

By: Senator(s) McDaniel

To: Elections; Rules

SENATE BILL NO. 2182

1 AN ACT ENTITLED THE "MISSISSIPPI RECALL ACT OF 2017" TO  
 2 PROVIDE A PROCEDURE FOR THE RECALL OF STATE AND LOCAL ELECTED  
 3 OFFICIALS; TO PROVIDE DEFINITIONS; TO PRESCRIBE THOSE OFFICIALS  
 4 SUBJECT TO RECALL; TO PRESCRIBE THE NUMBER OF ELECTORS NEEDED TO  
 5 DEMAND A RECALL; TO PRESCRIBE GROUNDS FOR RECALL; TO PROVIDE FOR  
 6 THE APPLICATION FOR AND TIME OF FILING A RECALL PETITION BY  
 7 SPONSORS; TO PROVIDE FOR THE REVIEW OF THE GROUNDS STATED IN THE  
 8 APPLICATION; TO PROVIDE A FORM FOR THE RECALL PETITION; TO  
 9 PRESCRIBE THOSE ELECTORS ELIGIBLE TO SIGN A RECALL PETITION AND A  
 10 PROCEDURE FOR THE VERIFICATION OF SIGNATURES; TO PROHIBIT CERTAIN  
 11 PERSONS FROM CIRCULATING A PETITION OR APPLICATION; TO PROVIDE FOR  
 12 THE DETERMINATION OF LEGAL SUFFICIENCY OF A PETITION BY THE  
 13 CIRCUIT COURT; TO PROVIDE FOR THE MANNER OF CONDUCTING A RECALL  
 14 ELECTION; TO PROVIDE FOR THE FILING OF SUBSEQUENT RECALL PETITIONS  
 15 FOLLOWING A RECALL ELECTION OR DENIAL OF RECALL PETITION; TO  
 16 AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PROMULGATE  
 17 REGULATIONS TO IMPLEMENT THIS ACT; TO AUTHORIZE AN APPLICATION TO  
 18 THE CIRCUIT COURT TO COMPEL COMPLIANCE WITH RECALL PROCEDURES; TO  
 19 PROHIBIT GIVING OR RECEIVING MONEY TO SIGN PETITIONS OR AFFIDAVITS  
 20 FOR RECALL AND OTHER RECALL INFRACTIONS, AND TO PROVIDE CRIMINAL  
 21 PENALTIES THEREFOR; TO REPEAL SECTIONS 25-5-3 THROUGH 25-5-37,  
 22 MISSISSIPPI CODE OF 1972, WHICH PROVIDE A RECALL PROCEDURE FOR  
 23 LOCAL OFFICIALS PURSUANT TO PETITION AND ELECTION; AND FOR RELATED  
 24 PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** This act shall be known and may be cited as the  
 27 "Mississippi Recall Act of 2017."

28 **SECTION 2.** As used in this act, the term:



29           (a) "Elective office" means an office filled by the  
30 exercise of the franchise of vote by electors as defined in  
31 paragraph (c) of this section in a general or special election as  
32 defined under the laws of this state.

33           (b) "Board of election commissioners" means:

34               (i) In the case of any elected state officials,  
35 the State Board of Election Commissioners;

36               (ii) In the case of any elected county officials,  
37 the county board of election commissioners; and

38               (iii) In the case of any elected municipal  
39 officials, the municipal board of election commissioners.

40           (c) "Elector" means any person who possesses all of the  
41 qualifications for voting now or hereafter prescribed by the laws  
42 of this state and who has registered to vote.

43           (d) "Electoral district" means the area in which the  
44 electors reside who are qualified to vote for any of the  
45 candidates offering for a particular office.

46           (e) "Failure to perform duties prescribed by law" means  
47 the willful neglect or failure by an official to perform a duty  
48 imposed by statute.

49           (f) "Grounds for recall" means:

50               (i) That the official has, while holding public  
51 office, conducted himself or herself in a manner which relates to  
52 and adversely affects the administration of his or her office and  
53 adversely affects the rights and interests of the public; and



- 54 (ii) That the official:
- 55 1. Has committed an act or acts of
- 56 malfeasance while in office;
- 57 2. Has violated his or her oath of office;
- 58 3. Has committed an act of misconduct in
- 59 office;
- 60 4. Is guilty of a failure to perform duties
- 61 prescribed by law; or
- 62 5. Has willfully misused, converted or
- 63 misappropriated, without authority, public property or public
- 64 funds entrusted to or associated with the elective office to which
- 65 the official has been elected or appointed.

