

By: Senator(s) England

To: Elections;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2299

1 AN ACT TO CREATE THE MISSISSIPPI RECALL ACT OF 2023 TO
2 PROVIDE A PROCEDURE FOR THE RECALL OF STATE OFFICIALS, MEMBERS OF
3 THE LEGISLATURE AND LOCAL ELECTED OFFICIALS; TO PROVIDE
4 DEFINITIONS; TO PRESCRIBE THOSE OFFICIALS SUBJECT TO RECALL; TO
5 PRESCRIBE THE NUMBER OF ELECTORS NEEDED TO DEMAND A RECALL; TO
6 PROVIDE FOR THE APPLICATION FOR AND TIME OF FILING A RECALL
7 PETITION BY SPONSORS; TO PROVIDE A FORM FOR THE RECALL PETITION;
8 TO PRESCRIBE THOSE ELECTORS ELIGIBLE TO SIGN A RECALL PETITION AND
9 A PROCEDURE FOR THE VERIFICATION OF SIGNATURES; TO PROHIBIT
10 CERTAIN PERSONS FROM CIRCULATING A PETITION OR APPLICATION; TO
11 PROVIDE FOR THE DETERMINATION OF LEGAL SUFFICIENCY OF A PETITION
12 BY THE LOCAL BOARD OF ELECTION COMMISSIONERS; TO PROVIDE FOR THE
13 MANNER OF CONDUCTING A RECALL ELECTION; TO PROVIDE FOR THE FILING
14 OF SUBSEQUENT RECALL PETITIONS FOLLOWING A RECALL ELECTION OR
15 DENIAL OF RECALL PETITION; TO REQUIRE THE SECRETARY OF STATE TO
16 PRINT THE APPLICATION FORMS AND PETITION FORMS AND DISTRIBUTE THE
17 FORMS TO THE BOARDS OF ELECTION COMMISSIONERS; TO AUTHORIZE THE
18 STATE BOARD OF ELECTION COMMISSIONERS TO PROMULGATE REGULATIONS TO
19 IMPLEMENT THIS ACT; TO AUTHORIZE AN APPLICATION TO THE CIRCUIT
20 COURT TO COMPEL COMPLIANCE WITH RECALL PROCEDURES; TO PROHIBIT
21 GIVING OR RECEIVING MONEY TO SIGN PETITIONS OR AFFIDAVITS FOR
22 RECALL AND OTHER RECALL INFRACTIONS, AND TO PROVIDE CRIMINAL
23 PENALTIES THEREFOR; TO REPEAL SECTIONS 25-5-3 THROUGH 25-5-37,
24 MISSISSIPPI CODE OF 1972, WHICH PROVIDE A RECALL PROCEDURE FOR
25 LOCAL OFFICIALS PURSUANT TO PETITION AND ELECTION; AND FOR RELATED
26 PURPOSES.

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

28 **SECTION 1.** This act shall be known and may be cited as the
29 "Mississippi Recall Act of 2023."



30 **SECTION 2.** For purposes of this act, unless the context
31 requires otherwise, the following terms shall have the meanings
32 ascribed herein:

33 (a) "Application for a recall petition" or
34 "application" means the application described in Section 4 of this
35 act.

36 (b) "Board of election commissioners" or "board" means:

37 (i) For any elected state officials or members of
38 the Legislature, the State Board of Election Commissioners;

39 (ii) For any elected county officials, the county
40 board of election commissioners; and

41 (iii) For any elected municipal officials, the
42 municipal board of election commissioners.

43 (c) "Elective office" means an office filled by the
44 exercise of the franchise of vote by electors as defined in
45 paragraph (d) of this section in a general or special election as
46 defined under the laws of this state.

47 (d) "Elector" means any person who possesses all of the
48 qualifications for voting now or hereafter prescribed by the laws
49 of this state and who has registered to vote.

50 (e) "Electoral district" means the area in which the
51 electors reside who are qualified to vote for any of the
52 candidates offering for a particular office.

53 (f) "Legal sufficiency" means, solely as applied to the
54 duties or functions of the board of election commissioners, a



55 determination of the completeness of an application or a petition
56 and a determination by the circuit clerk that an application or a
57 petition contains a sufficient number of valid signatures.

