

**HOUSE BILL NO. 190**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GILLHAM

Introduced: 4/26/21

Referred: Community and Regional Affairs, State Affairs, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to recall of state public officials; relating to recall of municipal**  
2 **officials; relating to campaign finance in recall elections; and providing for an effective**  
3 **date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 15.13.072 is amended by adding a new subsection to read:

6 (i) An individual, person, nongroup entity, or group may not solicit or accept a  
7 contribution for the purpose of recall organization, petition, or campaign activities,  
8 including activities relating to the recall of an official elected or appointed to  
9 municipal office, more than

10 (1) three days before the individual, person, nongroup entity, or group  
11 opens a campaign account with a qualified financial institution;

12 (2) 30 calendar days before filing a recall application with the director  
13 or municipal clerk.

14 \* **Sec. 2.** AS 15.45.490 is amended to read:

1           **Sec. 15.45.490. Time of filing application.** An application may not be filed  
 2           before the first day [DURING THE FIRST 120 DAYS] of the term of office of any  
 3           state public official subject to recall.

4           \* **Sec. 3.** AS 15.45.500 is amended to read:

5           **Sec. 15.45.500. Form of application.** The application must include

6                   (1) the name and office of the person to be recalled;

7                   (2) the grounds for recall described in particular in not more than 200  
 8           words;

9                   (3) the printed name, the signature, the address, and a numerical  
 10           identifier of **100** qualified voters [EQUAL IN NUMBER TO 10 PERCENT OF  
 11           THOSE] who voted in the preceding general election in the state or in the senate or  
 12           house district of the official sought to be recalled, serving [100 OF WHOM WILL  
 13           SERVE] as sponsors; each signature page must include a statement that the qualified  
 14           voters signed the application with the name and office of the person to be recalled and  
 15           the statement of grounds for recall attached; and

16                   (4) the designation of a recall committee consisting of three of the  
 17           qualified voters who subscribed to the application and shall represent all sponsors and  
 18           subscribers in matters relating to the recall; the designation must include the name,  
 19           mailing address, and signature of each committee member.

20           \* **Sec. 4.** AS 15.45.510 is repealed and reenacted to read:

21           **Sec. 15.45.510. Grounds for recall.** The grounds for recall are lack of fitness,  
 22           incompetence, neglect of duties, or corruption. In this section,

23                   (1) "corruption" means use of an elected office to procure a personal  
 24           benefit or secure or grant an unwarranted benefit or treatment for another person with  
 25           intent to provide an advantage inconsistent with official duty or the rights of others, or  
 26           another act done with the intent to provide an advantage inconsistent with official duty  
 27           or the rights of others;

28                   (2) "incompetence" means for a public official subject to recall, the  
 29           public official's mental or physical inability to perform the required duties or  
 30           professional obligations of the official's elected office;

31                   (3) "lack of fitness" means the intentional commission of an unlawful

1 act that violates AS 24.60, AS 39.52, or the Code of Ethics for Government Service  
2 (72 Stat. B12);

3 (4) "neglect of duties" means the failure to faithfully perform a duty  
4 imposed by law or the violation of an oath of office.

5 \* **Sec. 5.** AS 15.45.540 is repealed and reenacted to read:

6 **Sec. 15.45.540. Application response and review.** (a) Upon receiving an  
7 application to recall the governor, the lieutenant governor, or a member of the state  
8 legislature, the director shall immediately provide a copy of the application to that  
9 public official.

10 (b) The public official may, not later than 14 calendar days after receiving the  
11 recall application, submit to the director a statement of not more than 200 words  
12 justifying the official's conduct in office.

13 (c) The director shall review the application and the response of the public  
14 official and, not later than 28 calendar days after receiving the application, either  
15 certify the application or notify the recall committee of the grounds for refusal of the  
16 application.

17 \* **Sec. 6.** AS 15.45.550 is amended to read:

18 **Sec. 15.45.550. Bases of denial of certification.** The director shall deny  
19 certification upon determining that

20 (1) the application is not substantially in the required form;

21 (2) the application was filed **before** [DURING] the first **day** [120  
22 DAYS] of the term of office of the official subject to recall [OR WITHIN LESS  
23 THAN 180 DAYS OF THE TERMINATION OF THE TERM OF OFFICE OF ANY  
24 OFFICIAL SUBJECT TO RECALL];

25 (3) the person named in the application is not subject to recall; [OR]

26 (4) there is an insufficient number of qualified subscribers; **or**

27 **(5) based on a review of the application and the public official's**  
28 **justification, there is insufficient grounds for recall.**

29 \* **Sec. 7.** AS 15.45.610 is amended to read:

30 **Sec. 15.45.610. Filing of petition.** [A PETITION MAY NOT BE FILED  
31 WITHIN LESS THAN 180 DAYS OF THE TERMINATION OF THE TERM OF

1 OFFICE OF A STATE PUBLIC OFFICIAL SUBJECT TO RECALL.] The sponsor  
 2 may file the petition only if signed by qualified voters equal in number to **or greater**  
 3 **than** 25 percent of those who voted in the preceding general election in the state or in  
 4 the senate or house district of the official sought to be recalled.