66 Discretionary performance of a lawful act or a prescribed

67 duty shall not constitute a ground for recall of an elected public

68 official.

69 (g) "Legal sufficiency" means, solely as applied to the

70 duties or functions of the board of election commissioners, a

71 determination of the completeness of an application for a recall

72 petition or a recall petition and a determination that an

73 application for a recall petition or a recall position contains a

74 sufficient number of valid signatures. Such determinations shall

75 not include any review of the sufficiency of the ground or grounds

76 for the recall and the fact or facts upon which such ground or

77 grounds are based.



78 (h) "Misconduct in office" means an unlawful act  
79 committed willfully by an elected public official.

80 (i) "Official sponsors" or "sponsors" means the  
81 electors who circulate or file an application for a recall  
82 petition who were registered and eligible to vote in the last  
83 general or special election for the office held by the official  
84 sought to be recalled and who reside in the electoral district of  
85 the official sought to be recalled.

86 **SECTION 3.** (1) Every public official who holds elective  
87 office, either by election or by appointment for an unexpired  
88 term, is subject to recall from office by electors who are  
89 registered and qualified to vote in the recall election and who  
90 reside in the electoral district from which candidates are elected  
91 to that office:

92 (a) In the case of a state official whose electoral  
93 district encompasses the entire state, the number of electors  
94 necessary to petition the recall of the official shall be equal to  
95 at least fifteen percent (15%) of the number of electors who were  
96 registered and qualified to vote at the last preceding election  
97 for any candidate offering for the office held by the official.  
98 At least one-fifteenth (1/15) of the number of electors necessary  
99 to petition the recall of the official must reside in each of the  
100 United States congressional districts in the state as said  
101 congressional districts may now or hereafter exist; or



102           (b) In the case of a state official whose electoral  
103 district encompasses only a part of the state or in the case of a  
104 local official, the number of electors necessary to petition the  
105 recall of the official shall be equal to at least thirty percent  
106 (30%) of the number of electors registered and qualified to vote  
107 at the last preceding election for any candidate offering for the  
108 office held by the official.

109           (2) No recall petition shall demand the recall of more than  
110 one (1) public official.

111           (3) Every public official who holds elective office, either  
112 by election or by appointment for an unexpired term, is subject to  
113 recall on the grounds that such public official has, while holding  
114 any public office, conducted himself or herself in a manner which  
115 relates to and adversely affects the administration of his or her  
116 current office and adversely affects the rights and interests of  
117 the public if one or more additional grounds for recall exist as  
118 set forth in Section 2(f)(ii) of this act.

119           **SECTION 4.** (1) No application for a recall petition may be  
120 filed during the first one hundred eighty (180) days or the last  
121 one hundred eighty (180) days of the term of office of any public  
122 official subject to recall. No person shall be authorized to  
123 circulate, sponsor or sign such application unless such person is  
124 an elector or sponsor as defined in Section 2 of this act.

125           (2) (a) The application shall include:



126 (i) The name and office of the person sought to be  
127 recalled;

128 (ii) The printed names and signatures of the  
129 official sponsors, the date signed, residence addresses and the  
130 name of the county of residence;

131 (iii) The designation of one of the sponsors as  
132 the petition chairperson who shall represent the sponsors on all  
133 matters pertaining to the recall application and petition;

134 (iv) A statement that: \_\_\_\_\_ (name and  
135 office) has, while holding public office, conducted himself or  
136 herself in a manner which relates to and adversely affects the  
137 administration of his or her office and adversely affects the  
138 rights and interests of the public and stating the appropriate  
139 ground or grounds for recall as set forth in Section 2(f)(ii) of  
140 this act with a brief statement of the fact or facts upon which  
141 the ground or grounds are based. The statement shall be typed,  
142 printed or reproduced by the board of election commissioners on  
143 the face of each application issued; and

144 (v) An affidavit by the petition chairperson and  
145 the person circulating such recall application that each person  
146 sponsoring or signing the recall application is an elector of the  
147 electoral district of the official sought to be recalled and that  
148 the fact or facts upon which the ground or grounds for recall are  
149 based are true. The affidavit required by this subparagraph (v)  
150 shall be in the following form:



151 AFFIDAVIT OF CIRCULATOR AND PETITION CHAIRPERSON

152 State of Mississippi

153 County of \_\_\_\_\_

154 Under the penalty of a violation of Section 97-9-59,  
155 Mississippi Code of 1972, relating to perjury, we the undersigned  
156 do depose and say that each person sponsoring or signing the  
157 recall application of \_\_\_\_\_ is an elector of the  
158 electoral district of the official sought to be recalled and  
159 further depose and say that the fact or facts upon which the  
160 ground or grounds for recall are based are true.

