

1 *House* BILL NO. *148*  
2 INTRODUCED BY *Burtilson Regner Kuyff*  
3 *Salmonson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A PROCEDURE  
5 FOR RECALL OF STATE OFFICERS AND LEGISLATORS."

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Officers subject to recall. All public  
9 officers of the executive or legislative branches of state  
10 government, whether holding their elective office by  
11 election or appointment, are subject to recall by the  
12 qualified electors of the electoral district from which  
13 candidates are elected to that office.

14 Section 2. Number of petitioners. A number of  
15 qualified electors equal to twenty-five percent (25%) of the  
16 number of votes cast at the last preceding general election  
17 for all the candidates for the office held by the officer  
18 may, by recall petition, demand his recall. Such a petition  
19 shall be filed with the secretary of state when it contains  
20 a sufficient number of signatures.

21 Section 3. Limitations. A recall petition may not be  
22 filed against any officer until he has held office for six  
23 (6) months, except that a petition may be filed against a  
24 member of the legislature after five (5) days from the  
25 beginning of the first session after his election. After

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1 one recall petition and election, no further recall petition  
2 may be filed against the same officer during the term of his  
3 office unless the persons signing the petition first pay  
4 into the public account from which such election expenses  
5 were paid all expenses of the first election.

6 Section 4. Form of petition. The form of the recall  
7 petition shall be substantially as follows:

8 RECALL PETITION  
9 To: (Name)  
10 Secretary of State  
11 Helena, Montana

12 Sir:  
13 We, being qualified electors of the district from which  
14 ..... (name and title of officer) was elected,  
15 demand his recall.

16 Name..... Date of Signing.....  
17 Residence..... Street Number.....  
18 (20 lines for signatures per sheet)

19 The grounds of the demand for the recall of the said  
20 ..... are as follows:  
21 (State in not more than two hundred (200) words the  
22 grounds of the demand.)

23 Section 5. Verification on signature sheets. Each and  
24 every sheet of each petition containing signatures shall be  
25 verified on its face by a person who circulated such sheet,

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1 in substantially the following form:

2 STATE OF MONTANA, )  
3 County of .....)

4 ....., being duly sworn, deposes and says  
5 that he is the circulator of the foregoing paper and that  
6 the signatures thereon were made in his presence and are the  
7 genuine signatures of the persons whose names they purport  
8 to be.

9 Signed.....

10 Subscribed and sworn to before me this ..... day of  
11 ....., 19...

12 .....  
13 Notary public for the state of Montana  
14 Residing at ....., Montana

15 My commission expires .....

16 Section 6. Notice to officer -- statement of defense.  
17 Upon receiving a petition, the secretary of state shall  
18 within twenty-four (24) hours give written notice to the  
19 officer against whom it is filed. The notice shall state  
20 that a recall petition has been filed, shall set forth the  
21 grounds thereof, and shall notify the officer that he has  
22 the right to prepare and have printed on the ballot a  
23 statement no longer than two hundred (200) words defending  
24 his official conduct. If the officer fails to deliver such  
25 a defensive statement to the secretary of state within sixty

1 (60) days of receiving notice under this section, his  
2 statement shall not be printed on the ballot and is waived.

3 Section 7. County clerk to verify signatures. The  
4 county clerk of each county in which any such petition shall  
5 be signed shall compare the signatures of the electors  
6 signing the same with their signatures on the registration  
7 books and blanks on file in his office and shall thereupon  
8 attach to the sheets of said petition containing such  
9 signatures his certificate to the secretary of state,  
10 substantially as follows:

11 STATE OF MONTANA, )  
12 County of .....)

13 To the Honorable ....., Secretary of  
14 State of the State of Montana:

15 I, ....., county clerk of the county of  
16 ....., hereby certify that I have compared the  
17 signatures on ..... (number) sheets of the .....  
18 petition, attached hereto, with the signatures of those  
19 electors as they appear on the registration books and blanks  
20 in my office; and I believe that the signatures marked  
21 ....., numbering ....., are genuine. As to  
22 the remainder of the signatures thereon, I believe that they  
23 are not genuine for the reason that ....., and I  
24 further certify that the signatures marked .....,  
25 numbering ....., do not appear on the registration books

1 and blanks in my office.  
 2 Signed this ..... day of ....., 19...  
 3 (Seal of Office) ..... County Clerk  
 4 By.....  
 5 Deputy

6 Every such certificate shall be prima facie evidence of  
 7 the facts stated therein, and of the qualifications of the  
 8 electors whose signatures are thus certified to be genuine,  
 9 and the secretary of state shall consider and count only  
 10 such signatures on such petitions as shall be so certified  
 11 by said county clerks to be genuine; provided, that the  
 12 secretary of state may consider and count such of the  
 13 remaining signatures as may be proved to be genuine, and  
 14 that the parties so signing were legally qualified to sign  
 15 such petitions, and the official certificate of a notary  
 16 public of the county in which the signer resides shall be  
 17 required as to the fact for each of such last-named  
 18 signatures; and the secretary of state shall further compare  
 19 and verify the official signatures and seals of all notaries  
 20 so certifying with their signatures and seals filed in his  
 21 office. Such notaries' certificate shall be substantially  
 22 in the following form:

23 STATE OF MONTANA, )  
 24 County of .....)  
 25 I, ....., a duly qualified and acting

1 notary public in and for the above-named county and state,  
 2 do hereby certify: that I am personally acquainted with each  
 3 of the following named electors whose signatures are affixed  
 4 to the annexed petition, and I know of my own knowledge that  
 5 they are qualified electors of the state of Montana and the  
 6 district from which (name and title of officer) was elected  
 7 and that their residence and post office address is  
 8 correctly stated therein, to wit: (Names of such electors).

