

1 *House* BILL NO. *795*
 2 INTRODUCED BY *Baroness Meloy Sully*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
 5 RECALL AND ADVISORY RECALL ACT, INITIATIVE NO. 73, TO
 6 CLARIFY THE SCOPE OF ITS APPLICATION, TO SPECIFY GROUNDS FOR
 7 RECALL, TO ESTABLISH MORE DEFINED RESPONSIBILITIES ON THE
 8 PART OF PETITIONERS, TO CORRECT AND CLARIFY CERTAIN
 9 ADMINISTRATIVE PROVISIONS OF THE ACT, TO REMOVE ADVISORY
 10 RECALL PROCEDURES FOR U. S. DISTRICT JUDGES, TO REMOVE THE
 11 APPLICATION OF THE ACT TO REPRESENTATIVES IN CONGRESS, TO
 12 CORRECT CERTAIN ERRORS IN FORM, AND TO REPEAL CONFLICTING
 13 STATUTES; AMENDING SECTIONS 1, 2, 4, 7, 8, 10, 11, 13, 15,
 14 16, 17, AND 19 OF THE MONTANA RECALL AND ADVISORY RECALL
 15 ACT; AND REPEALING SECTIONS 11-721.1, 11-3132, 11-3220, AND
 16 11-3540, R.C.M. 1947, AND SECTIONS 20, 21, 22, 23, AND 24 OF
 17 THE MONTANA RECALL AND ADVISORY RECALL ACT."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. There is a new R.C.M. section that reads as
 21 follows:

22 Definitions. As used in the Montana Recall Act, the
 23 following definitions apply:

24 (1) "Public office" means a position of duty, trust,
 25 or authority created by the constitution or by the

1 legislature or by a political subdivision through authority
 2 conferred by the constitution or the legislature that meets
 3 the following criteria:

4 (a) the position must possess a delegation of a
 5 portion of the sovereign power of government to be exercised
 6 for the benefit of the public;

7 (b) the powers conferred and the duties to be
 8 discharged must be defined, directly or impliedly, by the
 9 constitution, the legislature, or by a political subdivision
 10 through legislative authority;

11 (c) the duties must be performed independently and
 12 without control of a superior power other than the law,
 13 unless the legislature has created the position and placed
 14 it under the general control of a superior office or body;
 15 and

16 (d) the position must have some permanency and
 17 continuity and not be only temporary or occasional.

18 (2) "Political subdivision" means a local government
 19 unit including but not limited to a county, city, or town
 20 established under authority of Article XI, section 1, of The
 21 Constitution of the State of Montana or a school district.

22 (3) "State-district" means a public service commission
 23 district, a legislative representative or senatorial
 24 district, or a judicial district.

25 Section 2. Section 1 of the Montana Recall and

INTRODUCED BILL

HB 795

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 1. Short title. This act shall be ~~known and~~
4 cited as the ~~"Montana Recall And Advisory Recall Act".~~"

5 Section 3. Section 2 of the Montana Recall and
6 Advisory Recall Act, Initiative No. 73, is amended to read
7 as follows:

8 "Section 2. Officers subject to recall. (1) Every
9 person holding a public office of the state or any of its
10 political subdivisions, either by election or appointment,
11 is subject to recall from such office ~~by the qualified~~
12 ~~electors of the state or political subdivision.~~

13 ~~(2) A public officer holding an elective office may be~~
14 ~~recalled by the qualified electors entitled to vote for his~~
15 ~~successor. A public officer holding an appointive office may~~
16 ~~be recalled by the qualified electors entitled to vote for~~
17 ~~the successor or successors of the elective officer or~~
18 ~~officers who have the authority to appoint a person to that~~
19 ~~position. Any reason causing the electorate dissatisfaction~~
20 ~~with a public official shall be sufficient grounds for~~
21 ~~recall notwithstanding good faith attempts to perform the~~
22 ~~duties of his office.~~

23 ~~(3) Physical or mental lack of fitness, incompetence,~~
24 ~~neglect of duty, or conviction of a crime enumerated in~~
25 ~~Title 94 is the only basis for recall. No person may be~~

1 ~~recalled for performing a mandatory duty of the office he~~
2 ~~holds or for not performing any act that, if performed,~~
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8 petition. A recall petition ~~shall~~ may not name more than one
9 officer to be recalled. Recall petitions for elected or
10 appointed state officers shall contain the signatures of
11 qualified electors equalling at least ~~ten percent (10%)~~ of
12 the number of persons ~~voting registered to vote~~ at the
13 preceding state general election. ~~A petition for the recall~~
14 ~~of a state district officer must contain the signatures of~~
15 ~~qualified electors equalling at least 15% of the number of~~
16 ~~persons registered to vote in the last preceding election in~~
17 ~~that district.~~ Recall petitions for elected or appointed
18 county officers shall contain the signatures of qualified
19 electors equalling at least ~~fifteen percent (15%)~~ of the
20 number of persons ~~voting registered to vote~~ at the preceding
21 county general election. Recall petitions for elected or
22 appointed officers of ~~cities, towns, municipalities or other~~
23 ~~political subdivisions of the state school districts~~ shall
24 contain the signatures of qualified electors equalling at
25 least ~~twenty percent (20%)~~ of the number of persons ~~voting~~

1 ~~registered to vote~~ at the preceding general election for the
2 ~~city, town, municipality or other political subdivision~~
3 ~~school district."~~

4 Section 5. Section 7 of the Montana Recall and
5 Advisory Recall Act, Initiative No. 73, is amended to read
6 as follows:

7 "Section 7. Form of recall petition. (1) The form of
8 the recall petition shall be substantially as follows:

9 **WARNING**

10 ~~A person who knowingly signs a name other than his~~
11 ~~own to this petition or who signs his name more than once~~
12 ~~upon a petition to recall the same officer at one election~~
13 ~~or who is not, at the time he signs this petition, a~~
14 ~~qualified elector of the state of Montana entitled to vote~~
15 ~~for the successor of the elected officer to be recalled or~~
16 ~~the successor or successors of the officer or officers who~~
17 ~~have the authority to appoint a person to the position held~~
18 ~~by the appointed officer to be recalled is punishable by a~~
19 ~~fine of no more than \$500 or imprisonment in the county jail~~
20 ~~for a term not to exceed 6 months, or both, or imprisonment~~
21 ~~in the state prison for a term not to exceed 10 years, or~~
22 ~~both.~~

23 **RECALL PETITION**

24 To the Honorable, Secretary of State for
25 of the State of Montana (or name and office of other filing

1 officer) We, the undersigned citizens and qualified
2 electors of the State of Montana (or name of appropriate
3 state, district or political subdivision) respectfully demand
4 petition that an election be held as provided by law on the
5 question of whether, holding the office of
6, should be recalled for the following
7 reasons, to-wit: (Setting out a general statement of the
8 reasons for recall in not more than 200 words). ~~That a~~
9 ~~special election therefore be called, that we each for~~
10 ~~himself say, By his signature each signer certifies: I have~~
11 personally signed this petition; I am a qualified elector of
12 the State state of Montana, for and (name of appropriate
13 political subdivision); and my residence and post office
14 address are correctly written after my name to the best of
15 my knowledge and belief.

