

Committee Report

CONSENT CALENDAR

March 2, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Legislative Administration to which
was referred CACR 16,**

**AN ACT relating to recall elections. Providing that the
general court may authorize recall elections. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Kimberly Rice

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Legislative Administration
Bill Number:	CACR 16
Title:	relating to recall elections. Providing that the general court may authorize recall elections.
Date:	March 2, 2020
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This proposal would amend the state constitution to permit the Legislature to adopt a procedure for removing an elected official prior to the end of their term of office. The committee felt with the Legislature being elected every two years that by the time this process was through, we would and/or could already be well onto a new election cycle.

Vote 10-0.

Rep. Kimberly Rice
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Legislative Administration

CACR 16, relating to recall elections. Providing that the general court may authorize recall elections. **INEXPEDIENT TO LEGISLATE.**

Rep. Kimberly Rice for Legislative Administration. This proposal would amend the state constitution to permit the Legislature to adopt a procedure for removing an elected official prior to the end of their term of office. The committee felt with the Legislature being elected every two years that by the time this process was through, we would and/or could already be well onto a new election cycle. **Vote 10-0.**

COMMITTEE REPORT

COMMITTEE:

Legislative Admin

BILL NUMBER:

CACR 16

TITLE:

DATE:

3/2/2020

CONSENT CALENDAR:

YES

NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

The committee felt with the legislature ~~having~~ being elected every 2 yrs that by the time this process was through we would and/or could ~~to~~ already be well onto a new election cycle.

[Handwritten signature]

COMMITTEE VOTE:

10-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep.

Kim Rice

For the Committee

Voting Sheets

HOUSE COMMITTEE ON LEGISLATIVE ADMINISTRATION

EXECUTIVE SESSION on CACR 16

BILL TITLE: relating to recall elections. Providing that the general court may authorize recall elections.

DATE: March 2, 2020

LOB ROOM: 303

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rice

Seconded by Rep. Ley

Vote: 10-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Betsy McKinney, Clerk

HOUSE COMMITTEE ON LEGISLATIVE ADMINISTRATION

EXECUTIVE SESSION on CACR 16

BILL TITLE: relating to recall elections. Providing that the general court may authorize recall elections.

DATE: 3/2/20

LOB ROOM: 104

MOTION: (Please check one box)

Options: OTP, ITL (checked), Retain (1st year), Adoption of Amendment #, Interim Study (2nd year). Moved by Rep. Rice, Seconded by Rep. Sey.

MOTION: (Please check one box)

Options: OTP, OTP/A, ITL, Retain (1st year), Adoption of Amendment #, Interim Study (2nd year). Moved by Rep. _____, Seconded by Rep. _____.

MOTION: (Please check one box)

Options: OTP, OTP/A, ITL, Retain (1st year), Adoption of Amendment #, Interim Study (2nd year). Moved by Rep. _____, Seconded by Rep. _____.

MOTION: (Please check one box)

Options: OTP, OTP/A, ITL, Retain (1st year), Adoption of Amendment #, Interim Study (2nd year). Moved by Rep. _____, Seconded by Rep. _____.

CONSENT CALENDAR: YES (checked) NO

Minority Report? Yes No If yes, author, Rep: Motion

Respectfully submitted: Betsy McKinney, Clerk



2020 SESSION

Legislative Administration

Bill #: _____ Motion: ITL AM #: _____ Exec Session Date: 3/2/

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Wall, Janet G. Chairman	✓		
Ley, Douglas A. Vice Chairman	✓		
Smith, Timothy J.			
Bernet, Jennifer			
Frost, Sherry A. <i>Rich</i>	✓		
Nutting-Wong, Allison R.	✓		
Turcotte, Alan J.			
Wilhelm, Matthew B. <i>DAVIS</i>	✓		
Hinch, Richard W.			
McKinney, Betsy Clerk	✓		
Graham, John A.	✓		
Hill, Gregory G.	✓		
Rice, Kimberly A.	✓		
Greene, Bob J.	✓		
TOTAL VOTE:			

Chairman

10

0

Hearing Minutes

HOUSE COMMITTEE ON LEGISLATIVE ADMINISTRATION

PUBLIC HEARING ON CACR 16

BILL TITLE: relating to recall elections. Providing that the general court may authorize recall elections.

