

By: Representative Denny

To: Apportionment and Elections

HOUSE BILL NO. 634

1 AN ACT TO AMEND SECTIONS 25-5-3, 25-5-7, 25-5-9, 25-5-13,  
2 25-5-15, 25-5-17, 25-5-19, 25-5-21, 25-5-23, 25-5-25, 25-5-27,  
3 25-5-33, AND 25-5-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
4 THE PROCEDURE FOR REMOVAL OF ELECTIVE COUNTY OFFICIALS SHALL APPLY  
5 TO STATE, STATE-DISTRICT, AND MUNICIPAL ELECTIVE OFFICIALS; TO  
6 INCREASE THE REQUIRED PERCENT OF ELECTORS' SIGNATURES ON THE  
7 DEMAND FOR REMOVAL PETITION; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 25-5-3, Mississippi Code of 1972, is  
10 amended as follows:

11 25-5-3. The Governor is hereby empowered, in accordance with  
12 the provisions of Section 139 of the Mississippi Constitution of  
13 1890, through the procedure and under the regulations prescribed  
14 in Sections 25-5-3 through 25-5-37 and for the reasons and causes  
15 set forth, to remove any elective statewide, state-district,  
16 county or municipal officer in this state; and every elective  
17 officer of the state or any state-district, county or municipality  
18 in this state may be removed from office by the Governor or  
19 Lieutenant Governor, if the Governor is the officer to be removed,  
20 at any time when done in compliance with the regulations  
21 hereinafter set forth.

22 SECTION 2. Section 25-5-7, Mississippi Code of 1972, is  
23 amended as follows:

24 25-5-7. Before the Governor shall consider the removal from  
25 a statewide, state-district, county or municipal office of any  
26 elective statewide, state-district county or municipal officer,  
27 there shall be first filed with him a petition signed by not less  
28 than fifty-one percent (51%) of the qualified electors of the  
29 state, state-district, county or municipality, as the case may be,



30 demanding the removal of the officer. The petition shall contain  
31 a general statement, in not more than two hundred (200) words, of  
32 the ground or grounds on which the removal is demanded, which  
33 statement shall be for the information of the officer involved,  
34 for the information of the council hereinafter provided, and for  
35 the information of the qualified electors of the state,  
36 state-district, county or municipality, as the case may be.

37 All removal petitions with reference to only supervisors,  
38 justice court judges and constables also must be signed by at  
39 least fifty-one percent (51%) of the qualified electors of the  
40 beat or district from which they were originally elected.

41 Upon the request of any qualified elector, it shall be the  
42 duty of the Attorney General in the case of a statewide or  
43 state-district office, the county and district prosecuting  
44 attorney in the case of a county office, or, the municipal  
45 prosecuting attorney, in the case of a municipal office, to advise  
46 the person as to the provisions of Sections 25-5-3 through 25-5-37  
47 and how to comply with the same.

48 **SECTION 3.** Section 25-5-9, Mississippi Code of 1972, is  
49 amended as follows:

50 25-5-9. The removal petitions shall be in substantially the  
51 following forms:

52 (a) REMOVAL PETITION

53 (For Statewide and State-District Officers)

54 (WARNING.--It is a misdemeanor, punishable by fine and  
55 imprisonment, for any person to sign any removal petition with any  
56 name other than his own, or knowingly to sign his name more than  
57 once to the petition, or knowingly to sign the petition when he is  
58 not a qualified elector.)

59 Date: \_\_\_\_\_

60 TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

61 We, the undersigned qualified electors of the State of  
62 Mississippi or state-district \_\_\_\_\_, State of Mississippi,



63 respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_ in the  
64 state or state-district, be removed from office by the Governor  
65 (or if the Governor is being removed, the Lieutenant Governor) for  
66 the following reasons, to wit: (Setting out the reasons for  
67 removal in not more than two hundred words); that a special  
68 election, after lawful notice, be called to permit the qualified  
69 electors of the state or state-district to vote on the question of  
70 whether or not the officer shall be removed;

71 That we each for himself say that: I am a qualified elector  
72 of the state or state-district, and my voting precinct is  
73 correctly written after my name, and that it was stated to me  
74 before the signing of the petition that after signing the same I  
75 would not be permitted to remove my name from the petition.

