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HOUSE MEMORIAL 27

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

John Block and Stefani Lord

A MEMORIAL

CONDEMNING GOVERNOR MICHELLE LUJAN GRISHAM'S ISSUANCE OF  
EXECUTIVE ORDER 2023-130 AND DIRECTION TO ISSUE A PUBLIC HEALTH  
ORDER PROHIBITING THE POSSESSION OF A FIREARM AS  
UNCONSTITUTIONAL AND AMOUNTING TO MALFEASANCE IN OFFICE,  
THEREBY WARRANTING HER IMPEACHMENT AND REMOVAL FROM THE OFFICE  
OF GOVERNOR.

WHEREAS, Michelle Lujan Grisham was elected governor of  
the great state of New Mexico in 2018 and reelected in 2022;  
and

WHEREAS, Governor Lujan Grisham took the oath of office of  
governor on January 1, 2019 and on January 1, 2023, during  
which she swore to support the constitution and the laws of the  
state and to faithfully and impartially discharge the duties of  
her office; and

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1           WHEREAS, Article 2, Section 6 of the constitution of New  
2 Mexico provides that no "law shall abridge the right of the  
3 citizen to keep and bear arms for security and defense, for  
4 lawful hunting and recreational use and for other lawful  
5 purposes, but nothing herein shall be held to permit the  
6 carrying of concealed weapons. No municipality or county shall  
7 regulate, in any way, an incident of the right to keep and bear  
8 arms"; and

9           WHEREAS, the second amendment to the United States  
10 constitution states that a "well regulated militia, being  
11 necessary to the security of a free state, the right of the  
12 people to keep and bear arms, shall not be infringed"; and

13           WHEREAS, on September 7, 2023, Governor Lujan Grisham  
14 issued Executive Order 2023-130, which declared a state of  
15 public health emergency due to gun violence effective through  
16 October 6, 2023, and directed the department of health, the  
17 department of homeland security and emergency management and  
18 the department of public safety to immediately collaborate with  
19 her office "to provide an effective and coordinated response to  
20 this public health emergency"; and

21           WHEREAS, in the same executive order, she directed all  
22 political subdivisions of the state to comply with and enforce  
23 all directives pursuant to the order; and

24           WHEREAS, on September 8, 2023, Governor Lujan Grisham  
25 directed department of health secretary Patrick Allen to issue

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1 a public health emergency order; and

2 WHEREAS, that public health emergency order prohibited any  
3 person other than a law enforcement officer or licensed  
4 security officer from possessing a firearm "either openly or  
5 concealed, within cities or counties averaging 1,000 or more  
6 violent crimes per 100,000 residents per year since 2021  
7 according to Federal Bureau of Investigation's Uniform Crime  
8 Reporting Program AND more than 90 firearm-related emergency  
9 department visits per 100,000 residents from July 2022 to June  
10 2023 according to the New Mexico Department of Public Health",  
11 which effectively applied to residents in Bernalillo county and  
12 the city of Albuquerque; and

13 WHEREAS, by doing so, Governor Lujan Grisham usurped New  
14 Mexicans' and Americans' constitutional right to "keep and bear  
15 arms"; and

16 WHEREAS, during a press conference announcing the measure  
17 on September 8, 2023, Governor Lujan Grisham said, "we're  
18 suspending open and concealed carry", admitting, "I am sure  
19 before you [the media] write this, there will be a legal  
20 challenge, and I can't tell you that we win it, given all of  
21 the different challenges to gun violence laws and restrictions  
22 on individual firearm access and control"; and

23 WHEREAS, this statement is an admission by the governor  
24 that the order may be unconstitutional; and

25 WHEREAS, *USA Today* reported on September 12, 2023 that the

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1 "governor has acknowledged that the order might not be  
2 constitutional and said she expected legal challenges"; and

3 WHEREAS, Governor Lujan Grisham further said, "no  
4 constitutional right, in my view, including my oath, is  
5 intended to be absolute"; and

6 WHEREAS, elected officials and leaders in New Mexico and  
7 across the country, both democratic and republican, stated they  
8 believed the order was unconstitutional; and

9 WHEREAS, Raúl Torrez, the democratic attorney general of  
10 New Mexico, wrote in a letter to the governor, "I do not  
11 believe that the [e]mergency [o]rder will have any meaningful  
12 impact on public safety but, more importantly, I do not believe  
13 it passes constitutional muster" and in an interview with an  
14 Albuquerque television station, he further said, "I'm not  
15 ethically permitted to defend this action"; and