5 \* **Sec. 8.** AS 15.45.640 is amended to read:

6 **Sec. 15.45.640. Submission of supplementary petition.** Upon receipt of  
 7 notice that the filing of the petition was improper, the committee may amend and  
 8 correct the petition by circulating and filing a supplementary petition within 20 days  
 9 **after** [OF] the date that notice was given [, IF FILED WITHIN LESS THAN 180  
 10 DAYS OF THE TERMINATION OF THE TERM OF OFFICE OF THE PERSON  
 11 SUBJECT TO RECALL].

12 \* **Sec. 9.** AS 15.45 is amended by adding a new section to read:

13 **Sec. 15.45.695. Recall by petition of no confidence.** (a) In addition to a recall  
 14 by special election, voters may recall the governor, the lieutenant governor, or a  
 15 member of the state legislature by collecting, on sequentially numbered petitions of no  
 16 confidence, signatures of qualified voters equal in number to a majority of active  
 17 registered voters in the state or, in the case of a recall of a member of the state  
 18 legislature, in the senate or house district the legislator represents. A petitioner shall  
 19 submit the petition of no confidence to the director. A statement of grounds for recall  
 20 and a pre-petition application are not required for a recall by petition of no confidence.

21 (b) Upon the request of a voter, the director shall provide the list of active  
 22 registered voters in the state or in a senate or house district represented by a member  
 23 of the legislature whose recall is sought.

24 (c) A petition under this section must

- 25 (1) identify the name and office of the public official subject to recall;  
 26 (2) include sufficient space for a printed name, number identifier,  
 27 signature, date of signature, and address of each qualified voter signing the petition;  
 28 (3) be subject to a documented distribution, control, and collection  
 29 process.

30 (d) AS 15.45.570 - 15.45.600 and 15.45.620 - 15.45.640 apply to a recall by  
 31 petition of no confidence.

1 (e) When submitting a petition to the director for review and certification, a  
 2 petitioner shall provide to the director written documentation of the distribution,  
 3 control, and collection process.

4 (f) If, after reviewing a petition of no confidence, the director determines that  
 5 the petitioner followed a distribution, control, and collection process and that the  
 6 number of qualified voters signing the petition is equal in number to or greater than a  
 7 majority of active registered voters in the state or, in the case of a recall of a member  
 8 of the state legislature, in the senate or house district the legislator represents, the  
 9 director shall so certify and the office is vacant on the day after the date of  
 10 certification.

11 (g) A recall by petition of no confidence that satisfies (f) of this section may  
 12 not be held void because of the insufficiency of the grounds, application, or petition by  
 13 which the submission was procured.

14 (h) In this section, "active registered voter" means a voter whose name  
 15 appeared on the official registration list prepared by the director under AS 15.07.125  
 16 for the preceding general election.

17 \* **Sec. 10.** AS 29.26.240 is amended to read:

18 **Sec. 29.26.240. Recall.** An official who is elected or appointed to an elective  
 19 municipal office may be recalled by the voters after the official has **begun** [SERVED  
 20 THE FIRST 120 DAYS OF] the term for which elected or appointed.

21 \* **Sec. 11.** AS 29.26.250 is repealed and reenacted to read:

22 **Sec. 29.26.250. Grounds for recall.** The grounds for recall in AS 15.45.510  
 23 apply to recall of an official elected or appointed to elective municipal office.

24 \* **Sec. 12.** AS 29.26.260 is repealed and reenacted to read:

25 **Sec. 29.26.260. Application for recall petition.** (a) An application for a recall  
 26 petition shall be filed with the municipal clerk and must include

- 27 (1) the name and office of the person to be recalled;  
 28 (2) a deposit of \$100;  
 29 (3) the grounds for recall, described in particular in not more than 200  
 30 words;  
 31 (4) the printed name, the signature, the address, and a numerical

1 identifier of 10 qualified voters who voted in the preceding regular election in the  
 2 municipality or in the district of the official sought to be recalled, serving as sponsors;  
 3 each signature page must include a statement that the qualified voters signed the  
 4 application with the name and office of the person to be recalled and the statement of  
 5 grounds for recall attached; and

6 (5) the designation of a recall committee consisting of three of the  
 7 qualified voters who subscribed to the application and shall represent all sponsors and  
 8 subscribers in matters relating to the recall; the designation must include the name,  
 9 mailing address, and signature of each committee member.