	<u>NAME</u>	<u>VOTING PRECINCT</u>
76		
77	1. _____	_____
78	2. _____	_____
79	3. _____	_____

80 (b) REMOVAL PETITION  
81 (For County Officers)

82 (WARNING.--It is a misdemeanor, punishable by fine and  
83 imprisonment, for any person to sign any removal petition with any  
84 name other than his own, or knowingly to sign his name more than  
85 once to the petition, or knowingly to sign the petition when he is  
86 not a qualified elector.)

87 Date: \_\_\_\_\_

88 TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

89 We, the undersigned qualified electors of \_\_\_\_\_ County, State  
90 of Mississippi, respectfully demand that \_\_\_\_\_, holding the office  
91 of \_\_\_\_\_ in the county, be removed from office by the Governor for  
92 the following reasons, to wit: (Setting out the reasons for  
93 removal in not more than two hundred words); that a special  
94 election, after lawful notice, be called to permit the qualified

95 electors of the county to vote on the question of whether or not  
96 the \* \* \* officer shall be removed;

97 That we each for himself say that: I am a qualified elector  
98 of the county, and my voting precinct is correctly written after  
99 my name, and that it was stated to me before the signing of the  
100 petition that after signing the same I would not be permitted to  
101 remove my name from the petition.

102	NAME	VOTING PRECINCT
103	1. _____	_____
104	2. _____	_____
105	3. _____	_____

106 (c) REMOVAL PETITION  
107 (For Municipal Officers)

108 (WARNING.--It is a misdemeanor, punishable by fine and  
109 imprisonment, for any person to sign any removal petition with any  
110 name other than his own, or knowingly to sign his name more than  
111 once to the petition, or knowingly to sign the petition when he is  
112 not a qualified elector.)

113 Date: \_\_\_\_\_

114 TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

115 We, the undersigned qualified electors of the City of \_\_\_\_\_,

116 \_\_\_\_\_ County, State of Mississippi, respectfully demand that \_\_\_\_\_,

117 holding the office of \_\_\_\_\_ in the municipality, be removed from

118 office by the Governor for the following reasons, to wit:

119 (Setting out the reasons for removal in not more than two hundred  
120 words); that a special election, after lawful notice, be called to  
121 permit the qualified electors of the municipality to vote on the  
122 question of whether or not the officer shall be removed;

123 That we each for himself say that: I am a qualified elector  
124 of the municipality, and my voting precinct is correctly written  
125 after my name, and that it was stated to me before the signing of  
126 the petition that after signing the same I would not be permitted  
127 to remove my name from the petition.



128	<u>NAME</u>	<u>VOTING PRECINCT</u>
129	1. _____	_____
130	2. _____	_____
131	3. _____	_____

132 **SECTION 4.** Section 25-5-13, Mississippi Code of 1972, is  
133 amended as follows:

134 25-5-13. Each and every petition, or separately circulated  
135 section thereof, containing signatures shall be verified on the  
136 last page thereof in substantially one of the following forms:

137 (a) STATE OF MISSISSIPPI

138 State-District

139 I, \_\_\_\_\_, a qualified elector of the state or state-district  
140 do now state under oath that every person who signed the foregoing  
141 petition signed his or her name thereto in my presence, and that  
142 before the signing of the petition the signator was told that  
143 after signing the same his or her name could not be removed from  
144 the petition; that I believe that each has stated his or her name  
145 and district correctly, and that so far as I know each signer is a  
146 qualified elector of the state or state-district, and I further  
147 certify that the date appearing on the foregoing petition is the  
148 correct date on which the first signature was affixed to the  
149 petition or any section thereof.