161 \_\_\_\_\_

162 (Signature of circulator)

163 \_\_\_\_\_

164 (Residence address)

165 Number and street or route)

166 \_\_\_\_\_

167 (City)

168 \_\_\_\_\_

169 (Signature of petition chairperson)

170 \_\_\_\_\_

171 (Residence address)

172 (Number and street or route)

173 \_\_\_\_\_

174 (City)



175           Subscribed and sworn to before me this \_\_\_\_\_ day of  
176 \_\_\_\_\_, \_\_\_\_.  
177 \_\_\_\_\_

178 Notary public  
179 \_\_\_\_\_, Mississippi

180           My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_,  
181 \_\_\_\_\_.

182           No notary public may sign the application as an elector or  
183 serve as a circulator of any application which he or she  
184 notarized. Any and all sheets of an application for a recall  
185 petition that have the circulator's affidavit notarized by a  
186 notary public who also served as a circulator of one or more  
187 sheets of the application for a recall petition or who signed one  
188 of the sheets of the petition as an elector shall be disqualified  
189 and rejected.

190           (b) Applications shall be issued by the board of  
191 election commissioners who shall assign a number to each  
192 application. Such number shall appear on the face of each  
193 application. The board of election commissioners shall keep  
194 records of applications issued, including the date of issuance and  
195 number assigned. The board of election commissioners shall  
196 immediately notify in writing the public official named for recall  
197 in the application that an application for a recall petition has  
198 been officially issued for circulation.





199 (c) The official application forms shall be printed by  
200 the Office of the Secretary of State in substantially the form  
201 prescribed in this subsection and distributed to boards of  
202 election commissioners.

203 (3) The number of official sponsors necessary to file an  
204 application for a recall petition must be equal in number to at  
205 least one hundred (100) electors or equal in number to at least  
206 ten percent (10%) of the number of electors who were registered to  
207 vote at the last preceding election for any of the candidates  
208 offering for the office held by the public official sought to be  
209 recalled, whichever is smaller.

210 (4) Sponsors of a recall petition, before causing the  
211 petition to be circulated, shall submit the application for the  
212 petition to the board of election commissioners designated in  
213 Section 2 of this act and request official recall petition forms.

214 (5) At any time prior to the date the board of election  
215 commissioners receives the application for a recall petition, an  
216 elector who has signed the application as an official sponsor may  
217 request withdrawal of his or her signature from the application by  
218 executing and filing an affidavit signed and sworn to before a  
219 notary public which affirms the elector's intention to withdraw  
220 his or her signature from the application. The official affidavit  
221 of signature withdrawal shall be printed by the Office of the  
222 Secretary of State and distributed to boards of election



223 commissioners. The form of the affidavit shall be substantially  
224 as prescribed in Section 8 of this act.

225 (6) (a) No application for recall petition shall be  
226 accepted for verification if more than fifteen (15) days have  
227 elapsed since the application forms were issued to the sponsors.  
228 If an application for a recall petition contains more than one (1)  
229 sheet, the application, when offered for filing, shall be bound  
230 together and each sheet shall be numbered consecutively at the  
231 foot of each page beginning with page one.

232 (b) On receipt of the application, the board of  
233 election commissioners shall file the application and proceed to  
234 determine the legal sufficiency of the application and determine  
235 if the signers are qualified electors eligible to sign the  
236 application. The board of election commissioners is granted  
237 unrestricted authority to examine the voter registration records  
238 maintained by the registrar, to receive evidence and testimony,  
239 and to require the personal appearance of any person signing such  
240 application for the purpose of making such determination. If the  
241 board of election commissioners finds that any signer is not a  
242 qualified elector eligible to sign the application, the signature  
243 shall not be counted in determining whether the application  
244 contains a sufficient number of signatures as required by law.  
245 The nullification of a signature on an application shall not  
246 affect the validity of other signatures contained in such  
247 application. The board of election commissioners shall certify



248 the legal sufficiency or insufficiency of the application for a  
249 recall petition within five (5) days after receiving the  
250 application, excluding Saturdays, Sundays and legal holidays;  
251 however, the judge of the circuit court may, upon proper  
252 application and good cause shown, grant an additional period of  
253 time not to exceed fifteen (15) days for the board of election  
254 commissioners to verify the application.