10 (b) The qualified voters who subscribe to the application in support of the  
 11 recall are designated as sponsors. The recall committee may designate additional  
 12 sponsors by giving notice to the municipal clerk of the names, addresses, and  
 13 numerical identifiers of those so designated.

14 (c) The deposit required in (a)(2) of this section shall be retained if a petition  
 15 is not properly filed. If a petition is properly filed, the deposit shall be refunded.

16 \* **Sec. 13.** AS 29.26 is amended by adding new sections to read:

17 **Sec. 29.26.262. Manner of notice.** Notice on a matter pertaining to the  
 18 application and petition may be served on a member of the recall committee in person  
 19 or by mail addressed to a committee member as indicated on the application.

20 **Sec. 29.26.264. Notice of the number of voters.** The municipal clerk, upon  
 21 request, shall notify the recall committee of the official number of votes cast in the  
 22 municipality or district for that office in the last regular election held before the date  
 23 written notice is given to the recall committee that the petition is available.

24 **Sec. 29.26.266. Application response and review.** (a) Upon receiving an  
 25 application to recall an official who is elected or appointed to an elective municipal  
 26 office, the municipal clerk shall immediately provide a copy of the application to that  
 27 municipal official.

28 (b) The municipal official may, not later than 14 calendar days after receiving  
 29 the recall application, submit to the municipal clerk a statement of not more than 200  
 30 words justifying the official's conduct in office.

31 (c) The municipal clerk shall review the application and the response of the

1 municipal official and, not later than 28 calendar days after receiving the application,  
 2 either certify the application or notify the recall committee of the grounds for refusal  
 3 of the application.

4 **Sec. 29.26.268. Denial of certification.** The municipal clerk shall deny  
 5 certification upon determining

6 (1) that the application is not substantially in the required form;

7 (2) that the application was filed before the first day of the term of  
 8 office of the municipal official subject to recall;

9 (3) that the person named in the application is not subject to recall;

10 (4) that there is an insufficient number of qualified subscribers; or

11 (5) based on a review of the application and the municipal official's  
 12 justification, that there is insufficient grounds for recall.

13 \* **Sec. 14.** AS 29.26.270(a) is amended to read:

14 (a) If the municipal clerk determines that an application for a recall petition  
 15 meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition. All  
 16 copies of the petition must contain

17 (1) the name of the official sought to be recalled;

18 (2) the statement of the grounds for recall as set out in the application  
 19 for petition;

20 (3) the date the petition is issued by the clerk;

21 (4) notice that signatures must be secured within 60 days after the date  
 22 the petition is issued;

23 (5) spaces for each signature, the printed name of each signer, the date  
 24 of each signature, **a numerical identifier for each signer**, and the residence and  
 25 mailing addresses of each signer;

26 (6) a statement, with space for the sponsor's sworn signature and date  
 27 of signing, that the sponsor personally circulated the petition, that all signatures were  
 28 affixed in the presence of the sponsor, and that the sponsor believes the signatures to  
 29 be those of the persons whose names they purport to be; and

30 (7) space for indicating the number of signatures on the petition.

31 \* **Sec. 15.** AS 29.26.270(b) is amended to read:

1 (b) The clerk shall notify the recall committee [CONTACT PERSON] in  
 2 writing when the petition is available. The recall committee [THAT PERSON] is  
 3 responsible for notifying the sponsors. Copies of the petition shall be provided by the  
 4 clerk to each sponsor who appears in the clerk's office and requests a petition, and the  
 5 clerk shall mail the petition to each sponsor who requests that the petition be mailed.

6 \* **Sec. 16.** AS 29.26.280(a) is amended to read:

7 (a) [THE SIGNATURES ON A RECALL PETITION SHALL BE SECURED  
 8 WITHIN 60 DAYS AFTER THE DATE THE CLERK ISSUES THE PETITION.]  
 9 The statement provided under AS 29.26.270(a)(6) shall be completed and signed by  
 10 the circulator [SPONSOR]. Signatures shall be in ink or indelible pencil.