150 (Signature) \_\_\_\_\_

151 Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
152 20\_\_.

153 \_\_\_\_\_  
154 \_\_\_\_\_

155 (b) STATE OF MISSISSIPPI

156 County of \_\_\_\_\_

157 I, \_\_\_\_\_, a qualified elector of the county do now state under  
158 oath that every person who signed the foregoing petition signed  
159 his or her name thereto in my presence, and that before the  
160 signing of the petition the signator was told that after signing



161 the same his or her name could not be removed from the petition;  
162 that I believe that each has stated his or her name and precinct  
163 correctly, and that so far as I know each signer is a qualified  
164 elector of this county, and I further certify that the date  
165 appearing on the foregoing petition is the correct date on which  
166 the first signature was affixed to the petition or any section  
167 thereof.

168 (Signature) \_\_\_\_\_

169 Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
170 20 .

171 \_\_\_\_\_

172 \_\_\_\_\_

173 (c) STATE OF MISSISSIPPI

174 City of \_\_\_\_\_, County of \_\_\_\_\_

175 I, \_\_\_\_\_, a qualified elector of the municipality do now state  
176 under oath that every person who signed the foregoing petition  
177 signed his or her name thereto in my presence, and that before the  
178 signing of the petition the signator was told that after signing  
179 the same his or her name could not be removed from the petition;  
180 that I believe that each has stated his or her name and precinct  
181 correctly, and that so far as I know each signer is a qualified  
182 elector of this municipality, and I further certify that the date  
183 appearing on the foregoing petition is the correct date on which  
184 the first signature was affixed to the petition or any section  
185 thereof.

186 (Signature) \_\_\_\_\_

187 Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
188 20 .

189 \_\_\_\_\_

190 \_\_\_\_\_

191 **SECTION 5.** Section 25-5-15, Mississippi Code of 1972, is  
192 amended as follows:



193           25-5-15. Before the submission of the petitions to the  
194 Governor or Lieutenant Governor, if the Governor is the officer to  
195 be removed, to be filed by him, all sections of the same shall be  
196 consolidated and delivered to the Secretary of State in the case  
197 of a statewide or state-district officer, registrar of the county  
198 or municipality, as the case may be, in which the petition has  
199 been circulated. No signatures shall be thereafter added. The  
200 Secretary of State or registrar shall compare the signatures of  
201 the persons appearing on the petition with the names of the  
202 qualified electors appearing on the poll books of the county or  
203 municipality, and shall attach to said petition, or to each  
204 section of the petition if the same has been circulated in  
205 sections, the following certificate:

206           STATE OF MISSISSIPPI

207           State-District

208           County of \_\_\_\_\_ (Municipality of \_\_\_\_\_)

209           I, \_\_\_\_\_, Secretary of State or registrar in and for the  
210 county or municipality aforesaid, do hereby certify that I have  
211 compared the signatures on the preceding sheets of the removal  
212 petition attached hereto, and to the best of my knowledge and  
213 belief the \* \* \* petition (or section of petition) contains the  
214 signatures of \_\_\_\_\_ qualified electors of the state,  
215 state-district, county or municipality, as the case may be, and I  
216 have drawn a line in red ink through the names of those signators  
217 who appear by the records in my office not to be qualified  
218 electors, or who have died. I further certify that as of the date  
219 of the petitions there were \_\_\_\_\_ qualified electors in this state,  
220 state-district, county or municipality, as the case may be.