DATE: 2/5/20

ROOM: 104

Time Public Hearing Called to Order: 10:30

Time Adjourned: 10:40

(please circle if present)

Committee Members: Reps. Wall, Ley, McKinney, T. Smith, Bernet, Frost, Nutting-Wong, Turcotte, Wilhelm, Hinch, Graham, Hill, Rice and Greene

Bill Sponsors:

Rep. Read
Rep. Kenney

Rep. Weston
Sen. Fuller Clark

Rep. Buchanan

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Weston, sponsor, no procedure for removing elected officials, 19 states have a method for re-calls.
Chairman read information from researcher.

Testimony

CACR 16 INTRODUCTION — 2/5/2020

Rep. Joyce Weston

Thank you, Madame Chair. For the record, I am Representative Joyce Weston, Grafton 8, representing Hebron, Holderness, and Plymouth.

I am a proud cosponsor of CACR 16. The primary sponsor of the bill, Representative Read, has another bill to introduce and could not do both at the same time.

This amendment legislation is relatively simple. It would add a line to the NH Constitution to enable the state legislature to authorize recall elections for citizens. If passed, the question will be included on our November ballots.

Currently, there is no procedure in our constitution for removing an elected official before the end of his or her term of office. There are, however, 19 states that do allow recall elections. (Alaska, Arizona, California, Colorado, DC, Georgia, Idaho, Illinois, Kansas, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Washington, and Wisconsin.)

In these states, citizens can attempt to remove an elected official from office at any time through the process of gathering a certain number of signatures on a petition in a certain amount of time. It has been used most frequently at the local level.

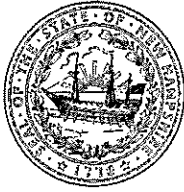
It is true that people can simply vote us out after two years if they don't like the job we're doing. But think about it — a lot of damage can be done in two years, particularly when you consider that we vote on about 1,000 bills a year. And then, there are situations such as Robert Fischer of Belnap 9, who turned out to be a decidedly poor choice for a representative. Allowing recall can save the legislature from having to engage in the time-consuming and politically-fraught censure process.

The recall device began in Los Angeles—a municipality—in 1903. Michigan and Oregon, in 1908, were the first states to adopt it for state officials. Minnesota (1996) and New Jersey (1993) were the most recent of the 19 states. Grounds for recall vary from state to state, but generally include offences such as a felony, misconduct in office, incompetence, or failure to perform duties prescribed by law.

A common argument is that it would be expensive and time-consuming to have “all of these” special elections. But recalls are infrequently conducted, having occurred just 39 times since the state introduction in 1908. We spend millions of dollars on elections every cycle, because we believe democracy is at the core of who we are as a country. The cost of recalls would be a drop in the bucket compared to the normal ongoing cost of elections.

We believe the recall process provides a way for citizens to exercise control over elected officials who fail to represent their constituents' best interests, or who are unresponsive or incompetent. We feel that an elected representative is an *agent* of their constituents — not their *master*.

I would be happy to answer any questions.



HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, NH 03301
(603) 271-3600

Pam Smarling, Senior Committee Researcher
(603) 271-3387; Pam.Smarling@leg.state.nh.us

To: Rep. Janet G. Wall, Chairman, House Legislative Administration Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 3, 2020

RE: CACR 16, relating to recall elections. Providing that the general court may authorize recall elections.

You asked:

- a. How many states have adopted recall procedures?
- b. Do any New England states have procedures for recall elections? When were they adopted?

SUMMARY

The adoption of CACR 16 (2020) would place a question on the November 2020 General Election ballot asking voters if they would support an amendment to the state constitution authorizing the Legislature to establish recall procedures to remove elected officials from office before the end of their terms.

Nineteen states plus the District of Columbia have adopted procedures to recall certain elected officials. Rhode Island is the only New England state that has adopted a recall procedure. This procedure was added to the Rhode Island Constitution in 1992 and took effect in 1994.

This memorandum identifies all of the states that have recall procedures and the offices to which they apply. It also provides detail on Rhode Island's constitutional provision and describes previous attempts to adopt recall election procedures in New Hampshire.

Recall Elections in Other States

According to NCSL, 19 states plus the District of Columbia have adopted provisions permitting recall elections. The recall of elected officials began in the United States in the city of Los Angeles in 1903. In 1908, Michigan and Oregon were the first states to adopt recall procedures for state officials. The states that adopted recall provisions most recently were Minnesota (1996) and New Jersey (1993).