58 (g) "Sponsors" means the electors who circulate or file
59 an application who were registered and eligible to vote in the
60 last general or special election for the office held by the
61 official sought to be recalled and who reside in the electoral
62 district of the official sought to be recalled at the time the
63 application is made. If at any point a sponsor moves from the
64 electoral district, the sponsor shall be immediately removed from
65 the petition.

66 (h) "Petition" means the recall petition filed with
67 the board of election commissioners as provided in Section 10 of
68 this act.

69 (i) "Petition forms" means the recall petition forms
70 issued to the sponsor as provided in Section 5 of this act.

71 (j) "Recall Election" means the recall election as
72 provided in Section 11 of this act.

73 **SECTION 3.** (1) (a) Every public official who holds
74 elective office, either by election or by appointment for an
75 unexpired term, is subject to recall from office by electors who
76 are registered and qualified to vote in the recall election and
77 who reside in the electoral district from which candidates are
78 elected to that office.



79 (b) For a state official whose electoral district
80 encompasses the entire state, the number of electors necessary to
81 petition the recall of the official shall be equal to at least
82 thirty-five percent (35%) of the total number of electors who
83 legally voted at the last preceding election for any candidate
84 offering for the office held by the official. A pro rata number
85 of electors necessary to petition the recall of the official must
86 reside in each of the United States congressional districts in the
87 state as said congressional districts exist at the time of the
88 petition, such that an equal percentage of the required electors
89 reside in each of the respective congressional districts.

90 (c) For a state official whose electoral district
91 encompasses only a part of the state, a member of the legislature,
92 or a local official, the number of electors necessary to petition
93 the recall of the official shall be equal to at least thirty-five
94 percent (35%) of the number of electors that legally voted at the
95 last preceding election for any candidate offering for the office
96 held by the official.

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

99 (3) Every public official who holds elective office, either
100 by election or by appointment for an unexpired term, is subject to
101 recall on the grounds that such public official has, while holding
102 any public office, conducted himself or herself in a manner which



103 relates to and adversely affects the administration of his or her
104 current office and adversely affects the interests of the public.

105 **SECTION 4.** (1) (a) An application shall not be filed
106 during the first one hundred eighty (180) days of the term of
107 office of any public official subject to recall. An application
108 shall not be filed if it would potentially result in a recall
109 election being held within the final six (6) months of the term of
110 office of any public official subject to recall.

111 (b) No person shall be authorized to circulate, sponsor
112 or sign such application unless such person is an elector or
113 sponsor as defined in Section 2 of this act.

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

115 (i) The name and office of the official sought to
116 be recalled;

117 (ii) The printed names and signatures of the
118 official sponsors, the date signed, residence addresses and the
119 name of the county of residence;

120 (iii) The designation of one of the sponsors as
121 the petition chairperson who shall represent the sponsors on all
122 matters pertaining to the application and petition;

123 (iv) A statement that: _____ (name and
124 office) has, while holding public office, conducted himself or
125 herself in a manner which relates to and adversely affects the
126 administration of his or her office and adversely affects the
127 interests of the public. The statement shall be typed, printed or



128 reproduced by the board of election commissioners on the face of
129 each application issued; and

130 (v) An affidavit by the petition chairperson and
131 the person circulating the application that each person sponsoring
132 or signing the application is an elector of the electoral district
133 of the official sought to be recalled. The affidavit required by
134 this subparagraph (v) shall be in the following form:

135 AFFIDAVIT OF CIRCULATOR AND PETITION CHAIRPERSON

136 State of Mississippi

137 County of _____

138 Under the penalty of a violation of Section 97-9-59,
139 Mississippi Code of 1972, relating to perjury, we the undersigned
140 do depose and say that each person sponsoring or signing the
141 recall application of _____ is an elector of the
142 electoral district of the official sought to be recalled and
143 further depose and say that the public official identified herein
144 is subject to recall on the grounds that such public official has,
145 while holding any public office, conducted himself or herself in a
146 manner which relates to and adversely affects the administration
147 of his or her current office and adversely affects the interests
148 of the public.

149 _____
150 (Signature of circulator)

151 _____
152 (Residence address)



153 (Number and street or route)

154 _____

155 (City)

156 _____

157 (Signature of petition chairperson)

158 _____

159 (Residence address)

160 (Number and street or route)

161 _____

162 (City)

163 Subscribed and sworn to before me this _____ day of

164 _____, _____.