221           Given under my hand and seal of office, this the \_\_\_\_\_ day of  
222 \_\_\_\_\_, 20\_\_\_\_\_.

223 \_\_\_\_\_

224 Secretary of State,

225 County or Municipal Registrar



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**SECTION 6.** Section 25-5-17, Mississippi Code of 1972, is amended as follows:

25-5-17. The certificate by the Secretary of State, county or municipal registrar shall be prima facie evidence of the facts stated therein and of the qualification of the electors whose signatures are thus certified. The Governor or the Lieutenant Governor, if the Governor is the officer to be removed, shall consider and count only those signatures on the petition as shall be so certified by the Secretary of State or registrar; \* \* \* however, \* \* \* any officer sought to be removed or any citizen of the state, state-district, county or municipality shall have the privilege of submitting evidence in writing, under oath, to the Governor as to the question of whether or not any signator to the petition was in fact a qualified elector at the time of the signing of the petition, or has since died. The decision of the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, as to whether or not any particular person was or was not a qualified elector at the time of the signing of the petition, or whether or not any particular person has since died, shall be final and shall not be subject to review. The status of the signator as to whether or not he or she was a qualified elector at the time of signing the petition shall be determined as of the date of the petition and not by any other date.

251 **SECTION 7.** Section 25-5-19, Mississippi Code of 1972, is  
252 amended as follows:

253 25-5-19. The Secretary of State or the county or municipal  
254 registrar shall not retain in his possession any \* \* \* petition or  
255 any section thereof for a longer period than two (2) days for the  
256 first two hundred (200) signatures thereon and one (1) additional  
257 day for each two hundred (200) additional signatures or fraction  
258 thereof, and the time consumed in the examination of the petitions



259 shall not be counted in determining the time between the signing  
260 and the filing of the petitions. At the expiration of the  
261 examination, the registrar shall forthwith file the same with the  
262 Governor or the Lieutenant Governor, if the Governor is the  
263 officer to be removed, with his certificate attached, and shall  
264 obtain a written receipt for the same. The forms herein are not  
265 mandatory, but directory, and if substantially followed in any  
266 petition it shall be sufficient, disregarding clerical and  
267 technical errors. If the Secretary of State or the registrar be  
268 unable to examine the petition, he shall so certify the fact to  
269 the state, county or municipal election commissioners, who shall  
270 in the same manner and time perform all the functions herein  
271 required of the Secretary of State or the registrar. In the event  
272 the Secretary of State or the county or municipal registrar is the  
273 officer whose removal is sought by the petition, then the petition  
274 shall be delivered to one of the state election commissioners or  
275 one of the county or municipal election commissioners of the  
276 county or municipality in which the petition has been circulated,  
277 and the \* \* \* commissioners \* \* \* shall in the same manner and  
278 within the same time perform all functions herein required of the  
279 registrar. A fee of Five Cents (5¢) per signature shall be  
280 allowed for the \* \* \* examination of the petitions, to be paid out  
281 of the general funds of the state, county or municipality upon due  
282 proof of the examination. The Secretary of State or any registrar  
283 or any board of state, county or municipal election commissioners  
284 or member thereof who wilfully fails or refuses to perform the  
285 duty or duties herein required of him or them shall be subject to  
286 a civil penalty of One Thousand Dollars (\$1,000.00), to be  
287 recovered in the chancery court of the First Judicial district of  
288 Hinds County or in the chancery court of the county by suit which  
289 may be filed by any qualified elector who signed the petition or  
290 any section thereof.



291           **SECTION 8.** Section 25-5-21, Mississippi Code of 1972, is  
292 amended as follows:

293           25-5-21. When the petitions shall have been filed with the  
294 Governor or the Lieutenant Governor, if the Governor is the  
295 officer to be removed, within ten (10) days of the filing thereof  
296 the Governor or the Lieutenant Governor, if the Governor is the  
297 officer to be removed, shall cause true copies thereof  
298 (photostatic copies being sufficient) to be personally delivered  
299 by some officer of the state, county or municipality, designated  
300 in writing by the Governor or the Lieutenant Governor, if the  
301 Governor is the officer to be removed, to the officer sought to be  
302 removed, and shall in like manner and form cause to be personally  
303 served on the officer a notice to appear, if he desires, at a time  
304 to be fixed by the Governor or the Lieutenant Governor, if the  
305 Governor is the officer to be removed, to show cause, if any he  
306 can, why the question of his removal should not be submitted to a  
307 vote of the qualified electors as hereinafter provided,  
308 which \* \* \* notice shall be served upon the officer at least  
309 twenty (20) days before the date when his appearance is required.  
310 The place of hearing shall be the county courthouse of the county  
311 in which the officer resides.