Rhode Island Recall Procedure

Rhode Island Constitution Article 4, §1

Rhode Island is the only New England state that has adopted a recall procedure. The state's constitution was amended with the adoption of a ballot question in 1992. Proposal 1 was placed on the ballot as a legislatively referred constitutional amendment and contained two primary components. It increased the term of office of the state's 'general officers' (the Governor, Lieutenant Governor, Secretary of State, Attorney-General and General Treasurer) from 2 to 4 years and established a detailed recall procedure for these officers. Members of the Rhode Island legislature serve 2-year terms and are not subject to the recall procedure.

Under Rhode Island's state constitution:

Officials that may be recalled:

- Governor, Lieutenant Governor, Secretary of State, Attorney-General and General Treasurer

Reason for recall:

- who has been indicted or informed against for a felony, convicted of a misdemeanor, or against whom a finding of probable cause of violation of the code of ethics has been made by the ethics commission.

Timing

- Recall may not be initiated at any time during the first 6 months or the last year of an individual's term of office.

Process:

- file recall petition with the State Board of Elections signed by qualified electors equal to 3% of the total number of votes cast at the last preceding general election for that office.
- once signatures are verified, the State Board of Elections shall issue a recall petition for circulation amongst the electors of the state.

- within 90 days of issuance, recall petitions containing the signatures of duly qualified electors constituting 15% of the total number of votes cast in the last preceding general election for said office must be filed with the State Board of Elections.
- petitions must adhere to specific format requirements
- if the requisite number of signatures are not obtained within the 90-day period, the recall effort shall terminate.
- if the requisite number of signatures is verified, a special election shall be scheduled

Recall Provisions in State Constitutions and Statutes

	Citation	Offices Specified	Selected Offices; Length of Term
Alaska	Const. Art. 11, §8; AS §15.45.470-710, 15.80.010, 29.26.240-350	All elected public officers except judicial officers	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Arizona	Const. Art. 8, §1-6; Ariz. Rev. Stat. §19-201 – 19-234	Every public officer holding an elective office	Gov - 4 years State Sen. - 2 years State Rep. - 2 years
California	Const. Art. 2, §13-19; CA Election Code §11000-11386	State officers, legislators, judges of courts of appeal	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Colorado	Const. Art. 21; Colo. Rev. Stat. §1-12-101 – 1-12-123, 31-4-501 – 31-4-505, 32-1-906 – 32-1-915	Every state elective officer	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Georgia	Const. Art. 2, §2.4; Ga. Code §21-4-1 et seq.	Public officials who hold elective office	Gov - 4 years State Sen. - 2 years State Rep. - 2 years
Idaho	Const. Art. 6, §6; Idaho Code §34-1701 – 34-1715	Every public officer in the state except judicial officers	Gov - 4 years State Sen. - 2 years State Rep. - 2 years
Illinois	Const. Art. 3. §7	Governor	Gov - 4 years
Kansas	Const. Art. 4, §3; KSA §25-4301 – 25-4331	All elected public officials except judicial officers	Gov - 4 years State Sen. - 4 years State Rep. - 2 years

	Citation	Offices Specified	Selected Offices; Length of Term
Louisiana	Const. Art. 10, §26; La. Stats. Ann. §18:1300.1 – 18:1300.17	Any state official except judges of the courts of record	Gov - 4 years State Sen. - 4 years State Rep. - 4 years
Michigan	Const. Art. 2, §8; Mich. Election Law §168.951 – 168.977	All elective officers except judges of the courts of record	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Minnesota	Const. Art. 8, §6; Minn. Stat. Ann. §211C.01 et seq.	State executive officers, legislators and judges of the Supreme Court, Court of Appeals or a district court	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Montana	Mont. Code § 2-16-601 – 2-16-635	Any person holding a public office of the state	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Nevada	Const. Art. 2, §9; Nev. Rev. Stat. Ch. 294A.006, Ch. 306, Ch. 539.163 – 539.185	Every public officer in the state, except elected judges	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
New Jersey	Const. Art. 1, §2(b); NJ Rev. Stat. Ann. § 19:27A-1 – 19:27A-18	Any elected official in the state, state or federal office	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
North Dakota	Const. Art. 3, §1 and 10; ND Century Code Ann. §16.1-01-09.1, 44-08-21	Any elected official of the state or legislative district	Gov - 4 years State Sen. - 4 years State Rep. - 4 years
Oregon	Const. Art. 2, §18; Or. Rev. Stat. Ch. 249.865 – 249.877	Every public officer in the state	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Rhode Island	Const. Art. 4, §1	Governor, Lt. Governor, Secretary of State, Treasurer, Attorney General	Gov - 4 years Lt. Governor - 4 years Sec of State - 4 years