16 ~~A recall petition shall contain a general statement of~~
17 ~~not more than two hundred (200) words stating the reason for~~
18 ~~recall. Such a statement is solely for information of the~~
19 ~~electors and set forth any reason causing the~~
20 ~~dissatisfaction with the public official and may be~~
21 ~~political rather than legal in nature.~~

22 (2) Numbered lines shall follow the above heading.
23 Each numbered line shall contain spaces for the signature,
24 post-office address, and printed last name of the signer.
25 Each separate sheet of the petition shall contain the

1 ~~heading and reasons for the proposed recall as prescribed~~
2 ~~above.~~"

3 Section 6. Section 8 of the Montana Recall and
4 Advisory Recall Act, Initiative No. 73, is amended to read
5 as follows:

6 "Section 8. Form of circulation sheets. (1) The
7 signatures on each petition shall be placed on sheets of
8 paper known as "circulation sheets", ~~substantially fourteen~~
9 ~~inches long and eight and one half inches wide. Each~~
10 ~~circulation sheet shall be substantially 8 1/2 x 14 inches~~
11 ~~or a continuous sheet may be folded so as to meet this size~~
12 ~~limitation.~~ Such circulation sheets shall be ruled with a
13 horizontal line one and one-half inches from the top
14 thereof. The space above such line shall remain blank and
15 shall be for the purpose of binding. ~~The circulation sheet~~
16 ~~shall be vertically divided into two columns. The first~~
17 ~~column shall be three and one half inches in width, measured~~
18 ~~from the left edge of the sheet, and shall be for the~~
19 ~~purpose of containing the signatures. The second column~~
20 ~~shall encompass the remainder of the width of the sheet and~~
21 ~~shall be the space on which shall be placed the post office~~
22 ~~address of the signers, together with the street number, if~~
23 ~~the residence of a signer can be so designated, and the~~
24 ~~address of such signer shall be opposite his name on the~~
25 ~~same line.~~

1 ~~At the top of each sheet, under the one and one half~~
2 ~~inch margin, shall be printed the word "Warning", under~~
3 ~~which shall be printed in eight point type, single leaded,~~
4 ~~the following:~~

5 ~~Warning~~

6 ~~Any person signing any name other than his own to this~~
7 ~~petition or signing the same more than once of the same~~
8 ~~measure at one election or who is not, at the time of~~
9 ~~signing the same, a qualified elector of the state, is~~
10 ~~punishable by a fine not exceeding five hundred dollars~~
11 ~~(\$500) or imprisonment in the penitentiary not exceeding two~~
12 ~~(2) years, or both such fine and imprisonment.~~

13 (2) The petition, for purposes of circulation, may be
14 divided into sections, each section to contain not more than
15 ~~twenty-five~~ 25 circulation sheets. ~~No section, however,~~
16 ~~shall be circulated for signatures unless it has attached to~~
17 ~~the front sheet thereof a certified petition copy. The~~
18 ~~sponsors shall set out in their application for petition~~
19 ~~copies the number of sections into which each petition is to~~
20 ~~be divided for circulation, and the number of circulation~~
21 ~~sheets which it is desired that each section shall contain,~~
22 ~~but there need be no uniformity as to the number of~~
23 ~~circulation sheets contained in each section.~~

24 (3) ~~Before a petition may be circulated for~~
25 ~~signatures, a sample circulation sheet must be submitted to~~

1 the officer with whom the petition must be filed in the form
 2 in which it will be circulated. The filing officer shall
 3 review the petition for sufficiency as to form and approve
 4 or reject the form of the petition, stating his reasons
 5 therefor, within 1 week of receiving the sheet.

6 (4) The petition form submitted must be accompanied by
 7 a written statement containing the reasons for the desired
 8 recall as stated on the petition. The truth of purported
 9 facts contained in the statement shall be sworn to by at
 10 least one of the petitioners before a person authorized to
 11 administer oaths.

12 (5) The filing officer shall serially number all
 13 approved petitions continuously from year to year."

14 Section 7. Section 10 of the Montana Recall and
 15 Advisory Recall Act, Initiative No. 73, is amended to read
 16 as follows:

17 "Section 10. Who may petition — false signatures —
 18 penalties. Every person who is a qualified elector of this
 19 state may sign a petition for recall of a state officer.
 20 Every person who is a qualified elector of a district of the
 21 state from which a state-district officer is elected may
 22 sign a petition for recall of a state-district officer of
 23 that district or appointed by an officer or the officers of
 24 that election district. Every person who is a qualified
 25 elector of a political subdivision of this state may sign a

1 petition for recall of an officer of that political
 2 subdivision. However, if a political subdivision is divided
 3 into election districts, a person must be a qualified
 4 elector in the election district to be eligible to sign a
 5 petition to recall an officer elected from that election
 6 district. Any person signing any name other than his own to
 7 any petition, or knowingly signing his name more than once
 8 for the recall, or who is not at the time of the signing the
 9 same a qualified elector or any officer or person who
 10 knowingly and willfully violating any provision of this
 11 section, shall be punished by a fine not to exceed Five
 12 Hundred Dollars (\$500), or by imprisonment in the state
 13 penitentiary not to exceed Two (2) years, or by both, makes
 14 a false entry upon an affidavit required in connection with
 15 the filing of a petition for the recall of an officer is
 16 guilty of unsworn falsification or tampering with public
 17 records or information, as appropriate, and is punishable as
 18 provided in 94-7-204 or 94-7-209, as applicable."

19 Section 8. There is a new R.C.M. section that reads as
 20 follows:

21 Submission of circulation sheets — certification of
 22 signatures. (1) Signed circulation sheets or sections of a
 23 petition for recall must be submitted to the officer
 24 responsible for registration of electors in the county in
 25 which the signatures were obtained within 3 months of the

1 date the form of the petition was approved under [section 8
2 of the Montana Recall Act, as amended].

3 (2) An affidavit, in substantially the following form,
4 shall be attached to each circulation sheet or section
5 submitted to the county officer:

6 (Name of person circulating petition), being first
7 sworn, deposes and says: I circulated or assisted in
8 circulating the petition to which this affidavit is
9 attached, and I believe the signatures thereon are genuine,
10 are the signatures of the persons whose names they purport
11 to be, and that the signers knew the contents of the
12 petition before signing the same.

13 (Signature)

14 Subscribed and sworn before me this day of
15 19...

16 (Person authorized to take oaths)

17 Seal (Title or notarial information)

18 Section 9. Section 11 of the Montana Recall and
19 Advisory Recall Act, Initiative No. 73, is amended to read
20 as follows:

21 "Section 11. County clerk to verify signatures. (1)
22 The county clerk in each county in which such a petition is
23 signed shall compare the signatures of the electors in such
24 county with registration signatures on file in such clerk's
25 office, and, if satisfied the signatures are genuine,

1 certify that fact to the ~~official~~ officer with whom the
2 recall petition ~~was~~ is to be filed, ~~as follows in~~
3 substantially the following form:

4 ~~State of Montana~~-----}

5 ~~-----~~ +--

6 ~~County of~~-----}

7 To the Honorable Secretary of State of
8 the State of Montana (or name and title of other officer):

9 I,, ~~Clerk in and for~~ (title) of

10 County, ~~do hereby~~ certify that I have compared
11 the signatures on sheets (specifying number of
12 sheets) of the petition for recall ~~No.~~ attached
13 hereto, with the signatures of the registered voters as they
14 appear upon the registration ~~forms, books and~~ records of my
15 office, and ~~from such information as I have been able to~~
16 obtain I believe the ~~..... (number)~~ (number) signatures, ~~numbering~~
17 ~~.....~~ are genuine valid for the purpose of the petition.

18 ~~As to the remainder of the signatures thereon, I believe~~
19 ~~they are not genuine, except that the following names~~
20 ~~{.....} do not appear on the registration forms,~~
21 ~~books and records in my office.~~

22 County Clerk

23 {Seal of Office} By.....