255 (c) The board of election commissioners shall  
256 immediately notify in writing the public official named for recall  
257 in the application that a completed application for a recall  
258 petition has been filed with the board of election commissioners  
259 for verification.

260 (7) No application for a recall petition shall be amended,  
261 supplemented or returned after it has been filed with the board of  
262 election commissioners for verification.

263 (8) Upon certifying the legal sufficiency of the  
264 application, the board of election commissioners shall immediately  
265 officially file the certification of the application, issue  
266 official recall petition forms, assign a number to the recall  
267 petition, which number shall appear on the face of each petition  
268 form, and issue the number to the sponsors. A record of each  
269 application, including the date of its receipt and the number  
270 assigned and issued to the sponsors, shall be maintained by the  
271 board of election commissioners.



272 (9) The board of election commissioners shall immediately  
273 notify in writing the public official named for recall in the  
274 application that a recall petition has been officially issued for  
275 circulation.

276 (10) The official recall petition forms shall be printed by  
277 the Office of the Secretary of State and distributed to board of  
278 election commissioners.

279 **SECTION 5.** (1) Within four (4) days after the date of  
280 submission of the application for a recall petition for  
281 verification, excluding Saturdays, Sundays and legal holidays, the  
282 official sought to be recalled may file a petition in the circuit  
283 court of the county in which the official is domiciled applying  
284 for a review of the sufficiency of the ground or grounds for the  
285 recall and the fact or facts upon which the ground or grounds are  
286 based as set forth in such recall application.

287 (2) The circuit court having jurisdiction of a case governed  
288 by this act shall be presided over by a circuit court judge  
289 selected as set out in this section.

290 (3) Upon the filing of a sufficiency review petition under  
291 this section, the clerk of the circuit court having jurisdiction  
292 shall immediately notify the Chief Justice of the Supreme Court of  
293 proceedings filed under this act.

294 (4) The Chief Justice of the Supreme Court shall select a  
295 senior judge, who is not a resident of the circuit court district  
296 wherein the proceeding was filed, to preside over the case.



297 (5) After a judge has agreed to preside over the case, the  
298 Chief Justice of the Supreme Court shall enter an order in the  
299 circuit court of the county where the proceeding was filed  
300 appointing the judge, and the judge shall promptly begin presiding  
301 over the proceedings in the court and shall determine same as soon  
302 as practicable.

303 (6) The review shall be limited solely to a review of the  
304 legal sufficiency of the recall ground or grounds and the legal  
305 sufficiency of the alleged fact or facts upon which such ground or  
306 grounds are based as set forth in the recall application. The  
307 review of the alleged fact or facts shall include a determination  
308 if whether probable cause exists to believe that the alleged fact  
309 or facts are true. The burden shall be on the petition  
310 chairperson to prove that probable cause exists. The judge shall  
311 consider the review petitions on an expedited basis. Discovery  
312 shall be permitted but shall not delay the consideration of the  
313 review petition by the judge. The judge may enter such orders as  
314 the judge deems necessary and appropriate to expedite any  
315 discovery and the consideration of the review petition.

316 (7) During the pendency of the review by the circuit court,  
317 all other recall proceedings shall be suspended. If a ruling of  
318 sufficiency is rendered by such judge, then recall proceedings  
319 shall continue in the manner provided for in this act. The time  
320 for circulating a recall petition after the review of the  
321 sufficiency petition shall begin from the date of the order of the



322 circuit court or the issuance of recall petition forms, whichever  
323 is later, notwithstanding the fact that recall petition forms were  
324 issued before the filing of the petition for review of the  
325 sufficiency of the recall application. Valid signatures obtained  
326 on a recall petition prior to the filing of a petition for review  
327 of the sufficiency of a recall application shall be counted. The  
328 official sought to be recalled may file a discretionary appeal in  
329 the Supreme Court within ten (10) days after the date of an order  
330 finding a recall application sufficient, excluding Saturdays,  
331 Sundays and legal holidays, and the court shall consider the  
332 appeal on an expedited basis. The filing of the appeal shall not  
333 operate to stay the recall proceedings. If a ruling of  
334 insufficiency is rendered by such judge, then a discretionary  
335 appeal may be filed in the Supreme Court within ten (10) days  
336 after the date of such ruling, excluding Saturdays, Sundays and  
337 legal holidays, and such court shall consider such appeal on an  
338 expedited basis.

