

SENATE BILL NO. 232  
INTRODUCED BY D. MCGEE

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING CHANGING POLITICAL PARTY AFFILIATION AS GROUNDS UPON WHICH AN ELECTED OFFICIAL MAY BE RECALLED; AMENDING SECTION 2-16-603, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, Montana is guaranteed a republican form of government under The Enabling Act; and  
WHEREAS, Montana law implements the guarantee of a republican form of government by establishing, generally, that the person who receives the highest number of votes at an election is elected to the office sought; and

WHEREAS, a qualified elector's decision to vote for or against a particular candidate or to not vote for any candidate is influenced by many factors; and

WHEREAS, the political party affiliation of a candidate is an important and, in some cases, the determining factor influencing the elector's decision; and

WHEREAS, a majority of electors may ultimately be influenced to vote for or against a candidate primarily on the basis of the candidate's avowed political party affiliation; and

WHEREAS, a majority of electors may have elected a candidate based, in part or wholly, on the candidate's political party affiliation; and

WHEREAS, an elected candidate's decision to change political party affiliation after having been elected may have implications significantly beyond the individuals or political party with whom the elected candidate prefers to associate, including potentially disenfranchising a majority of the elected candidate's constituents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-16-603, MCA, is amended to read:

**"2-16-603. Officers subject to recall -- grounds for recall.** (1) Every person holding a public office of the state or any of its political subdivisions, either by election or appointment, is subject to recall from ~~such~~ that office.

(2) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for ~~his~~ the public officer's successor. A public officer holding an appointive office may be recalled by the qualified

electors entitled to vote for the successor or successors of the elective officer or officers who have the authority to appoint a person to that position.

(3) Physical or mental lack of fitness, incompetence, violation of ~~his~~ the oath of office, official misconduct, changing political party affiliation, or conviction of a felony offense enumerated in Title 45 is the only basis for recall. ~~No~~ A person may not be recalled for performing a mandatory duty of the office ~~he holds~~ held by the person or for not performing any act that, if performed, would subject ~~him~~ the person to prosecution for official misconduct."

NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 3. Applicability. [This act] applies to individuals elected to public office after [the effective date of this act].

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