16 WHEREAS, democratic Sheriff John Allen of Bernalillo  
17 county said on September 11, 2023, referring to the governor's  
18 order: "It's unconstitutional, so there's no way we can  
19 enforce that order...This is unconstitutional and like I said,  
20 I uphold my oath seriously"; and

21 WHEREAS, democratic Mayor Tim Keller of Albuquerque wrote  
22 via X on September 8, 2023: "We welcome meaningful solutions  
23 and additional resources to fight crime in Albuquerque. APD is  
24 not responsible for enforcing the governor's ban, our officers  
25 will continue to enforce all criminal laws, combat gun

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1 violence, and push for needed justice in our city"; and

2 WHEREAS, Sam Bregman, the democratic first judicial  
3 district attorney of Albuquerque, who was appointed by Governor  
4 Lujan Grisham, said in reference to the governor's order on  
5 September 9, 2023: "as an officer of the court, I cannot and  
6 will not enforce something that is clearly unconstitutional";  
7 and

8 WHEREAS, democratic United States Representative Gabe  
9 Vasquez of New Mexico said in reference to a congressional  
10 resolution condemning Governor Lujan Grisham, "I plan on voting  
11 yes for the resolution...we must produce constitutional, legal  
12 and enforceable solutions that will help protect our children  
13 and families," per a September 20, 2023, *Roswell Daily Record*  
14 report; and

15 WHEREAS, democratic United States Senator Martin Heinrich  
16 of New Mexico said in a September 11, 2023 statement: "there  
17 is more that can and should be done to stem the violence and  
18 ensure every American can feel safe at school, at the grocery  
19 store or at the movie theatre. As we do that work, we need to  
20 focus on solutions that are constitutional and enforceable";  
21 and

22 WHEREAS, democratic United States Representative Ted Lieu  
23 of California wrote via X on September 9, 2023: "I support gun  
24 safety laws. However, this order from the governor of New  
25 Mexico violates the U.S. Constitution. No state in the union

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1 can suspend the federal Constitution. There is no such thing  
2 as a state public health emergency exception to the U.S.  
3 Constitution"; and

4 WHEREAS, democratic state Senator Joseph Cervantes of Las  
5 Cruces wrote of the order on September 11, 2023, via a post on  
6 X: "An unconstitutional approach undermines the important  
7 collaboration gun issues deserve, and the important role of a  
8 Governor to lead genuine reforms"; and

9 WHEREAS, Governor Lujan Grisham swore by oath on January  
10 1, 2019 and again on January 1, 2023: "I, Michelle Lujan  
11 Grisham, do solemnly swear to support the constitution of the  
12 United States and the constitution and the laws of the state of  
13 New Mexico, and that I will faithfully and impartially  
14 discharge the duties of the office of governor on which I am  
15 about to enter, to the best of my ability, so help me God"; and

16 WHEREAS, Governor Lujan Grisham broke this oath of office  
17 by knowingly and intentionally infringing upon the  
18 constitutional rights of New Mexicans and Americans to keep and  
19 bear arms; and

20 WHEREAS, Governor Lujan Grisham violated Article 2,  
21 Section 6 of the constitution of New Mexico and the second  
22 amendment to the United States constitution by issuing  
23 Executive Order 2023-130 and directing issuance of the  
24 September 8, 2023 public health order; and

25 WHEREAS, Article 4, Section 36 of the constitution of New

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1 Mexico provides that all state officers "...shall be liable to  
2 impeachment for crimes, misdemeanors and malfeasance in  
3 office"; and

4 WHEREAS, Governor Lujan Grisham's actions amount in the  
5 very least to malfeasance in office;

6 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
7 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the members of  
8 the house of representatives condemn Governor Lujan Grisham's  
9 actions as unconstitutional and as malfeasance in office that  
10 warrant her impeachment and removal from office; and

11 BE IT FURTHER RESOLVED that copies of this memorial be  
12 transmitted to the governor, United States Representative Ted  
13 Lieu, United States Senator Martin Heinrich, United States  
14 Representative Gabe Vasquez, the attorney general, the  
15 president pro tempore of the senate, the majority floor leader  
16 of the senate, the minority floor leader of the senate, the  
17 majority whip of the senate, the minority whip of the senate,  
18 the executive director of the state ethics commission, Senator  
19 Joseph Cervantes, the mayor of Albuquerque, the district  
20 attorney of the second judicial district, the sheriff of  
21 Bernalillo county and the secretary of health.