312           **SECTION 9.** Section 25-5-23, Mississippi Code of 1972, is  
313 amended as follows:

314           25-5-23. At the time and place designated in the notice, the  
315 Governor or the Lieutenant Governor, if the Governor is the  
316 officer to be removed, shall cause to be convened a removal  
317 council to be composed of three (3) chancery judges appointed by  
318 the Governor or the Lieutenant Governor, if the Governor is the  
319 officer to be removed, none of whom shall reside in the district  
320 in which the officer under question resides, to hear and determine  
321 whether there is substantial basis for a removal election  
322 consistently with the provisions of Sections 25-5-3 through  
323 25-5-37. The senior chancellor shall serve as the presiding judge



324 of the council. The hearing herein provided may continue from day  
325 to day and be recessed from time to time, as in the discretion of  
326 the council may be ordered. The qualified electors of the state,  
327 state-district, county or municipality shall likewise be given  
328 notice by proclamation of the Governor or the Lieutenant Governor,  
329 if the Governor is the officer to be removed, of the time and  
330 place of the hearing. Any interested citizen or citizens may  
331 likewise appear at the time and place listed and make \* \* \*  
332 representations to the council as, in the discretion of the  
333 council, may be material to the issues involved. The council shall  
334 promulgate rules for the hearings, which shall be in writing, but  
335 all representations shall be made under oath, to be administered  
336 by some member of the council. It shall not be necessary that a  
337 stenographic record be kept of the representations, either for or  
338 against removal, but the testimony taken shall be heard as nearly  
339 as practicable in compliance with the usually applicable rules of  
340 evidence. All decisions of the council on any question,  
341 preliminary or final, including the question of whether just cause  
342 for an election has been shown, shall be final and not subject to  
343 review.

344 The elective officer concerned shall be entitled to be  
345 represented by counsel of his choice at the hearing.

346 **SECTION 10.** Section 25-5-25, Mississippi Code of 1972, is  
347 amended as follows:

348 25-5-25. The council shall keep minutes of its final  
349 judgments, and the disposition of each petition shall be recorded  
350 therein. If it be the judgment of the council that sufficient  
351 cause has not been shown to justify the removal of the officer,  
352 then the petition shall be dismissed and no new petition shall be  
353 filed or entertained for a period of one (1) year from the date of  
354 the order dismissing the petition.

355 If, however, the council shall be of the opinion that  
356 sufficient cause has been shown to justify the removal of the

357 officer, then notice to the qualified electors of the state or  
358 state-district, county or municipality involved shall be given, in  
359 accordance with the general election laws of the State of  
360 Mississippi in the matter of filling vacancies in state,  
361 state-district, county or municipal offices, that an election  
362 shall be held in the county or municipality to determine the  
363 question of whether or not the state, state-district, county or  
364 municipal official shall be removed from office.

365 **SECTION 11.** Section 25-5-27, Mississippi Code of 1972, is  
366 amended as follows:

367 25-5-27. The officer named in the removal petition shall  
368 continue to perform the duties of his office until the results of  
369 the special removal election shall be officially proclaimed. If,  
370 however, the officer named in the petition for removal shall offer  
371 his resignation before the issuance of the proclamation for the  
372 holding of a special removal election, it shall be accepted, shall  
373 take effect on the date it is offered, and the vacancy shall be  
374 filled as provided by law for the filling of any vacancy in an  
375 elective state, state-district, county or municipal office. The  
376 officer who either resigns or is removed shall not be eligible to  
377 fill the vacancy caused by his removal or resignation, or serve as  
378 deputy in the office from which he resigns or is removed.