24 Deputy Clerk

25 I further certify that the affidavit of the circulator of

1 ~~the (sheet) (section) of the petition is attached and that~~
2 ~~the post-office address is completed for each valid~~
3 ~~signature.~~

4 Signed: ~~***** (Date)~~ (Signature)
5 Seal ~~***** (Title)~~

6 [2] Every such certificate shall be prima facie
7 evidence of the facts stated therein and of the
8 qualifications of the registered voters whose signatures are
9 certified, and the secretary of state or other ~~official~~
10 ~~officer~~ receiving the recall petition shall consider and
11 count only such signatures as are certified; provided, that
12 the ~~secretary of state or city clerk or town clerk~~ officer
13 ~~with whom the recall petition is filed~~ shall consider and
14 county count any remaining signatures of the registered
15 voters which prove to be genuine and such signatures shall
16 be considered and counted if they are attested to in the
17 manner and form as provided for initiative and referendum
18 petitions.

19 [3] The county clerk ~~shall~~ may not retain any petition
20 or any part of it for more than ~~fifteen~~ {15} days. At the
21 expiration of such period the county clerk shall deliver the
22 same to the person ~~from whom it was received with such~~
23 ~~clerk's certification with whom the petition is required to~~
24 be filed."

25 Section 10. Section 13 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 13. Resignation of ~~official~~ officer --
4 proclamation of election. If the officer named in the
5 petition for recall submits his resignation in writing ~~such~~
6 ~~officer's resignation~~, it shall be accepted and become
7 effective the day it is offered. The vacancy created by such
8 resignation shall be filled as provided by law, provided
9 that the ~~official~~ officer named in the petition for recall
10 ~~shall~~ may not be appointed to fill such vacancy. If the
11 officer named in the petition for recall refuses to resign
12 or does not resign within ~~five~~ {5} days after the petition
13 is filed, a special election shall be ~~proclaimed~~ called
14 unless the filing is within ~~ninety~~ {90} days of a general
15 election, in which case the question shall be placed on the
16 ~~general election ballot~~ a separate ballot at the same time
17 as the general election. The ~~proclamation call~~ of a special
18 election shall be made by the governor in the case of a
19 state ~~or state-district~~ officer ~~and~~ or by the board or
20 ~~official~~ officer empowered by law to ~~proclaim~~ call special
21 elections for ~~the~~ a political subdivision in the case of any
22 officer of a political subdivision of the state."

23 Section 11. Section 15 of the Montana Recall and
24 Advisory Recall Act, Initiative No. 73, is amended to read
25 as follows:

1 "Section 15. Notice of a recall election. ~~Shall be in~~
2 ~~The following form:~~ The notice of a recall election shall be
3 in substantially the following form:

4 NOTICE OF RECALL ELECTION

5 Notice is hereby given pursuant to law that a recall
6 election will be held on the ~~xxxxxx~~ day of ~~xxxxxxxxx~~ 197xx
7 xxxxxxxxx (Date) for the purpose of voting upon the recall
8 of ~~xxxxxxxxx~~ who holds the office of xxxxxxxxx
9 DATED at ~~xxxxxxxxx~~, the ~~xxxxxx~~ day of ~~xxxxxxxxx~~ 197xx
10 xxxxxxxxx (Date)"

11 Section 12. Section 16 of the Montana Recall and
12 Advisory Recall Act, Initiative No. 73, is amended to read
13 as follows:

14 "Section 16. Form of ballot. ~~(1)~~ The ballot at such
15 recall election ~~shall be entitled "Recall Ballot", and shall~~
16 set forth the statement contained in the recall petition
17 stating the reasons for demanding the recall of such officer
18 and the officer's statement of reasons why he should not be
19 recalled. ~~Following the statements shall be printed the~~
20 ~~following instructions to the voters: "To vote on the~~
21 ~~recall, mark a cross (X) in the square at the right of yes~~
22 ~~or no," and immediately thereunder the question: "Shall~~
23 ~~xxxxxxxxx (naming the officer) be recalled", and~~
24 ~~immediately to the right of such question shall be printed~~
25 ~~the words "yes" and "no" not less than three sixteenths~~

1 ~~(3/16) of an inch in height, and at the right of each word a~~
2 ~~square shall be printed on the ballot in which the voter may~~
3 ~~indicate such voter's preference. Then the question of~~
4 ~~whether the officer should be recalled shall be placed on~~
5 ~~the ballot in a form similar to the following:~~

- 6 FOR recalling ~~xxxxxxxxx~~ who holds the office of
7 ~~xxxxxxxxx~~
8 AGAINST recalling ~~xxxxxxxxx~~ who holds the office
9 of xxxxxxxxx

10 ~~(2) The form of the ballot shall be approved as~~
11 ~~provided in the election laws of this state."~~

12 Section 13. Section 17 of the Montana Recall and
13 Advisory Recall Act, Initiative No. 73, is amended to read
14 as follows:

15 "Section 17. Officer to remain in office until results
16 declared -- filling of vacancy. The officer named in the
17 recall petition ~~for recall shall continue~~ continues in
18 office until he resigns or the results of the ~~special recall~~
19 election are officially declared. If a majority of those
20 voting on the question vote to remove the officer, ~~then~~ the
21 office ~~shall become~~ becomes vacant and the vacancy shall be
22 filled as provided by law, provided that the officer
23 recalled ~~shall~~ may in no event be appointed to fill the
24 vacancy."

25 Section 14. Section 19 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 19. Expenses of election. Expenses of a
4 recall election ~~for a state officer~~ shall be paid from the
5 ~~funds of the state and expenses of a recall election for an~~
6 ~~officer of a political subdivision of the state shall be~~
7 ~~paid from the funds of such subdivision in the same manner~~
8 as the expenses for any other election. The expenditure of
9 such funds constitutes an emergency expenditure of funds,
10 and the political subdivision affected may fund the costs of
11 such an election through emergency funding procedures. In
12 the event a recall election is held for a state or
13 state-district officer, the legislature shall appropriate
14 funds to reimburse the counties involved for costs incurred
15 in running the election."

16 Section 15. Repealer. Sections 11-721.1, 11-3132,
17 11-3220, and 11-3540, R.C.M. 1947, and sections 20, 21, 22,
18 23, and 24 of the Montana Recall and Advisory Recall Act are
19 repealed.

-End-

Approved by Committee
on Judiciary

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8 discharged must be defined, directly or impliedly, by the
9 constitution, the legislature, or by a political subdivision
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11 (c) the duties must be performed independently and
12 without control of a superior power other than the law,
13 unless the legislature has created the position and placed
14 it under the general control of a superior office or body;
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 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. There is a new R.C.M. section that reads as
 21 follows:

22 Definitions. As used in the Montana Recall Act, the
 23 following definitions apply:

24 (1) "Public office" means a position of duty, trust,
 25 or authority created by the constitution or by the

1 legislature or by a political subdivision through authority
 2 conferred by the constitution or the legislature that meets
 3 the following criteria:

4 (a) the position must possess a delegation of a
 5 portion of the sovereign power of government to be exercised
 6 for the benefit of the public;

7 (b) the powers conferred and the duties to be
 8 discharged must be defined, directly or impliedly, by the
 9 constitution, the legislature, or by a political subdivision
 10 through legislative authority;

11 (c) the duties must be performed independently and
 12 without control of a superior power other than the law,
 13 unless the legislature has created the position and placed
 14 it under the general control of a superior office or body;
 15 and

16 (d) the position must have some permanency and
 17 continuity and not be only temporary or occasional.

18 (2) "Political subdivision" means a local government
 19 unit including but not limited to a county, city, or town
 20 established under authority of Article XI, section 1, of The
 21 Constitution of the State of Montana or a school district.

22 (3) "State-district" means a public service commission
 23 district, a legislative representative or senatorial
 24 district, or a judicial district.