	Citation	Offices Specified	Selected Offices; Length of Term
Virginia	Va. Code §24.2-233 – 24.2.238	All elected or appointed Commonwealth, constitutional, and local officers	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Washington	Const. Art. 1, Sec. 33-34; Wash. Rev. Code §29A.56.110 – 29A.56.270	Every elective public officer of the state except judges of courts of record	Gov - 4 years State Sen. - 4 years State Rep. - 2 years
Wisconsin	Const. Art. 13, §12; Wis. Stat. Ann. §9.10	Any state, judicial, congressional or legislative official	Gov - 4 years State Sen. - 4 years State Rep. - 2 years

Source: *NCSL, 7/8/2019 list of states and citations*

Previous Attempts to Adopt a Recall Procedure in New Hampshire

A number of bills were introduced in the NH House to establish statutory procedures for recall elections between 1985 and 2014. The specific contents of these bills has varied in scope - they addressed municipal officials, state officials and federal officials or some combination of each. None of these bills were supported by the House committee to which they were referred or by the full House.

In general, supporters of the recall process stated that elected officials should be accountable for their actions and if they are unresponsive, incompetent or found guilty of criminal acts, voters should have a way to remove them from office. Opponents cited either technical flaws with the bills, such as the inclusion of federal offices, or noted that elected officials in New Hampshire serve 2-year terms and this ensures that they are held accountable to the voters.

One amendment to the New Hampshire Constitution was proposed in 2018 and referred to the House Election Law Committee. This proposed amendment was identical to CACR 16 (2020). The disposition of this proposal, CACR 18, is detailed below:

2018 Legislative Session

CACR 18, relating to recall elections. Providing that the general court may authorize recall elections.

Sponsors: Rep. Read, Rep. T. Smith, Rep. DiLorenzo, Rep. McConnell, Rep. Frost

Summary of Provisions:

- proposed an amendment to Article 5, Part of the NH Constitution describing the powers of the General Court that grants the Legislature the authority to “provide a recall procedure to permit citizens to remove a state officer before the end of a term of office”
- question to be placed on the November, 2018 general election ballot

House Action

Referred to: House Election Law Committee

Committee Report: Inexpedient to Legislate, vote 19-0, Consent Calendar

Rep. Andrew White for Election Law. This proposed constitutional amendment would provide the General Court the power to authorize recall elections of “state officers.” All state legislative officers are elected for two-year terms. These short terms of office provide voters a frequent opportunity to vote for candidates whose values most closely align with their own. There are other persons that qualify as “state officers” who the committee did not believe were intended to be impacted by this bill, but would be. The committee unanimously believes the current system provides voters ample opportunity to determine those who represent them in state offices.

Floor Action: Found Inexpedient to Legislate, voice vote

Final Action Killed in House

If I can provide further information on this, please let me know.

Bill as
Introduced

CACR 16 - AS INTRODUCED

2020 SESSION

20-2242
06/05

CONSTITUTIONAL AMENDMENT
CONCURRENT RESOLUTION **16**

RELATING TO: recall elections.

PROVIDING THAT: the general court may authorize recall elections.

SPONSORS: Rep. Read, Rock. 17; Rep. Weston, Graf. 8; Rep. Buchanan, Merr. 15; Rep. Kenney, Straf. 6; Sen. Fuller Clark, Dist 21

COMMITTEE: Legislative Administration

ANALYSIS

This constitutional amendment concurrent resolution provides that the general court may authorize recall elections.

.....

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

CONCURRENT RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENT

RELATING TO: recall elections.

PROVIDING THAT: the general court may authorize recall elections.