11 \* **Sec. 17.** AS 29.26.280(b) is amended to read:

12 (b) The clerk shall determine the number of signatures required on a petition  
 13 and inform the recall committee [CONTACT PERSON] in writing. If a petition seeks  
 14 to recall an official who represents the municipality at large, the petition shall be  
 15 signed by a number of voters equal to or greater than 25 percent of the number of  
 16 votes cast for that office at the last regular election held before the date written notice  
 17 is given to the recall committee [CONTACT PERSON] that the petition is available.  
 18 If a petition seeks to recall an official who represents a district, the petition shall be  
 19 signed by a number of the voters residing in the district equal to or greater than 25  
 20 percent of the number of votes cast in the district for that office at the last regular  
 21 election held before the date the written notice is given to the recall committee  
 22 [CONTACT PERSON] that the petition is available.

23 \* **Sec. 18.** AS 29.26 is amended by adding new sections to read:

24 **Sec. 29.26.282. Manner of signing and withdrawing name from petition.** If  
 25 a petition seeks to recall an official who represents the municipality at large, a voter  
 26 who resides in the municipality may subscribe to the petition by printing the voter's  
 27 name, a numerical identifier, and an address, by signing the voter's name, and by  
 28 dating the signature. If a petition seeks to recall an official who represents a district, a  
 29 voter registered to vote in the district may subscribe to the petition by printing the  
 30 voter's name, a numerical identifier, and an address, by signing the voter's name, and  
 31 by dating the signature. A person who has signed a petition may withdraw the person's

1 name only by giving written notice to the municipal clerk before the date the petition  
2 is filed.

3 **Sec. 29.26.284. Qualifications of circulator.** To circulate a petition booklet, a  
4 person must be

5 (1) a citizen of the United States;

6 (2) 18 years of age or older; and

7 (3) a resident of the state as determined under AS 15.05.020.

8 **Sec. 29.26.286. Circulation; prohibitions.** (a) The petitions may be circulated  
9 only in person throughout the municipality. AS 15.45.580(b) - (e) apply to circulation  
10 of petitions to recall a municipal official under AS 29.26.240 - 29.26.360.

11 **Sec. 29.26.288. Certification of circulator.** Before being filed, each petition  
12 shall be certified by an affidavit by the person who personally circulated the petition.  
13 In determining the sufficiency of the petition, the municipal clerk may not count  
14 subscriptions on petitions not properly certified at the time of filing or corrected before  
15 the subscriptions are counted. The affidavit must include the statements required in  
16 AS 15.45.600.

17 \* **Sec. 19.** AS 29.26.290(a) is amended to read:

18 (a) The copies of a recall petition shall be assembled and filed as a single  
19 instrument. **The municipal clerk shall determine that the petition is improperly**  
20 **filed if there is an insufficient number of qualified subscribers** [A PETITION  
21 MAY NOT BE FILED WITHIN 180 DAYS BEFORE THE END OF THE TERM OF  
22 OFFICE OF THE OFFICIAL SOUGHT TO BE RECALLED]. Within **30** [10] days  
23 after the date a petition is filed, the municipal clerk shall

24 [(1)] certify on the petition whether it is sufficient [;] and **notify the**  
25 **recall committee and the person subject to recall**

26 [(2) IF THE PETITION IS INSUFFICIENT, IDENTIFY THE  
27 INSUFFICIENCY AND NOTIFY THE CONTACT PERSON] by certified mail.

28 \* **Sec. 20.** AS 29.26.290(b) is amended to read:

29 (b) A petition that is insufficient may be supplemented with additional  
30 signatures obtained and filed **within 20 days** [BEFORE THE 11TH DAY] after the  
31 date on which **notice was given that** the petition **was** [IS] rejected [IF

1 (1) THE PETITION CONTAINS AN ADEQUATE NUMBER OF  
2 SIGNATURES, COUNTING BOTH VALID AND INVALID SIGNATURES; AND

3 (2) THE SUPPLEMENTARY PETITION IS FILED MORE THAN  
4 180 DAYS BEFORE THE END OF THE TERM OF OFFICE OF THE OFFICIAL  
5 SOUGHT TO BE RECALLED].

6 \* **Sec. 21.** AS 29.26.320(a) is amended to read:

7 (a) If a regular election occurs within 90 [75] days but not sooner than 60 [45]  
8 days after submission of the petition to the governing body, the governing body shall  
9 submit the recall at that election.

10 \* **Sec. 22.** AS 29.26.320(b) is amended to read:

11 (b) If no regular election occurs within 90 [75] days, the governing body shall  
12 hold a special election on the recall question within 90 [75] days but not sooner than  
13 60 [45] days after a petition is submitted to the governing body.

14 \* **Sec. 23.** AS 29.26.320 is amended by adding a new subsection to read:

15 (d) Unless specifically provided otherwise, all provisions regarding the  
16 conduct of a regular or special election shall govern the conduct of an election for the  
17 recall of a municipal official.