25 Section 2. Section 1 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 1. Short title. This act shall be known and
4 cited as the ~~"Montana Recall And Advisory Recall Act".~~"

5 Section 3. Section 2 of the Montana Recall and
6 Advisory Recall Act, Initiative No. 73, is amended to read
7 as follows:

8 "Section 2. Officers subject to recall. (1) Every
9 person holding a public office of the state or any of its
10 political subdivisions, either by election or appointment,
11 is subject to recall from such office ~~by the qualified~~
12 ~~electors of the state or political subdivision.~~

13 ~~(2) A public officer holding an elective office may be~~
14 ~~recalled by the qualified electors entitled to vote for his~~
15 ~~successor. A public officer holding an appointive office may~~
16 ~~be recalled by the qualified electors entitled to vote for~~
17 ~~the successor or successors of the elective officer or~~
18 ~~officers who have the authority to appoint a person to that~~
19 ~~position. Any reason causing the electorate dissatisfaction~~
20 ~~with a public official shall be sufficient grounds for~~
21 ~~recall, notwithstanding good faith attempts to perform the~~
22 ~~duties of his office.~~

23 ~~(3) Physical or mental lack of fitness, incompetence,~~
24 ~~neglect of duty, or conviction of a crime enumerated in~~
25 ~~Title 94 is the only basis for recall. No person may be~~

1 ~~recalled for performing a mandatory duty of the office he~~
2 ~~holds or for not performing any act that, if performed,~~
3 ~~would subject him to prosecution for official misconduct."~~

4 Section 4. Section 4 of the Montana Recall and
5 Advisory Recall Act, Initiative No. 73, is amended to read
6 as follows:

7 "Section 4. Number of electors required for recall
8 petition. A recall petition ~~shall~~ ~~may~~ not name more than one
9 officer to be recalled. Recall petitions for elected or
10 appointed state officers shall contain the signatures of
11 qualified electors equalling at least ~~ten percent (10%)~~ of
12 the number of persons voting registered to vote at the
13 preceding state general election. ~~A petition for the recall~~
14 ~~of a state-district officer must contain the signatures of~~
15 ~~qualified electors equalling at least 15% of the number of~~
16 ~~persons registered to vote in the last preceding election in~~
17 ~~that district.~~ Recall petitions for elected or appointed
18 county officers shall contain the signatures of qualified
19 electors equalling at least ~~fifteen percent (15%)~~ of the
20 number of persons voting registered to vote at the preceding
21 county general election. Recall petitions for elected or
22 appointed officers of cities, towns, municipalities or other
23 ~~political subdivisions of the state~~ school districts shall
24 contain the signatures of qualified electors equalling at
25 least ~~twenty percent (20%)~~ of the number of persons voting

1 registered to vote at the preceding general election for the
2 city, town municipality or other political subdivision
3 school district."

4 Section 5. Section 7 of the Montana Recall and
5 Advisory Recall Act, Initiative No. 73, is amended to read
6 as follows:

7 "Section 7. Form of recall petition. (1) The form of
8 the recall petition shall be substantially as follows:

9 **WARNING**

10 A person who knowingly signs a name other than his
11 own to this petition or who signs his name more than once
12 upon a petition to recall the same officer at one election
13 or who is not, at the time he signs this petition, a
14 qualified elector of the state of Montana entitled to vote
15 for the successor of the elected officer to be recalled or
16 the successor or successors of the officer or officers who
17 have the authority to appoint a person to the position held
18 by the appointed officer to be recalled is punishable by a
19 fine of no more than \$500 or imprisonment in the county jail
20 for a term not to exceed 6 months, or both, or imprisonment
21 in the state prison for a term not to exceed 10 years, or
22 both.

23 **RECALL PETITION**

24 To the Honorable, Secretary of State for
25 of the State of Montana (or name and office of other filing

1 officer); We, the undersigned ~~citizens~~ and qualified
2 electors of the State of Montana (or name of appropriate
3 ~~state district or~~ political subdivision) respectfully demand
4 petition that an election be held as provided by law on the
5 question of whether, holding the office of
6, should be recalled for the following
7 reasons--to-wit: (Setting out a general statement of the
8 reasons for recall in not more than 200 words). ~~That a~~
9 special election therefore be called; that we each for
10 himself, say, By his signature each signer certifies: I have
11 personally signed this petition; I am a qualified elector of
12 the State ~~state~~ of Montana for and (name of appropriate
13 political subdivision); and my residence and post office
14 address are correctly written after my name to the best of
15 my knowledge and belief.

16 ~~A recall petition shall contain a general statement of~~
17 ~~not more than two hundred (200) words stating the reason for~~
18 ~~recall. Such a statement is solely for information of the~~
19 ~~electors and set forth any reason causing the~~
20 ~~dissatisfaction with the public official and may be~~
21 ~~political rather than legal in nature.~~

22 (2) Numbered lines shall follow the above heading.
23 Each numbered line shall contain spaces for the signature,
24 post-office address, and printed last name of the signer.
25 Each separate sheet of the petition shall contain the

1 ~~heading and reasons for the proposed recall as prescribed~~
2 ~~above.~~"

3 Section 6. Section 8 of the Montana Recall and
4 Advisory Recall Act, Initiative No. 73, is amended to read
5 as follows:

6 "Section 8. Form of circulation sheets. (1) The
7 signatures on each petition shall be placed on sheets of
8 paper known as "circulation sheets", ~~substantially fourteen~~
9 ~~inches long and eight and one-half inches wide. Each~~
10 ~~circulation sheet shall be substantially 8 1/2 x 14 inches~~
11 ~~or a continuous sheet may be folded so as to meet this size~~
12 ~~limitation.~~ Such circulation sheets shall be ruled with a
13 horizontal line one and one-half inches from the top
14 thereof. The space above such line shall remain blank and
15 shall be for the purpose of binding. ~~The circulation sheet~~
16 ~~shall be vertically divided into two columns. The first~~
17 ~~column shall be three and one-half inches in width, measured~~
18 ~~from the left edge of the sheet, and shall be for the~~
19 ~~purpose of containing the signatures. The second column~~
20 ~~shall encompass the remainder of the width of the sheet and~~
21 ~~shall be the space on which shall be placed the post office~~
22 ~~address of the signers, together with the street number, if~~
23 ~~the residence of a signer can be so designated, and the~~
24 ~~address of such signer shall be opposite his name on the~~
25 ~~same line.~~

1 ~~At the top of each sheet, under the one and one-half~~
2 ~~inch margin, shall be printed the word "Warning" under~~
3 ~~which shall be printed in eight point type, single leaded,~~
4 ~~the following:~~

5 ~~Warning~~

6 ~~Any person signing any name other than his own to this~~
7 ~~petition or signing the same more than once of the same~~
8 ~~measure at one election or who is not, at the time of~~
9 ~~signing the same, a qualified elector of the state, is~~
10 ~~punishable by a fine not exceeding five hundred dollars~~
11 ~~(\$500) or imprisonment in the penitentiary not exceeding two~~
12 ~~(2) years, or both such fine and imprisonment.~~

13 (2) The petition, for purposes of circulation, may be
14 divided into sections, each section to contain not more than
15 twenty-five 25 circulation sheets. No section, however,
16 shall be circulated for signatures unless it has attached to
17 the front sheet thereof a certified petition copy. The
18 sponsors shall set out in their application for petition
19 copies the number of sections into which each petition is to
20 be divided for circulation, and the number of circulation
21 sheets which it is desired that each section shall contain,
22 but there need be no uniformity as to the number of
23 circulation sheets contained in each section.

24 (3) Before a petition may be circulated for
25 signatures, a sample circulation sheet must be submitted to

1 the officer with whom the petition must be filed in the form
 2 in which it will be circulated. The filing officer shall
 3 review the petition for sufficiency as to form and approve
 4 or reject the form of the petition, stating his reasons
 5 therefor, within 1 week of receiving the sheet.

6 (4) The petition form submitted must be accompanied by
 7 a written statement containing the reasons for the desired
 8 recall as stated on the petition. The truth of purported
 9 facts contained in the statement shall be sworn to by at
 10 least one of the petitioners before a person authorized to
 11 administer oaths.