9 In Testimony Whereof, I have hereunto set my hand and  
 10 official seal this ..... day of ....., 19...

11 Notary Public, in and for ..... County,  
 12 State of Montana.

13 The county clerk shall not retain in his possession any  
 14 such petition, or any part thereof, for a longer period than  
 15 two (2) days for the first two hundred (200) signatures  
 16 thereon, and one (1) additional day for each two hundred  
 17 (200) additional signatures, or fraction thereof, on the  
 18 sheets presented to him, and at the expiration of such time  
 19 he shall forward the same to the secretary of state, with  
 20 his certificate attached thereto, as above provided. The  
 21 forms herein given are not mandatory, and if substantially  
 22 followed in any petition, it shall be sufficient,  
 23 disregarding clerical and merely technical errors.

24 Section 8. Notification -- resignation or special  
 25 election. (1) If a petition filed with the secretary of

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1 state is determined to have sufficient signatures, the  
2 secretary shall promptly, by certified mail, inform the  
3 officer being recalled that the recall petition is in proper  
4 form.

5 (2) If the officer being recalled does not resign his  
6 office within sixty (60) days after notice from the  
7 secretary of state, a special recall election shall be  
8 ordered by the governor. The special election must be held  
9 within thirty (30) days and the date of the special election  
10 shall be specified in the order, provided, however, that if  
11 the officer being recalled resigns his office prior to the  
12 time of the special recall election, the officer shall be  
13 considered recalled and the special recall election shall  
14 not be held.

15 Section 9. Insufficient petition. If a petition is  
16 determined not to have the required number of signatures,  
17 the secretary of state shall inform the person or  
18 organization under whose authority the petition was  
19 circulated that the petition is defective for lack of  
20 certified signatures, and specify the number of signatures  
21 required to make the petition valid. The petition must be  
22 perfected within thirty (30) days of the date the secretary  
23 of state gives notice under this section, and if it is not  
24 perfected within thirty (30) days the secretary of state  
25 shall declare the petition entirely null and void.

1 Section 10. Form of recall ballot. The ballot at any  
2 recall election shall be in the form prescribed by the  
3 secretary of state. On the ballot shall be printed in not  
4 more than two hundred (200) words the reason for demanding  
5 the recall of the officer named in the recall petition, and  
6 in not more than two hundred (200) words the officer's  
7 justification of his course in office. Following such  
8 arguments shall be printed the question "Shall .....  
9 (naming the officer) be recalled?"

10 Section 11. Officer to continue in office. The officer  
11 named in the recall petition shall continue to perform the  
12 duties of his office until the results of the special recall  
13 election are officially declared.

14 Section 12. Conduct of special recall election.  
15 Special elections for the recall of an officer shall be  
16 conducted and the results thereof canvassed and certified in  
17 all respects as near as practicable, in like manner as  
18 general elections, except as otherwise provided; but in no  
19 case shall a special recall election be held within ninety  
20 (90) days next preceding a primary or general election.

21 Section 13. General election laws control. (1) The  
22 provisions relating to general elections, including the  
23 payment of expenses of conducting the recall election, shall  
24 govern special recall elections except where otherwise  
25 provided for.

1 (2) Whenever a special recall election is ordered,  
2 notice must be issued and posted in the same manner as for a  
3 general election.

4 (3) To recall any officer, a majority of the votes  
5 cast at the special recall election must be in favor of such  
6 recall.

7 (4) If recalled, an officer shall be recalled as of  
8 the time when the results of the special recall election are  
9 proclaimed, and a vacancy in the office shall exist.

10 (5) If an officer is recalled from his office the  
11 vacancy shall be filled in the manner provided by law for  
12 filling a vacancy in that office arising from any other  
13 cause.

14 Section 14. Removal of signatures. (1) The signer of  
15 any recall petition may remove his own name from the  
16 petition by crossing out, obliterating, or otherwise  
17 defacing his own signature at any time prior to the time  
18 when the petition is filed.

19 (2) The signer of any recall petition may have his  
20 name removed from the petition at any time after the  
21 petition has been filed, but prior to the time when an  
22 election has been ordered, by presenting or submitting to  
23 the officer who receives the recall petition, a signed  
24 statement, that the signer desires to have his name removed  
25 from the petition. The statement shall contain sufficient

1 information to clearly identify the signer. The officer who  
2 receives the statement shall immediately strike the signer's  
3 name from the petition, and adjust the total of certified  
4 signatures on the petition accordingly. The statement shall  
5 be attached to, and become a part of, the petition for  
6 recall.

-End-

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