339 **SECTION 6.** (1) The form of the recall petition shall be  
340 substantially as follows:

341 RECALL PETITION

342 \_\_\_\_\_  
343 (Official application no.)

344 \_\_\_\_\_  
345 (county or city)

346 To \_\_\_\_\_



347 (Name of board of election commissioners)

348 \_\_\_\_\_

349 (Address)

350 \_\_\_\_\_

351 (City, state, zip code)

352 We, the electors registered to vote in the recall election  
353 herein petitioned, demand the recall of \_\_\_\_\_ (name  
354 and office) on the grounds that said official has, while holding  
355 public office, conducted himself or herself in a manner which  
356 relates to and adversely affects the administration of his or her  
357 office and adversely affects the rights and interest of the public  
358 and that said official \_\_\_\_\_ (State the appropriate  
359 ground or grounds for recall as set forth in Section 2(f)(ii) of  
360 this act and a brief statement, not to exceed five (5) lines, of  
361 the fact or facts upon which such ground or grounds are based.).

|     |      |         |           |           |
|-----|------|---------|-----------|-----------|
| 362 |      | Date of | Residence | County of |
| 363 | Name | Signing | Address   | Residence |

364 \_\_\_\_\_

365 (Signature) (Number and street or route)

366 \_\_\_\_\_

367 (Printed name of elector) (City)

368 (Ten (10) lines for signatures and printed names)

369 (2) The following statement shall be written or printed on  
370 each petition and each signer must read, or be read, the following  
371 statements:



372           "(a) Any person who gives or receives money or any  
373 other thing of value for signing a recall petition or for signing  
374 an affidavit of signature withdrawal shall be guilty of a  
375 misdemeanor;

376           (b) If (insert appropriate number) electors sign this  
377 petition, there will be an election at which a majority of the  
378 electors voting therein will determine whether the above-named  
379 official will be removed from office."

380           (3) Each recall petition shall contain a statement  
381 specifically designating the name and office of the official  
382 sought to be recalled, a statement that the named official has,  
383 while holding public office, conducted himself or herself in a  
384 manner which relates to and adversely affects the administration  
385 of his or her office and adversely affects the rights and  
386 interests of the public, a statement containing the appropriate  
387 ground or grounds for recall as set forth in Section 2(f)(ii) of  
388 this act, and a brief statement of the fact or facts upon which  
389 such ground or grounds are based. The statements shall be written  
390 or printed on each petition and each signer must read, or be read,  
391 the statements.

392           **SECTION 7.** (1) All signers of a single recall petition  
393 shall be electors who are registered and eligible to vote in the  
394 recall election and who reside in the electoral district of the  
395 official sought to be recalled. When a petition for the recall of  
396 a public official is circulated in more than one (1) county, each





397 sheet of the petition shall bear the name of the county in which  
398 it is circulated, and only electors of the designated county may  
399 sign such sheet. No recall petition shall be circulated or signed  
400 by any person in any location where alcoholic beverages are sold  
401 or served.

402 (2) Every elector signing a recall petition shall do so in  
403 the presence of the person circulating the petition, who is to  
404 execute the affidavit of verification on the reverse side of the  
405 petition form. At the time of signing, the elector shall sign his  
406 name, and the elector or the person circulating the petition shall  
407 print the name of the elector below the elector's signature and  
408 shall print or write in the appropriate spaces following the  
409 signature the elector's residence address, giving number and  
410 street or route and city, the name of the county, and the date on  
411 which the elector signed the petition. No notary public may sign  
412 the petition as an elector or serve as a circulator of any  
413 petition which he or she notarized. Any and all sheets of a  
414 recall petition that have the circulator's affidavit notarized by  
415 a notary public who also served as a circulator of one or more  
416 sheets of the recall petition or who signed one (1) of the sheets  
417 of the petition as an elector shall be disqualified and rejected.

418 (3) If an elector is incapable of signing his or name, he or  
419 she may specifically request the circulator of the petition to  
420 sign and print his or her name and complete the information  
421 required on the petition sheet to accompany the signature;



422 however, the circulator shall also sign his or her full name  
423 beside the printed name of such elector.

424 (4) The person before whom the electors signed the recall  
425 petition shall verify, in an affidavit subscribed and sworn to by  
426 him or her before a notary public, that each of the names on the  
427 petition form was signed in his or her presence on the date  
428 indicated and that in his or her belief each signer was an elector  
429 of the electoral district of the official sought to be recalled.