12 (5) The filing officer shall serially number all
 13 approved petitions continuously from year to year."

14 Section 7. Section 10 of the Montana Recall and
 15 Advisory Recall Act, Initiative No. 73, is amended to read
 16 as follows:

17 "Section 10. Who may petition -- false signatures --
 18 penalties. Every person who is a qualified elector of this
 19 state may sign a petition for recall of a state officer.
 20 Every person who is a qualified elector of a district of the
 21 state from which a state-district officer is elected may
 22 sign a petition for recall of a state-district officer of
 23 that district or appointed by an officer or the officers of
 24 that election district. Every person who is a qualified
 25 elector of a political subdivision of this state may sign a

1 petition for recall of an officer of that political
 2 subdivision. However, if a political subdivision is divided
 3 into election districts, a person must be a qualified
 4 elector in the election district to be eligible to sign a
 5 petition to recall an officer elected from that election
 6 district. Any person signing any name other than his own to
 7 any petition, or knowingly signing his name more than once
 8 for the recall, or who is not at the time of the signing the
 9 same a qualified elector or any officer or person who
 10 knowingly and wilfully violating any provision of this
 11 section, shall be punished by a fine not to exceed Five
 12 Hundred Dollars (\$500), or by imprisonment in the state
 13 penitentiary not to exceed Two (2) years, or by both, makes
 14 a false entry upon an affidavit required in connection with
 15 the filing of a petition for the recall of an officer is
 16 guilty of unsworn falsification or tampering with public
 17 records or information, as appropriate, and is punishable as
 18 provided in 94-7-204 or 94-7-209, as applicable."

19 Section 8. There is a new R.C.M. section that reads as
 20 follows:

21 Submission of circulation sheets -- certification of
 22 signatures. (1) Signed circulation sheets or sections of a
 23 petition for recall must be submitted to the officer
 24 responsible for registration of electors in the county in
 25 which the signatures were obtained within 3 months of the

1 date the form of the petition was approved under [section 8
2 of the Montana Recall Act, as amended].

3 (2) An affidavit, in substantially the following form,
4 shall be attached to each circulation sheet or section
5 submitted to the county officer:

6 (Name of person circulating petition), being first
7 sworn, deposes and says: I circulated or assisted in
8 circulating the petition to which this affidavit is
9 attached, and I believe the signatures thereon are genuine,
10 are the signatures of the persons whose names they purport
11 to be, and that the signers knew the contents of the
12 petition before signing the same.

13 (Signature)

14 Subscribed and sworn before me this day of,
15 19...

16 (Person authorized to take oaths)

17 Seal (Title or notarial information)

18 Section 9. Section 11 of the Montana Recall and
19 Advisory Recall Act, Initiative No. 73, is amended to read
20 as follows:

21 "Section 11. County clerk to verify signatures. (1)
22 The county clerk in each county in which such a petition is
23 signed shall compare the signatures of the electors in such
24 county with registration signatures on file in such clerk's
25 office, and, if satisfied the signatures are genuine,

1 certify that fact to the ~~official~~ officer with whom the
2 recall petition was is to be filed, ~~as follows in~~
3 substantially the following form:

4 ~~State of Montana-----}~~

5 ~~+--~~

6 ~~County of-----}~~

7 To the Honorable, Secretary of State of
8 the State of Montana (or name and title of other officer):

9 I,, ~~Clerk in and for~~ (title) of
10 County, ~~do hereby~~ certify that I have compared
11 the signatures on sheets (specifying number of
12 sheets) of the petition for recall ~~No.~~ attached
13 hereto, with the signatures of the registered voters as they
14 appear upon the registration ~~forms, books and records of my~~
15 office, and ~~from such information as I have been able to~~
16 obtain I believe the ~~..... (number)~~ signatures, ~~numbering~~
17 ~~.....~~ are genuine valid for the purpose of the petition.
18 ~~As to the remainder of the signatures thereon, I believe~~
19 ~~they are not genuine, except that the following names~~
20 ~~{.....} do not appear on the registration ~~forms~~~~
21 ~~books and records in my office.~~

22 County Clerk

23 {Seal of Office} By.....

24 Deputy Clerk

25 I further certify that the affidavit of the circulator of

1 ~~the (sheet) (section) of the petition is attached and that~~
2 ~~the post-office address is completed for each valid~~
3 ~~signature.~~

4 Signed: ~~.....~~ (Date) (Signature)

5 Seal ~~.....~~ (Title)

6 (2) Every such certificate shall be prima facie
7 evidence of the facts stated therein and of the
8 qualifications of the registered voters whose signatures are
9 certified, and the secretary of state or other ~~official~~
10 ~~officer~~ receiving the recall petition shall consider and
11 count only such signatures as are certified; provided, that
12 ~~the secretary of state or city clerk or town clerk~~ officer
13 ~~with whom the recall petition is filed~~ shall consider and
14 ~~county count~~ any remaining signatures of the registered
15 voters which prove to be genuine and such signatures shall
16 be considered and counted if they are attested to in the
17 manner and form as provided for initiative and referendum
18 petitions.

19 (3) The county clerk ~~shall~~ may not retain any petition
20 or any part of it for more than ~~fifteen~~ (15) days. At the
21 expiration of such period the county clerk shall deliver the
22 same to the person ~~from whom it was received with such~~
23 ~~clerk's certification with whom the petition is required to~~
24 ~~be filed."~~

25 Section 10. Section 13 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 13. Resignation of ~~official~~ officer --
4 proclamation of election. If the officer named in the
5 petition for recall submits his resignation in writing ~~such~~
6 ~~officer's--resignation~~, it shall be accepted and become
7 effective the day it is offered. The vacancy created by such
8 resignation shall be filled as provided by law, provided
9 that the ~~official~~ officer named in the petition for recall
10 ~~shall~~ may not be appointed to fill such vacancy. If the
11 officer named in the petition for recall refuses to resign
12 or does not resign within ~~five~~ (5) days after the petition
13 is filed, a special election shall be ~~proclaimed~~ called
14 unless the filing is within ~~ninety~~ (90) days of a general
15 election, in which case the question shall be placed on ~~the~~
16 ~~general election ballot~~ a separate ballot at the same time
17 as the general election. The ~~proclamation call~~ of a special
18 election shall be made by the governor in the case of a
19 state or state-district officer ~~and or~~ by the board or
20 ~~official~~ officer empowered by law to ~~proclaim~~ call special
21 elections for ~~the~~ a political subdivision in the case of any
22 officer of a political subdivision of the state."

23 Section 11. Section 15 of the Montana Recall and
24 Advisory Recall Act, Initiative No. 73, is amended to read
25 as follows:

1 "Section 15. Notice of a recall election. ~~Shall be in~~
2 ~~The following form:~~ The notice of a recall election shall be
3 in substantially the following form:

4 NOTICE OF RECALL ELECTION

5 Notice is hereby given pursuant to law that a recall
6 election will be held on the ~~xxxxxx~~ day of ~~xxxxxxxxxx~~ 197~~xxx~~
7 ~~xxxxxxxx~~ (Date) for the purpose of voting upon the recall
8 of ~~xxxxxxxx~~ who holds the office of ~~xxxxxxxx~~

9 DATED at ~~xxxxxxxx~~, the ~~xxxxxx~~ day of ~~xxxxxxxxxx~~ 197~~xxx~~
10 ~~xxxxxxxx~~ (Date)"

11 Section 12. Section 16 of the Montana Recall and
12 Advisory Recall Act, Initiative No. 73, is amended to read
13 as follows:

14 "Section 16. Form of ballot. ~~[1]~~ The ballot at such
15 recall election shall be entitled "~~Recall Ballot~~", and shall
16 set forth the statement contained in the recall petition
17 stating the reasons for demanding the recall of such officer
18 and the officer's statement of reasons why he should not be
19 recalled. ~~Following the statements shall be printed the~~
20 ~~following instructions to the voter. "To vote on the~~
21 ~~recall, mark a cross (X) in the square at the right of yes~~
22 ~~or no" and immediately thereunder the question "Shall~~
23 ~~xxxxxxxx (naming the officer) be recalled", and~~
24 ~~immediately to the right of such question shall be printed~~
25 ~~the words "yes" and "no" not less than three sixteenths~~

1 ~~(3/16) of an inch in height, and at the right of each word a~~
2 ~~square shall be printed on the ballot in which the voter may~~
3 ~~indicate such voter's preference. Then the question of~~
4 ~~whether the officer should be recalled shall be placed on~~
5 ~~the ballot in a form similar to the following:~~

6 FOR recalling ~~xxxxxxxx~~ who holds the office of
7 ~~xxxxxxxx~~

8 AGAINST recalling ~~xxxxxxxx~~ who holds the office
9 of ~~xxxxxxxx~~

10 ~~(2) The form of the ballot shall be approved as~~
11 ~~provided in the election laws of this state."~~

12 Section 13. Section 17 of the Montana Recall and
13 Advisory Recall Act, Initiative No. 73, is amended to read
14 as follows:

15 "Section 17. Officer to remain in office until results
16 declared — filling of vacancy. The officer named in the
17 recall petition ~~for recall shall continue~~ continues in
18 office until he resigns or the results of the ~~special recall~~
19 election are officially declared. If a majority of those
20 voting on the question vote to remove the officer, then the
21 office shall become becomes vacant and the vacancy shall be
22 filled as provided by law, provided that the officer
23 recalled shall may in no event be appointed to fill the
24 vacancy."

25 Section 14. Section 19 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 19. Expenses of election. Expenses of a
4 recall election ~~for a state officer~~ shall be paid ~~from the~~
5 ~~funds of the state, and expenses of a recall election for an~~
6 ~~officer of a political subdivision of the state shall be~~
7 ~~paid from the funds of such subdivision in the same manner~~
8 ~~as the expenses for any other election. The expenditure of~~
9 ~~such funds constitutes an emergency expenditure of funds,~~
10 ~~and the political subdivision affected may fund the costs of~~
11 ~~such an election through emergency funding procedures. In~~
12 ~~the event a recall election is held for a state or~~
13 ~~state-district officer, the legislature shall appropriate~~
14 ~~funds to reimburse the counties involved for costs incurred~~
15 ~~in running the election."~~

16 Section 15. Repealer. Sections 11-721.1, 11-3132,
17 11-3220, and 11-3540, R.C.M. 1947, and sections 20, 21, 22,
18 23, and 24 of the Montana Recall and Advisory Recall Act are
19 repealed.

-End-

April 2, 1977

STANDING COMMITTEE REPORT
Senate Committee on State Administration

That House Bill No. 795 be amended as follows:

1. Amend page 3, section 2, line 24.

Following: "duty,"

Insert: "malfeasance or misfeasance in office, violation of his oath of office,"

Following: "a"

Strike: "crime"

Insert: "offense"

2. Amend page 4, section 4, line 11.

Following: "~~ten-percent-~~"

Strike: "10%"

Insert: "7 1/2%"

3. Amend page 4, section 4, line 15.

Following: "least"

Strike: "15%"

Insert: "12%"

4. Amend page 4, section 4, line 19.

Following: "~~fifteen-percent-~~"

Strike: "15%"

Insert: "12%"

5. Amend page 4, section 4, line 25.

Following: "~~twenty-percent-~~"

Strike: "20%"

Insert: "15%"

April 5, 1977

SENATE
COMMITTEE OF THE WHOLE

That House Bill No. 795 be amended as follows:

1. Amend Senate Standing Committee amendment no. 1.

Strike: amendment no. 1 in its entirety

2. Amend page 3, section 2, line 24.

Following: "conviction of"

Insert: "malfeasance or misfeasance in office, violation of his
oath of office or"

Following: "a"

Strike: "crime"

Insert: "felony offense"

3. Amend Senate Standing Committee amendments no. 2 through 5.

Strike: amendments no. 2 through 5 in their entirety

1 HOUSE BILL NO. 795

2 INTRODUCED BY BARDANOUVE, MELDY, SCULLY

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
 5 RECALL AND ADVISORY RECALL ACT, INITIATIVE NO. 73, TO
 6 CLARIFY THE SCOPE OF ITS APPLICATION, TO SPECIFY GROUNDS FOR
 7 RECALL, TO ESTABLISH MORE DEFINED RESPONSIBILITIES ON THE
 8 PART OF PETITIONERS, TO CORRECT AND CLARIFY CERTAIN
 9 ADMINISTRATIVE PROVISIONS OF THE ACT, TO REMOVE ADVISORY
 10 RECALL PROCEDURES FOR U. S. DISTRICT JUDGES, TO REMOVE THE
 11 APPLICATION OF THE ACT TO REPRESENTATIVES IN CONGRESS, TO
 12 CORRECT CERTAIN ERRORS IN FORM, AND TO REPEAL CONFLICTING
 13 STATUTES; AMENDING SECTIONS 1, 2, 4, 7, 8, 10, 11, 13, 15,
 14 16, 17, AND 19 OF THE MONTANA RECALL AND ADVISORY RECALL
 15 ACT; AND REPEALING SECTIONS 11-721.1, 11-3132, 11-3220, AND
 16 11-3540, R.C.M. 1947, AND SECTIONS 20, 21, 22, 23, AND 24 OF
 17 THE MONTANA RECALL AND ADVISORY RECALL ACT."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20 Section 1. There is a new R.C.M. section that reads as
21 follows:22 Definitions. As used in the Montana Recall Act, the
23 following definitions apply:24 (1) "Public office" means a position of duty, trust,
25 or authority created by the constitution or by the1 legislature or by a political subdivision through authority
2 conferred by the constitution or the legislature that meets
3 the following criteria:4 (a) the position must possess a delegation of a
5 portion of the sovereign power of government to be exercised
6 for the benefit of the public;7 (b) the powers conferred and the duties to be
8 discharged must be defined, directly or impliedly, by the
9 constitution, the legislature, or by a political subdivision
10 through legislative authority;11 (c) the duties must be performed independently and
12 without control of a superior power other than the law,
13 unless the legislature has created the position and placed
14 it under the general control of a superior office or body;
15 and16 (d) the position must have some permanency and
17 continuity and not be only temporary or occasional.18 (2) "Political subdivision" means a local government
19 unit including but not limited to a county, city, or town
20 established under authority of Article XI, section 1, of The
21 Constitution of the State of Montana or a school district.22 (3) "State-district" means a public service commission
23 district, a legislative representative or senatorial
24 district, or a judicial district.

25 Section 2. Section 1 of the Montana Recall and

1 Advisory Recall Act, Initiative No. 73, is amended to read
2 as follows:

3 "Section 1. Short title. This act shall be known and
4 cited as the ~~"Montana Recall And Advisory Recall Act".~~

5 Section 3. Section 2 of the Montana Recall and
6 Advisory Recall Act, Initiative No. 73, is amended to read
7 as follows:

8 "Section 2. Officers subject to recall. (1) Every
9 person holding a public office of the state or any of its
10 political subdivisions, either by election or appointment,
11 is subject to recall from such office by the qualified
12 electors of the state or political subdivision.

