRAFT

Article XXI of the Colorado Constitution is repealed and re-enacted as follows:

Article XXI. RECALL FROM OFFICE.

Section 1. Application.

Any elective officer in any state or local legislative, executive, or judicial office is eligible for recall. Any non-elective officer is eligible for recall when that person is the head, a board member, or a judicial officer of any state or local authority, agency, commission, department, division, bureau, district, office, board, or other non-enterprise government entity that has governmental power or collects, spends, borrows, or loans public money. This article intends to increase public accountability of public servants.

Section 2. Procedures.

(1) Five registered electors eligible to vote on the recall may file at any time a signed request to recall any officer in section 1. Statewide recalls shall be conducted by the secretary of state. Other recalls shall be conducted by the election official of any county, or city and county, in the recall area. A petition section shall contain 100 entry lines and a circulation affidavit. Each section shall print without argument, "Shall (insert names of officers) be recalled as (insert titles and name of government)?"

(2) No government shall detain, stop, cite, or arrest peaceful petition circulators or signers. Court jurisdiction over such actions shall apply only to perjury, forgery, and other felonies. Statewide petition entries shall be filed within 180 days of sample petition section delivery, and local petition entries within 90 days. When valid petition entries are insufficient, one 30-day extension to file added entries signed at any time shall start from the date the final decision of invalidity is issued. The final decision shall be the election official report or the supreme court review results, whichever is later.

(3) The required number of valid petition entries shall equal 5% of active registered electors in the recall area, but never more than 100,000 such entries. Signers shall be registered electors in the recall area. If elective officers serve a council, legislative, or other district, that district shall be the recall area. Entries shall require only signature and printed name, residential address, city or town, and date of signing. No error, use, or lack of minor details like middle initial or middle name, common nickname, street type or direction, apartment number, Zip code, or full date shall void an entry. Each entry shall be reviewed individually, with no random or statistical sampling. Errors in affidavits or sample sections shall not void entries. Entries with a readable first and last name and address, and an attached affidavit with or without errors, shall be presumed valid until disproved by clear and convincing evidence.

(4) Within 20 days of filing, the election official shall count, examine, itemize, and report entries for validity. Within 10 days of that report, only recall filers and the officer may each file without a fee a protest to the supreme court for its new review of itemized entries. Such review shall be conducted, and its results shall issue within 30 days of the protest filing. No party shall receive attorney fees or costs.

(5) Recall elections shall be held on a Tuesday within 60 days of a final decision of sufficiency. Death, resignation, or removal from office shall stop the recall petition but not the election to fill an elective officer vacancy. Recall ballots shall repeat without argument the petition question for each officer, and list one website per side for the recall filers and the officer.

(6) Ballots shall list candidates nominated to complete the term, and list one website for each. The officer is ineligible. Petitions require valid entries equal in number to 1% of active registered electors in the recall area, but never more than 10,000 such entries. For the two major political parties in partisan nominations, signers shall be registered since the recall started with the party of their candidate. Signers shall be registered in the recall area. Entries shall be filed by the later of five days after recall entry filing or 30 days after a recall stops as provided above. Entry validation and extension deadlines shall be 30% of the time for such recall deadlines. Only candidates may protest the report on validity.

(7) Successors shall be installed at once. With no successor, a vacancy is filled in the next November election at least 90 days later. In the interim, the lieutenant governor replaces a recalled governor and mayoral offices may be filled. Non-elective officer vacancies are filled by appointments.

### Section 3. Enforcement.

(1) Perjury, forgery, and other felony charges shall be prosecuted. An individual petition entry made by good faith mistake is not criminal. Any Colorado adult may circulate any recall or nomination petition. No officer in a recall shall conduct that recall or decide its entry validity. To reduce retaliation and intimidation, no law or rule shall prohibit, regulate, or limit recall or successor candidate circulator payments or recall donors, or require naming such paid circulators or recall donors. No officer in a recall shall receive government money, labor, or aid to defeat the recall or repay recall campaign costs.

(2) "Elective" means subject to regular or retention elections, whether or not first appointed. Election officials shall deliver a requested sample petition section within two days. Recalled officers, and those who resigned or were removed during their recall process, shall not be state or local officers listed in section 1 for the next four years. Up to seven officers in the same government may be listed on one recall petition, but they shall be listed in separate ballot questions. No officer shall be on a recall ballot more often than once every four years. This article also applies in home rule jurisdictions as a matter of statewide concern. The secretary of state website shall always list by name, title, and government all state and local officers eligible for recall.

(3) Any Colorado adult may file a district court complaint, decided within 60 days, to enforce this article. Direct appeals to the supreme court filed within 10 days thereafter shall be decided within 60 days. Only successful plaintiffs enforcing this article shall be awarded their costs and attorney fees. This article is self-executing, severable, and effective upon passage. It shall be interpreted strictly in favor of the fundamental right to petition for recall and replacement, and against the officers and all governments involved. It may be strengthened by state statutes. It supersedes all conflicting state and local constitutional, statutory, charter, and other laws and legal authorities.