430 (5) The affidavit printed on the reverse side of each recall  
431 petition form shall be in the following form:

432 AFFIDAVIT OF CIRCULATOR

433 State of Mississippi

434 County of \_\_\_\_\_

435 Under the penalty of Section 97-9-59, Mississippi Code of  
436 1972, relating to perjury, I do depose and say that I am an  
437 elector registered to vote in the recall election herein  
438 petitioned for and that each petitioner signed or caused to be  
439 signed the foregoing petition in my presence on the date  
440 indicated; and I believe that each signer's name and residence  
441 address are correctly stated, and that each signer is an elector  
442 of the electoral district in which such recall election will be  
443 conducted, and that each signer has read, or was read, the  
444 required statements which are also set out on each petition.

445 (Signature of affiant) \_\_\_\_\_

446 (Residence address) \_\_\_\_\_



447 (Number and street or route)

448 \_\_\_\_\_

449 (City)

450 Subscribed and sworn to before me this \_\_\_\_\_ day of

451 \_\_\_\_\_, \_\_\_\_\_.

452 \_\_\_\_\_

453 Notary public

454 \_\_\_\_\_, Mississippi

455 My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

456 (6) An elector may change the way his or her signature and  
457 residence address appear on the recall petition at any time prior  
458 to the filing of the petition for verification by striking through  
459 his or her name and initialing the strike-through and re-signing  
460 the petition with his or her printed name corrected accordingly.

461 **SECTION 8.** (1) At any time prior to the date an application  
462 for recall petition or a recall petition is filed for  
463 verification, an elector who has signed the application or the  
464 recall petition form may request withdrawal of his or her  
465 signature from the application or recall petition by executing and  
466 filing an affidavit, in the form prescribed by this section, with  
467 the board of election commissioners. Any signature so withdrawn  
468 shall not be counted in determining the legal sufficiency of the  
469 application or recall petition. The affidavit shall:

470 (a) Be signed and sworn to before a notary public;



471 (b) State the elector's residence address, giving  
472 number and street or route and city, the name of the county of  
473 residence, and, in the case of a recall application or petition,  
474 the number of the recall application or petition which he or she  
475 signed; and

476 (c) Affirm the elector's intention to withdraw his or  
477 her signature from the application or recall petition.

478 (2) The affidavit shall be substantially in the following  
479 form:

480 AFFIDAVIT OF SIGNATURE WITHDRAWAL

481 State of Mississippi

482 County of \_\_\_\_\_

483 I, \_\_\_\_\_ (name as it appears on the application or  
484 recall petition), being first duly sworn, say that I am an elector  
485 of the \_\_\_\_\_ (electoral district) in which the recall  
486 election will be conducted.

487 That my residence address is \_\_\_\_\_

488 \_\_\_\_\_

489 (Number and street or route) (City)

490 That I signed or caused to be signed the application or the  
491 petition for the recall of \_\_\_\_\_ (name and office of  
492 person sought to be recalled) and that the recall application or  
493 petition has been assigned number \_\_\_\_\_.

494 That it is my intention by the signing and filing of this  
495 affidavit to withdraw my signature therefrom.



496

497

\_\_\_\_\_  
(Signature of elector)

498

Subscribed and sworn to before me this \_\_\_\_\_ day of

499

\_\_\_\_\_, \_\_\_\_\_.

500

\_\_\_\_\_

501

Notary public

502

\_\_\_\_\_, Mississippi

503

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

504

**SECTION 9.** No county registrar or other person authorized by

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law to register electors and no person other than an elector of

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the electoral district of the official sought to be recalled shall

507

circulate a recall application or petition. No employee of the

508

state shall circulate a recall application or petition. All

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signatures obtained by any unqualified person shall be void and

510

shall not be counted in determining the legal sufficiency of the

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petition.

512

**SECTION 10.** (1) The board of election commissioners shall

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be responsible for determining the legal sufficiency of the recall

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petition within thirty (30) days after it has been filed with it;

515

however, in cases where more than one (1) recall petition is

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subject to review for verification, the board of election

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commissioners shall be responsible for determining the legal

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sufficiency of any recall petition within forty-five (45) days

519

after it has been filed with it. The board of election

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commissioners or a designee is granted unrestricted authority to



521 examine the registration records maintained by the county  
522 registrar to receive evidence and testimony, and to require the  
523 personal appearance of any person signing the recall petition for  
524 the purpose of determining if the signers are qualified electors  
525 eligible to sign the recall petition. If the board of election  
526 commissioners shall not be reasonably able to ascertain that any  
527 signature is that of a qualified elector eligible to sign the  
528 recall petition, the signature shall not be counted in determining  
529 whether the petition contains a sufficient number of signatures as  
530 required by law. The nullification of a signature on any sheet of  
531 the recall petition shall not affect the validity of other  
532 signatures contained on such sheet.