13 ~~(2) A public officer holding an elective office may be~~
14 ~~recalled by the qualified electors entitled to vote for his~~
15 ~~successor. A public officer holding an appointive office may~~
16 ~~be recalled by the qualified electors entitled to vote for~~
17 ~~the successor or successors of the elective officer or~~
18 ~~officers who have the authority to appoint a person to that~~
19 ~~position. Any reason causing the electorate dissatisfaction~~
20 ~~with a public official shall be sufficient grounds for~~
21 ~~recall, notwithstanding good faith attempts to perform the~~
22 ~~duties of his office.~~

23 ~~(3) Physical or mental lack of fitness, incompetence,~~
24 ~~neglect of duty, MALFEASANCE OR MISFEASANCE IN OFFICE,~~
25 ~~VIOLATION OF HIS OATH OR OFFICE, or conviction of~~

1 ~~MALFEASANCE OR MISFEASANCE IN OFFICE, VIOLATION OF HIS OATH~~
2 ~~OR OFFICE OR a crime OFFENSE CRIME FELONY OFFENSE~~
3 ~~enumerated in Title 94 is the only basis for recall. No~~
4 ~~person may be recalled for performing a mandatory duty of~~
5 ~~the office he holds or for not performing any act that, if~~
6 ~~performed, would subject him to prosecution for official~~
7 ~~misconduct."~~

8 Section 4. Section 4 of the Montana Recall and
9 Advisory Recall Act, Initiative No. 73, is amended to read
10 as follows:

11 "Section 4. Number of electors required for recall
12 petition. A recall petition shall may not name more than one
13 officer to be recalled. Recall petitions for elected or
14 appointed state officers shall contain the signatures of
15 qualified electors equalling at least ten-percent ~~(10%)~~
16 ~~7-1/2%~~ 10% of the number of persons voting registered to
17 vote at the preceding state general election. A petition for
18 the recall of a state-district officer must contain the
19 signatures of qualified electors equalling at least 15% ~~12%~~
20 15% of the number of persons registered to vote in the last
21 preceding election in that district. Recall petitions for
22 elected or appointed county officers shall contain the
23 signatures of qualified electors equalling at least fifteen
24 percent ~~(15%)~~ ~~12%~~ 15% of the number of persons voting
25 registered to vote at the preceding county general election.

1 Recall petitions for elected or appointed officers of
 2 cities, ~~towns,~~ municipalities or other ~~political~~
 3 ~~subdivisions of the state~~ school districts shall contain the
 4 signatures of qualified electors equalling at least twenty
 5 percent ~~(20%)~~ ~~15%~~ 20% of the number of persons voting
 6 registered to vote at the preceding general election for the
 7 city, ~~town~~ municipality or other ~~political~~ ~~subdivision~~
 8 school district."

9 Section 5. Section 7 of the Montana Recall and
 10 Advisory Recall Act, Initiative No. 73, is amended to read
 11 as follows:

12 "Section 7. Form of recall petition. (1) The form of
 13 the recall petition shall be substantially as follows:

14 **WARNING**

15 A person who knowingly signs a name other than his own
 16 to this petition or who signs his name more than once upon a
 17 petition to recall the same officer at one election or who
 18 is not, at the time he signs this petition, a qualified
 19 elector of the state of Montana entitled to vote for the
 20 successor of the elected officer to be recalled or the
 21 successor or successors of the officer or officers who have
 22 the authority to appoint a person to the position held by
 23 the appointed officer to be recalled is punishable by a fine
 24 of no more than \$500 or imprisonment in the county jail for
 25 a term not to exceed 6 months, or both, or imprisonment in

1 the state prison for a term not to exceed 10 years, or both.

2 RECALL PETITION

3 To the Honorable, Secretary of State for
 4 of the State of Montana (or name and office of other filing
 5 officer); We, the undersigned citizens ~~and~~ qualified
 6 electors of the State of Montana (or name of appropriate
 7 state district or political subdivision) respectfully demand
 8 petition that an election be held as provided by law on the
 9 question of whether, holding the office of
 10, should be recalled for the following
 11 reasons ~~to wit:~~ (Setting out a general statement of the
 12 reasons for recall in not more than 200 words). ~~That a~~
 13 ~~special election therefore be called that we each for~~
 14 ~~himself say~~ By his signature each signer certifies: I have
 15 personally signed this petition; I am a qualified elector of
 16 the State state of Montana for and (name of appropriate
 17 political subdivision); and my residence and post office
 18 address are correctly written after my name to the best of
 19 my knowledge and belief.

20 ~~A recall petition shall contain a general statement of~~
 21 ~~not more than two hundred (200) words stating the reason for~~
 22 ~~recall. Such a statement is solely for information of the~~
 23 ~~electors and set forth any reason causing the~~
 24 ~~dissatisfaction with the public official and may be~~
 25 ~~political rather than legal in nature.~~

1 ~~(2) Numbered lines shall follow the above heading.~~
 2 ~~Each numbered line shall contain spaces for the signature,~~
 3 ~~post-office address, and printed last name of the signer.~~
 4 ~~Each separate sheet of the petition shall contain the~~
 5 ~~heading and reasons for the proposed recall as prescribed~~
 6 ~~above."~~

7 Section 6. Section 8 of the Montana Recall and
 8 Advisory Recall Act, Initiative No. 73, is amended to read
 9 as follows:

10 "Section 8. Form of circulation sheets. (1) The
 11 signatures on each petition shall be placed on sheets of
 12 paper known as "circulation sheets" ~~substantially fourteen~~
 13 ~~inches long and eight and one-half inches wide. Each~~
 14 ~~circulation sheet shall be substantially 8 1/2 x 14 inches~~
 15 ~~or a continuous sheet may be folded so as to meet this size~~
 16 ~~limitation.~~ Such circulation sheets shall be ruled with a
 17 horizontal line one and one-half inches from the top
 18 thereof. The space above such line shall remain blank and
 19 shall be for the purpose of binding. ~~The circulation sheet~~
 20 ~~shall be vertically divided into two columns. The first~~
 21 ~~column shall be three and one-half inches in width, measured~~
 22 ~~from the left edge of the sheet, and shall be for the~~
 23 ~~purpose of containing the signatures. The second column~~
 24 ~~shall encompass the remainder of the width of the sheet and~~
 25 ~~shall be the space on which shall be placed the post-office~~

1 ~~address of the signers together with the street number, if~~
 2 ~~the residence of a signer can be so designated, and the~~
 3 ~~address of such signer shall be opposite his name on the~~
 4 ~~same line.~~

5 ~~At the top of each sheet, under the one and one-half~~
 6 ~~inch margin, shall be printed the word "Warning" under~~
 7 ~~which shall be printed in eight-point type, single leaded,~~
 8 ~~the following:~~

9 **Warning**

10 ~~Any person signing any name other than his own to this~~
 11 ~~petition or signing the same more than once of the same~~
 12 ~~measure at one election or who is not, at the time of~~
 13 ~~signing the same, a qualified elector of the state, is~~
 14 ~~punishable by a fine not exceeding five hundred dollars~~
 15 ~~(\$500) or imprisonment in the penitentiary not exceeding two~~
 16 ~~(2) years, or both such fine and imprisonment.~~

17 (2) The petition, for purposes of circulation, may be
 18 divided into sections, each section to contain not more than
 19 ~~twenty-five~~ 25 circulation sheets. No section, however,
 20 shall be circulated for signatures unless it has attached to
 21 the front sheet thereof a certified petition copy. The
 22 sponsors shall set out in their application for petition
 23 copies the number of sections into which each petition is to
 24 be divided for circulation, and the number of circulation
 25 sheets which it is desired that each section shall contain.

1 ~~but there need be no uniformity as to the number of~~
2 ~~circulation sheets contained in each section.~~

3 (3) Before a petition may be circulated for
4 signatures, a sample circulation sheet must be submitted to
5 the officer with whom the petition must be filed in the form
6 in which it will be circulated. The filing officer shall
7 review the petition for sufficiency as to form and approve
8 or reject the form of the petition, stating his reasons
9 therefor, within 1 week of receiving the sheet.