18 \* **Sec. 24.** AS 29.26. is amended by adding a new section to read:

19 **Sec. 29.26.325. Statement of municipal official subject to recall; display of**  
20 **grounds for and against recall.** The municipal clerk shall provide each polling  
21 location in the municipality or in the district of the municipal official subject to recall  
22 with at least five copies of the statement of the grounds for recall included in the  
23 application and at least five copies of the statement of not more than 200 words made  
24 by the municipal official subject to recall in justification of the official's conduct in  
25 office. The municipal official subject to recall may provide the clerk with the  
26 statement within 10 days after the date the clerk gave notification that the petition was  
27 properly filed. The clerk shall post at least one copy of the statements for and against  
28 recall in a conspicuous place in the polling place.

29 \* **Sec. 25.** AS 29.26.330 is amended to read:

30 **Sec. 29.26.330. Form of recall ballot.** A recall ballot must contain

31 (1) the grounds for recall as stated in 200 words or less on the recall

1 petition;

2 (2) a statement by the official named on the recall petition of 200  
3 words or less, if the statement is filed with the clerk for publication and public  
4 inspection **within 10 days after the date the clerk gave notification that the**  
5 **petition was properly filed** [AT LEAST 20 DAYS BEFORE THE ELECTION];

6 (3) the following question: "Shall (name of person) be recalled from  
7 the office of (office)? Yes [ ] No [ ]".

8 \* **Sec. 26.** AS 29.26.340(a) is amended to read:

9 (a) If a majority vote favors recall, the office becomes vacant **on the day after**  
10 **the date of** [UPON] certification of the recall election.

11 \* **Sec. 27.** AS 29.26 is amended by adding a new section to read:

12 **Sec. 29.26.345. Recall by petition of no confidence.** (a) In addition to a recall  
13 election, voters may recall an official who is elected or appointed to an elective  
14 municipal office by collecting, on sequentially numbered petitions of no confidence,  
15 signatures of qualified voters equal in number to a majority of active registered voters  
16 in the municipality or, in the case of a recall of an official who represents a district, in  
17 the district the official represents. A petitioner shall submit the petition of no  
18 confidence to the municipal clerk. A statement of grounds for recall and a pre-petition  
19 application are not required for a recall by petition of no confidence.

20 (b) Upon the request of a voter, the municipal clerk shall provide the list of  
21 active registered voters in the municipality or in the district represented by an official  
22 whose recall is sought.

23 (c) A petition under this section must

24 (1) identify the name and office of the municipal official subject to  
25 recall;

26 (2) include sufficient space for a printed name, number identifier,  
27 signature, date of signature, and address of each qualified voter signing the petition;

28 (3) be subject to a documented distribution, control, and collection  
29 process.

30 (d) AS 29.26.282 - 29.26.290 apply to a recall by petition of no confidence.

31 (e) When submitting a petition to the municipal clerk for review and

1 certification, a petitioner shall provide to the municipal clerk written documentation of  
2 the distribution, control, and collection process.

3 (f) If, after reviewing a petition of no confidence, the municipal clerk  
4 determines that the petitioner followed a distribution, control, and collection process  
5 and that the number of qualified voters signing the petition is equal in number to or  
6 greater than a majority of active registered voters in the municipality or, in the case of  
7 a recall of an official who represents a district, in the district the official represents, the  
8 municipal clerk shall so certify and the office is vacant on the day after the date of  
9 certification.

10 (g) A recall by petition of no confidence that satisfies (f) of this section may  
11 not be held void because of the insufficiency of the grounds, application, or petition by  
12 which the submission was procured.

13 (h) In this section, "active registered voter" means a voter whose name  
14 appeared on the official registration list prepared by the director of the division of  
15 elections under AS 15.07.125 for the preceding general election.

16 \* **Sec. 28.** AS 29.26 is amended by adding new sections to read:

17 **Sec. 29.26.352. Insufficiency of grounds, application, or petition.** A recall  
18 submitted to the voters may not be held void because of the insufficiency of the  
19 grounds, application, or petition by which the submission was procured.

20 **Sec. 29.26.354. Judicial review.** Any person aggrieved by a determination  
21 made by the municipal clerk under AS 29.26.240 - 29.26.360 may bring an action in  
22 the superior court to have the determination reviewed within 30 days after the date on  
23 which notice of determination was given.

24 \* **Sec. 29.** AS 15.45.630(2); AS 29.26.270(a)(4), 29.26.280(c), 29.26.300, and 29.26.340(b)  
25 are repealed.

26 \* **Sec. 30.** This Act takes effect immediately under AS 01.10.070(c).