533 (2) A recall petition shall not be accepted for verification  
534 for:

535 (a) Any statewide office if more than ninety (90) days  
536 have elapsed since the date the official recall petition forms  
537 were issued to the sponsors;

538 (b) Any official holding an office other than statewide  
539 office and for whom not less than five thousand (5,000) signatures  
540 are required for the recall petition under Section 3(1)(b) of this  
541 act if more than forty-five (45) days have elapsed since the date  
542 the official recall petition forms were issued to the sponsor; or

543 (c) Any official holding an office other than a  
544 statewide office and for whom less than five thousand (5,000)  
545 signatures are required under Section 3(1)(b) of this act if more



546 than thirty (30) days have elapsed since the date the official  
547 recall petition forms were issued to the sponsors.

548 (3) (a) No recall petition shall be amended, supplemented  
549 or returned after it has been filed with the board of election  
550 commissioners for verification.

551 (b) If a recall petition contains more than one (1)  
552 sheet, such recall petition shall, when offered for filing, be  
553 bound together and each sheet shall be numbered consecutively at  
554 the foot of each page beginning with page one.

555 (4) Within five (5) days, excluding Saturdays, Sundays and  
556 legal holidays, after the board of election commissioners has  
557 certified the legal sufficiency of a petition, it shall  
558 immediately notify the Governor or the appropriate official, who  
559 shall call the recall election as provided in Section 12 of this  
560 act.

561 (5) Upon certifying the legal sufficiency or insufficiency  
562 of a recall petition, the board of election commissioners shall  
563 immediately notify the petition chairman and the officeholder in  
564 writing of the results and officially file the certification of  
565 the petition.

566 **SECTION 11.** If an officeholder resigns prior to the holding  
567 of a recall election, no recall election shall be conducted.

568 **SECTION 12.** (1) Within ten (10) days after having received  
569 certification of the sufficiency of the recall petition by the  
570 board of election commissioners, a recall election shall be called



571 and published, as provided in this section, and shall be conducted  
572 not less than thirty (30) days nor more than forty-five (45) days  
573 after the call; however, if a primary or general election is to be  
574 held not less than thirty (30) days nor more than forty-five (45)  
575 days after such call is issued, the recall election shall be  
576 conducted on that date.

577 (2) A recall election shall be called:

578 (a) By the Governor, if for a state official;

579 (b) By the board of election commissioners of the  
580 county, if for a county official; or

581 (c) By the board of election commissioners of the  
582 municipality, if for a municipal official.

583 (3) If a recall petition is against an official who is  
584 directed by this section to call the election, it shall be called:

585 (a) By the Secretary of State, if for the Governor; or

586 (b) By the circuit clerk, if for a member county board  
587 of election commissioners.

588 (4) The official call for the election shall be published  
589 one (1) time as follows:

590 (a) In a newspaper of general circulation in the  
591 electoral district, if the election is for a state official;

592 (b) In a newspaper of general circulation in the  
593 county, if the election is for a county official; or

594 (c) In a newspaper of general circulation in the  
595 municipality, if the election is for a municipal official.





596 (5) It shall be the duty of the appropriate officials  
597 authorized by law to conduct elections to hold and conduct the  
598 recall election and to declare and certify the results; however,  
599 if the person sought to be recalled is the official authorized by  
600 law to conduct elections, the clerk of the circuit court of the  
601 county in which such recall election is to be held shall hold and  
602 conduct the recall election and declare and certify the results.  
603 The ballot for the recall election shall state the name and office  
604 of the person whose recall has been petitioned, and the ballot  
605 shall be in the form prescribed by law for state, county or  
606 municipal officials. The ballot shall have written or printed  
607 thereon the following:

608 "[ ] YES Shall (name of officeholder), (name of office),  
609 be recalled and removed from public office on  
610 the grounds that said official has, while  
611 [ ] NO holding public office, conducted himself or  
612 herself in a manner which relates to and  
613 adversely affects the administration of his or  
614 her office and adversely affects the rights and  
615 interests of the public and on the ground(s)  
616 that such official \_\_\_\_\_  
617 (State the appropriate ground or grounds for  
618 recall as set forth in subparagraph (ii) of  
619 paragraph (f) of Section 2 of this act?"