10 (4) The petition form submitted must be accompanied by
11 a written statement containing the reasons for the desired
12 recall as stated on the petition. The truth of purported
13 facts contained in the statement shall be sworn to by at
14 least one of the petitioners before a person authorized to
15 administer oaths.

16 (5) The filing officer shall serially number all
17 approved petitions continuously from year to year."

18 Section 7. Section 10 of the Montana Recall and
19 Advisory Recall Act, Initiative No. 73, is amended to read
20 as follows:

21 "Section 10. Who may petition -- false signatures --
22 penalties. Every person who is a qualified elector of this
23 state may sign a petition for recall of a state officer.
24 Every person who is a qualified elector of a district of the
25 state from which a state-district officer is elected may

1 sign a petition for recall of a state-district officer of
2 that district or appointed by an officer or the officers of
3 that election district. Every person who is a qualified
4 elector of a political subdivision of this state may sign a
5 petition for recall of an officer of that political
6 subdivision. However, if a political subdivision is divided
7 into election districts, a person must be a qualified
8 elector in the election district to be eligible to sign a
9 petition to recall an officer elected from that election
10 district. Any person signing any name other than his own to
11 any petition, or knowingly signing his name more than once
12 for the recall, or who is not at the time of the signing the
13 same a qualified elector or any officer--or person who
14 knowingly and--wilfully--violating--any--provision--of--this
15 section, shall be punished by a fine--not--to--exceed--five
16 Hundred--Dollars--(\$500)--or--by--imprisonment--in--the--state
17 penitentiary--not--to--exceed--two--(2)--years,--or--by--both, makes
18 a false entry upon an affidavit required in connection with
19 the filing of a petition for the recall of an officer is
20 guilty of unsworn falsification or tampering with public
21 records or information, as appropriate, and is punishable as
22 provided in 94-7-204 or 94-7-209, as applicable."

23 Section 8. There is a new R.C.M. section that reads as
24 follows:

25 Submission of circulation sheets -- certification of

1 signatures. (1) Signed circulation sheets or sections of a
2 petition for recall must be submitted to the officer
3 responsible for registration of electors in the county in
4 which the signatures were obtained within 3 months of the
5 date the form of the petition was approved under [section 8
6 of the Montana Recall Act, as amended].

7 (2) An affidavit, in substantially the following form,
8 shall be attached to each circulation sheet or section
9 submitted to the county officer:

10 (Name of person circulating petition), being first
11 sworn, deposes and says: I circulated or assisted in
12 circulating the petition to which this affidavit is
13 attached, and I believe the signatures thereon are genuine,
14 are the signatures of the persons whose names they purport
15 to be, and that the signers knew the contents of the
16 petition before signing the same.

17 (Signature)

18 Subscribed and sworn before me this day of
19 19...

20 (Person authorized to take oaths)

21 Seal (Title or notarial information)

22 Section 9. Section 11 of the Montana Recall and
23 Advisory Recall Act, Initiative No. 73, is amended to read
24 as follows:

25 *Section 11. County clerk to verify signatures. (1)

1 The county clerk in each county in which such a petition is
2 signed shall compare the signatures of the electors in such
3 county with registration signatures on file in such clerk's
4 office and, if satisfied the signatures are genuine,
5 certify that fact to the ~~official~~ officer with whom the
6 recall petition was is to be filed, ~~as follows in~~
7 substantially the following form:

8 State of Montana----->

9 ----->

10 County of----->

11 To the Honorable Secretary of State of
12 the State of Montana (or name and title of other officer):

13 I,, ~~Clerk in and for~~ (title) of
14 County, do hereby certify that I have compared
15 the signatures on sheets (specifying number of
16 sheets) of the petition for recall No. attached
17 hereto with the signatures of the registered voters as they
18 appear upon the registration ~~forms, books and records~~ of my
19 office, and ~~from such information as I have been able to~~
20 obtain I believe the (number) signatures, ~~numbering~~
21 are genuine valid for the purpose of the petition.
22 ~~As to the remainder of the signatures thereon, I believe~~
23 ~~they are not genuine except that the following names~~
24 ~~{.....} do not appear on the registration forms,~~
25 ~~books and records in my office.~~

1 officer of a political subdivision of the state."

2 Section 11. Section 15 of the Montana Recall and
3 Advisory Recall Act, Initiative No. 73, is amended to read
4 as follows:

5 "Section 15. Notice of a recall election. ~~Shall be in~~
6 ~~The following form:~~ The notice of a recall election shall be
7 in substantially the following form:

8 NOTICE OF RECALL ELECTION

9 Notice is hereby given pursuant to law that a recall
10 election will be held on the ~~-----day of -----, 197---~~
11 ~~-----~~ (Date) for the purpose of voting upon the recall
12 of ~~-----~~ who holds the office of -----
13 DATED at ~~-----~~, the ~~-----day of -----, 197---~~
14 ~~-----~~ (Date)"

15 Section 12. Section 16 of the Montana Recall and
16 Advisory Recall Act, Initiative No. 73, is amended to read
17 as follows:

18 "Section 16. Form of ballot. ~~(1)~~ The ballot at such
19 recall election ~~shall be entitled "Recall Ballot" and shall~~
20 set forth the statement contained in the recall petition
21 stating the reasons for demanding the recall of such officer
22 and the officer's statement of reasons why he should not be
23 recalled. ~~Following the statements shall be printed the~~
24 ~~following instructions to the voters: "To vote on the~~
25 ~~recall, mark a cross (X) in the square at the right of yes~~

1 ~~or no" and immediately thereunder the question "Shall~~
2 ~~----- (naming the officer) be recalled" and~~
3 ~~immediately to the right of such question shall be printed~~
4 ~~the words "yes" and "no" not less than three sixteenths~~
5 ~~(3/16) of an inch in height, and at the right of each word a~~
6 ~~square shall be printed on the ballot in which the voter may~~
7 ~~indicate such voter's preference. Then the question of~~
8 ~~whether the officer should be recalled shall be placed on~~
9 ~~the ballot in a form similar to the following:~~

10 FOR recalling ----- who holds the office of
11 -----
12 AGAINST recalling ----- who holds the office
13 of -----

14 (2) The form of the ballot shall be approved as
15 provided in the election laws of this state."

16 Section 13. Section 17 of the Montana Recall and
17 Advisory Recall Act, Initiative No. 73, is amended to read
18 as follows:

19 "Section 17. Officer to remain in office until results
20 declared -- filling of vacancy. The officer named in the
21 recall petition ~~for recall shall continue~~ continues in
22 office until he resigns or the results of the ~~special~~ recall
23 election are officially declared. If a majority of those
24 voting on the question vote to remove the officer, then the
25 office ~~shall become~~ becomes vacant and the vacancy shall be

1 filled as provided by law, provided that the officer
2 recalled ~~shall~~ may in no event be appointed to fill the
3 vacancy."

4 Section 14. Section 19 of the Montana Recall and
5 Advisory Recall Act, Initiative No. 73, is amended to read
6 as follows:

7 "Section 19. Expenses of election. Expenses of a
8 recall election ~~for a state officer~~ shall be paid from the
9 ~~funds of the state, and expenses of a recall election for an~~
10 ~~officer of a political subdivision of the state shall be~~
11 ~~paid from the funds of such subdivision in the same manner~~
12 as the expenses for any other election. The expenditure of
13 such funds constitutes an emergency expenditure of funds,
14 and the political subdivision affected may fund the costs of
15 such an election through emergency funding procedures. In
16 the event a recall election is held for a state or
17 state-district officer, the legislature shall appropriate
18 funds to reimburse the counties involved for costs incurred
19 in running the election."

20 Section 15. Repealer. Sections 11-721.1, 11-3132,
21 11-3220, and 11-3540, R.C.M. 1947, and sections 20, 21, 22,
22 23, and 24 of the Montana Recall and Advisory Recall Act are
23 repealed.

-End-