Be it Resolved by the House of Representatives, the Senate concurring, that the Constitution of New Hampshire be amended as follows:

1 I. That article 5 of the second part of the constitution be amended to read as follows:

2 [Art.] 5. [Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines
3 and Assess Taxes; Prohibited from Authorizing Towns to Aid Certain Corporations.] And farther,
4 full power and authority are hereby given and granted to the said general court, from time to time,
5 to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes,
6 ordinances, directions, and instructions, either with penalties, or without, so as the same be not
7 repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this
8 state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary
9 support and defense of the government thereof, and to name and settle biennially, or provide by
10 fixed laws for the naming and settling, all civil officers within this state, such officers excepted, the
11 election and appointment of whom are hereafter in this form of government otherwise provided for
12 ***and to provide a recall procedure to permit citizens to remove an elected official before the***
13 ***end of a term of office;*** and to set forth the several duties, powers, and limits, of the several civil
14 and military officers of this state, and the forms of such oaths or affirmations as shall be respectively
15 administered unto them, for the execution of their several offices and places, so as the same be not
16 repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and
17 other punishments, and to impose and levy proportional and reasonable assessments, rates, and
18 taxes, upon all the inhabitants of, and residents within, the said state; and upon all estates within
19 the same; to be issued and disposed of by warrant, under the hand of the governor of this state for
20 the time being, with the advice and consent of the council, for the public service, in the necessary
21 defense and support of the government of this state, and the protection and preservation of the
22 subjects thereof, according to such acts as are, or shall be, in force within the same; provided that the
23 general court shall not authorize any town to loan or give its money or credit directly or indirectly for
24 the benefit of any corporation having for its object a dividend of profits or in any way aid the same by
25 taking its stocks or bonds. For the purpose of encouraging conservation of the forest resources of the
26 state, the general court may provide for special assessments, rates and taxes on growing wood and
27 timber.

28 II. That the above amendment proposed to the constitution be submitted to the qualified

1 voters of the state at the state general election to be held in November, 2020.

2 III. That the selectmen of all towns, cities, wards and places in the state are directed to
3 insert in their warrants for the said 2020 election an article to the following effect: To decide
4 whether the amendments of the constitution proposed by the 2020 session of the general court shall
5 be approved.

6 IV. That the wording of the question put to the qualified voters shall be:

7 "Are you in favor of amending article 5 of the second part of the constitution to read as follows:

8 [Art.] 5. [Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines
9 and Assess Taxes; Prohibited from Authorizing Towns to Aid Certain Corporations.] And farther, full
10 power and authority are hereby given and granted to the said general court, from time to time, to
11 make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes,
12 ordinances, directions, and instructions, either with penalties, or without, so as the same be not
13 repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state,
14 and for the governing and ordering thereof, and of the subjects of the same, for the necessary support
15 and defense of the government thereof, and to name and settle biennially, or provide by fixed laws
16 for the naming and settling, all civil officers within this state, such officers excepted, the election and
17 appointment of whom are hereafter in this form of government otherwise provided for and to provide
18 a recall procedure to permit citizens to remove an elected official before the end of a term of office;
19 and to set forth the several duties, powers, and limits, of the several civil and military officers of this
20 state, and the forms of such oaths or affirmations as shall be respectively administered unto them,
21 for the execution of their several offices and places, so as the same be not repugnant or contrary to
22 this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to
23 impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants
24 of, and residents within, the said state; and upon all estates within the same; to be issued and
25 disposed of by warrant, under the hand of the governor of this state for the time being, with the
26 advice and consent of the council, for the public service, in the necessary defense and support of the
27 government of this state, and the protection and preservation of the subjects thereof, according to
28 such acts as are, or shall be, in force within the same; provided that the general court shall not
29 authorize any town to loan or give its money or credit directly or indirectly for the benefit of any
30 corporation having for its object a dividend of profits or in any way aid the same by taking its stocks
31 or bonds. For the purpose of encouraging conservation of the forest resources of the state, the
32 general court may provide for special assessments, rates and taxes on growing wood and timber."

33 V. That the secretary of state shall print the question to be submitted on a separate ballot or
34 on the same ballot with other constitutional questions. The ballot containing the question shall
35 include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in
36 either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall
37 be the same as the regular official ballot except that the words "Questions Relating to Constitutional

CACR 16 - AS INTRODUCED

- Page 3 -

1 Amendments proposed by the 2020 General Court" shall be printed in bold type at the top of the
2 ballot.

3 VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it
4 becomes effective when the governor proclaims its adoption.

5 VII. Voters' Guide.

6 AT THE PRESENT TIME, there is no recall procedure in this state for removing an
7 elected official before the end of his or her term of office.

8 IF THE AMENDMENT IS ADOPTED, it will enable the state legislature to
9 authorize recall elections for citizens to remove an elected official before the end of his or her term of
10 office.