379 **SECTION 12.** Section 25-5-33, Mississippi Code of 1972, is  
380 amended as follows:

381 25-5-33. The election commissioners of the state,  
382 state-district, county or municipality, or a quorum thereof, shall  
383 meet at the office of the Secretary of State or the county or  
384 municipal registrar at 9:00 a.m. of the day following the special  
385 removal election, and shall then proceed to canvass, tabulate, and  
386 certify the results of the election as now provided by the general  
387 election laws of the State of Mississippi. The certificate of the  
388 results, showing the total votes cast for the removal of the  
389 officer, the total votes cast against the removal of the officer,



390 and the total number of qualified electors in the county, \* \* \*  
391 supervisors district or municipality in which the election was  
392 held, shall be forwarded to the Governor or the Lieutenant  
393 Governor, if the Governor is the officer to be removed. If a  
394 majority of all qualified electors of the county, \* \* \*  
395 supervisors district or municipality in which the election is held  
396 shall not have voted in the election, either for or against the  
397 removal, or if a majority of the qualified electors voting in the  
398 election shall oppose removal, the officer shall not be removed  
399 and shall not thereafter during his term of office be subject to  
400 another removal election. If a majority of all qualified electors  
401 of the state, state-district, county, \* \* \* supervisors district  
402 or municipality in which the election is held have voted either  
403 for or against removal, and if a majority of the qualified  
404 electors voting in the election shall vote for the removal of the  
405 officer, then the Governor shall issue his proclamation declaring  
406 the office vacant, removing the officer, and appointing a suitable  
407 person to fill the vacancy until the same can be filled in a  
408 special election to be held not more than sixty (60) days after  
409 the \* \* \* proclamation of the Governor. No officer shall be  
410 subject to a removal petition until he shall have served at least  
411 one (1) year of his term.

412 **SECTION 13.** Section 25-5-37, Mississippi Code of 1972, is  
413 amended as follows:

414 25-5-37. (1) Any person who signs any removal petition with  
415 any name other than his own, or who knowingly signs his name more  
416 than once to such petition, or who knowingly signs such petition  
417 when he is not a qualified elector shall be guilty of a felony  
418 and, upon conviction, may be punished as such for a term in the  
419 penitentiary not to exceed five (5) years.

420 (2) Any person who knowingly executes any affidavit required  
421 by Sections 25-5-3 through 25-3-37 knowing the same to be false,  
422 or who issues any certificate required by the same knowing it to



423 be false, or who makes any statement of any kind required by said  
424 sections to be under oath, either in writing or orally, knowing  
425 the same to be false shall be guilty of perjury and, upon  
426 conviction, may be punished by imprisonment in the State  
427 Penitentiary for a term not to exceed ten (10) years.

428 (3) It shall be a felony for any officer sought to be  
429 removed under the provisions of the aforesaid sections to attempt  
430 by force, threats, bribery, or intimidation to hinder or interfere  
431 with the free circulation or signing of any removal petition and,  
432 upon conviction thereof, he shall be punished by imprisonment in  
433 the State Penitentiary for not less than one (1) year nor more  
434 than five (5) years.

435 (4) Any person in the possession of a removal petition who  
436 either wilfully suppresses, neglects, or fails to cause same to be  
437 filed with the Secretary of State or the county or municipal  
438 registrar, as the case may be, shall be guilty of a misdemeanor  
439 and, upon conviction thereof, shall be punished by imprisonment in  
440 the county jail not to exceed six (6) months or by fine not to  
441 exceed Five Hundred Dollars (\$500.00), or by both such fine and  
442 imprisonment.

443 **SECTION 14.** The Attorney General of the State of Mississippi  
444 shall submit this act, immediately upon approval by the Governor,  
445 or upon approval by the Legislature subsequent to a veto, to the  
446 Attorney General of the United States or to the United States  
447 District Court for the District of Columbia in accordance with the  
448 provisions of the Voting Rights Act of 1965, as amended and  
449 extended.

450 **SECTION 15.** This act shall take effect and be in force from  
451 and after the date it is effectuated under Section 5 of the Voting  
452 Rights Act of 1965, as amended and extended.