165 _____

166 Notary public

167 _____, Mississippi

168 My commission expires on the _____ day of _____,

169 _____.

170 (b) No notary public may sign the application as an
171 elector or serve as a circulator of any application which he or
172 she notarized. Any and all sheets of an application for a
173 petition that have the circulator's affidavit notarized by a
174 notary public who also served as a circulator of one or more
175 sheets of the application or who signed one of the sheets of the
176 petition as an elector shall be disqualified and rejected.



177 (c) Application shall be issued by the board of
178 election commissioners who shall assign a number to the face of
179 each application. The board of election commissioners shall keep
180 records of applications issued, including the date of issuance and
181 the number assigned. The board of election commissioners shall
182 immediately notify in writing the public official named for recall
183 in the application, stating that an application for a recall
184 petition has been officially issued for circulation.

185 (3) (a) The number of official sponsors necessary to file
186 an application must be equal to at least one hundred (100)
187 electors or equal to at least ten percent (10%) of the number of
188 electors who legally voted in the last preceding election for any
189 of the candidates offering for the office held by the public
190 official sought to be recalled, whichever is fewer.

191 (b) If at any point a sponsor moves his or her
192 residence from the electoral district, the sponsor shall be
193 immediately removed from the petition.

194 (4) Before circulating the petition, sponsors shall submit
195 the application to the board of election commissioners and request
196 petition forms.

197 (5) At any time prior to the date the board of election
198 commissioners receives the application, an elector who has signed
199 the application as an official sponsor may request withdrawal of
200 his or her signature from the application by executing and filing
201 an affidavit signed and sworn to before a notary public which



202 affirms the elector's intention to withdraw his or her signature
203 from the application. The official affidavit of signature
204 withdrawal shall be printed by the Office of the Secretary of
205 State and distributed to boards of election commissioners. The
206 form of the affidavit shall be substantially as prescribed in
207 Section 7 of this act.

208 (6) (a) No application shall be accepted for verification
209 if more than fifteen (15) days have elapsed since the application
210 forms were issued to the sponsors.

211 (b) If an application contains more than one (1) sheet,
212 the application, when offered for filing, shall be bound together,
213 and each sheet shall be numbered consecutively at the foot of each
214 page beginning with page one.

215 (7) (a) On receipt of the application, the board of
216 election commissioners shall:

217 (i) File the application and proceed to determine
218 the legal sufficiency of the application and determine if the
219 signers are qualified electors eligible to sign the application;

220 (ii) Immediately notify in writing the public
221 official named for recall in the application, informing them that
222 a completed application for a recall petition has been filed with
223 the board of election commissioners for verification; and

224 (iii) Certify the legal sufficiency or
225 insufficiency of the petition within five (5) business days after
226 receiving the application. A judge of the circuit court having



227 jurisdiction in the subject electoral district may, upon proper
228 application and good cause shown, grant an additional period of
229 time not to exceed fifteen (15) business days for the board of
230 election commissioners to certify the application.

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

243 (8) No application shall be amended, supplemented or
244 returned after it has been filed with the board of election
245 commissioners for verification.

246 (9) Upon certifying the legal sufficiency of the
247 application, the board of election commissioners shall:

248 (a) Immediately file the certification of the
249 application;

250 (b) Issue official petition forms;



251 (c) Assign a number to the recall petition, which
252 number shall appear on the face of each petition form; and

253 (d) Issue the number to the sponsors.

254 **SECTION 5.** (1) The form of the recall petition shall be
255 substantially as follows:

256 RECALL PETITION

257 _____
258 (Official application no.)

259 _____
260 (county or city)

261 To _____

262 (Name of board of election commissioners)

263 _____
264 (Address)

265 _____
266 (City, state, zip code)

267 We, the electors registered to vote in the recall election
268 herein petitioned, demand the recall of _____ (name
269 and office) on the grounds that said official has, while holding
270 public office, conducted himself or herself in a manner which
271 relates to and adversely affects the administration of his or her
272 office and adversely affects the interests of the public.