620           If more than one (1) public official is subject to a recall  
621 election in the same precinct, the board of election commissioners  
622 may prepare a recall ballot so as to include on a single ballot  
623 separate recall questions for each of the officials sought to be  
624 recalled.

625           (6) Those persons desiring to vote in favor of recall shall  
626 vote "Yes," and those persons desiring to vote against recall  
627 shall vote "No." If more than one-half (1/2) of the votes cast on  
628 such question are in favor of recall, the public office in  
629 question shall immediately become vacant. Otherwise, the public  
630 official named in the recall petition shall continue in office.

631           **SECTION 13.** (1) After a recall petition and election, no  
632 further recall petition shall be filed against the same official  
633 until at least six (6) months have elapsed from the date of the  
634 previous recall election; and any other recall petitions against  
635 that official outstanding on the date of the recall election shall  
636 be void.

637           (2) If the board of election commissioners finds that a  
638 recall petition is insufficient and fails to verify the same, no  
639 further application for a recall petition shall be filed against  
640 the same official until at least six (6) months have elapsed from  
641 the date of the denial of such recall petition; however, the  
642 finding of insufficiency shall not bar the verification of any  
643 other recall petition against that official which is available for



644 signature or pending verification at the time of such finding of  
645 insufficiency.

646 **SECTION 14.** All recall elections shall be conducted in the  
647 same manner as special elections.

648 **SECTION 15.** The State Board of Election Commissioners is  
649 authorized to promulgate such rules and regulations as are  
650 necessary to carry out this act.

651 **SECTION 16.** (1) If the board of election commissioners  
652 fails to comply with this act, any elector may apply, within ten  
653 (10) days after such refusal, to the circuit court for a writ of  
654 mandamus to compel the board of election commissioners to perform  
655 its official duties. If the court finds that the board of  
656 election commissioners has not complied with this act, the court  
657 shall issue an order for the board to comply.

658 (2) An action against the board of election commissioners  
659 shall be filed in the circuit court of the county of the board of  
660 election commissioners, except that an action against the State  
661 Board of Election Commissioners shall be filed in the Circuit  
662 Court of Hinds County.

663 **SECTION 17.** An elector's eligibility to sign an application  
664 for a recall petition or a petition for recall shall be determined  
665 as of the date immediately preceding the date the application or  
666 petition is signed by that elector.

667 **SECTION 18.** (1) Any person who gives or receives money or  
668 any other thing of value for signing a recall application or



669 petition or for signing an affidavit of signature withdrawal shall  
670 be guilty of a misdemeanor.

671 (2) A person who, by menace or threat either directly or  
672 indirectly, induces or compels or attempts to induce or compel any  
673 other person to sign or subscribe or to refrain from signing or  
674 subscribing that person's name to a recall application or petition  
675 or, after signing or subscribing that person's name, to have that  
676 person's name taken therefrom shall be guilty of a misdemeanor.

677 (3) A person who signs any name other than his or her own to  
678 a recall application or petition, except in a circumstance where  
679 he or she signs for a person in the presence of and at the  
680 specific request of such person who is incapable of signing that  
681 person's own name, or who knowingly signs his or her name more  
682 than once for the same recall application or petition or who  
683 knowingly is not at the time of signing a qualified elector of the  
684 electoral district of the official sought to be recalled shall be  
685 guilty of a misdemeanor.

686 **SECTION 19.** Sections 25-5-3, 25-5-5, 25-5-7, 25-5-9,  
687 25-5-11, 25-5-13, 25-5-15, 25-5-17, 25-5-19, 25-5-21, 25-5-23,  
688 25-5-25, 25-5-27, 25-5-29, 25-5-31, 25-5-33, 25-5-35 and 25-5-37,  
689 Mississippi Code of 1972, which provide a recall procedure for  
690 local officials pursuant to petition and election, provide for the  
691 verification of the petition, provide for examination of a  
692 petition for recall by the election commissioners, provide for  
693 notice of a hearing, provide for the appointment of a removal



694 council, provide for the conduct of a removal election, provide  
695 for the results of a removal election, and provide for appeals and  
696 penalties, are hereby repealed.

697           **SECTION 20.** This act shall take effect and be in force from  
698 and after July 1, 2017.