273	Date of	Residence	County of	
274	Name	Signing	Address	Residence



276 (Signature) (Number and street or route)
277 _____
278 (Printed name of elector) (City)

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

280 (2) The following statement shall be written or printed on
281 each petition and each signer must read, or be read, the following
282 statements:

283 "(a) Any person who gives or receives money or any
284 other thing of value for signing a recall petition or for signing
285 an affidavit of signature withdrawal shall be guilty of a
286 misdemeanor;

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

291 (3) (a) Each petition shall contain a statement
292 specifically designating the name and office of the official
293 sought to be recalled, a statement that the sponsors allege that
294 the named official has, while holding public office, conducted
295 himself or herself in a manner which relates to and adversely
296 affects the administration of his or her office and adversely
297 affects the interests of the public, and a statement confirming
298 that the signers agree with the sponsor(s) and support the
299 petition for recall of the above-named official.



300 (b) The statements in paragraph (b) of this subsection
301 shall be printed on each petition form and each signer must read,
302 or be read, the statements.

303 **SECTION 6.** (1) (a) All signers of a single recall petition
304 shall be electors who are registered and eligible to vote in the
305 recall election and who reside in the electoral district of the
306 official sought to be recalled.

307 (b) When a petition is circulated in more than one (1)
308 county, each sheet of the petition shall bear the name of the
309 county in which it is circulated, and only electors of the
310 designated county may sign such sheet.

311 (2) No petition shall be circulated or signed by any person
312 in any location where alcoholic beverages are sold or served.

313 (3) Every elector signing a petition shall do so in the
314 presence of the person circulating the petition, who is to execute
315 the affidavit of verification on the reverse side of the petition
316 form.

317 (4) (a) At the time of signing, the elector shall sign his
318 name, and the elector or the person circulating the petition
319 shall:

320 (i) Print the name of the elector below the
321 elector's signature; and

322 (ii) Print or write in the appropriate spaces
323 following the signature the elector's residence address, the name



324 of the county, and the date on which the elector signed the
325 petition.

326 (b) If an elector is incapable of signing his or her
327 name, the elector may request the person circulating the petition
328 to sign and print the elector's name and complete the information
329 required on the petition sheet to accompany the signature. Under
330 this paragraph, the person circulating the petition shall also
331 sign his or her full name beside the printed name of the elector.

332 (5) No notary public may sign the petition as an elector or
333 serve as a circulator of any petition which he or she notarized.
334 Any and all sheets of a recall petition that have the circulator's
335 affidavit notarized by a notary public who also served as a
336 circulator of one or more sheets of the recall petition or who
337 signed one (1) of the sheets of the petition as an elector shall
338 be disqualified and rejected.

339 (6) The person before whom the electors signed the recall
340 petition shall verify, in an affidavit subscribed and sworn to by
341 him or her before a notary public, that each of the names on the
342 petition form was signed in his or her presence on the date
343 indicated and that in his or her belief each signer was an elector
344 of the electoral district of the official sought to be recalled.

345 (7) The affidavit printed on the reverse side of each recall
346 petition form shall be in the following form:

347 AFFIDAVIT OF CIRCULATOR

348 State of Mississippi



349 County of _____

350 Under the penalty of Section 97-9-59, Mississippi Code of
351 1972, relating to perjury, I do depose and say that I am an
352 elector registered to vote in the recall election herein
353 petitioned for and that each petitioner signed or caused to be
354 signed the foregoing petition in my presence on the date
355 indicated; and I believe that each signer's name and residence
356 address are correctly stated, and that each signer is an elector
357 of the electoral district in which such recall election will be
358 conducted, and that each signer has read, or was read, the
359 required statements which are also set out on each petition.

360 (Signature of affiant) _____

361 (Residence address) _____

362 (Number and street or route)

363 _____

364 (City)

365 Subscribed and sworn to before me this _____ day of

366 _____, _____.

367 _____

368 Notary public

369 _____, Mississippi

370 My commission expires on the _____ day of _____, _____.

371 (8) An elector may change the way his or her signature and
372 residence address appear on the petition at any time prior to the
373 filing of the petition for verification by striking through his or



374 her name and initialing the strike-through and re-signing the
375 petition with his or her printed name corrected accordingly.

376 **SECTION 7.** (1) At any time prior to the date an application
377 or a petition is filed for verification, an elector who has signed
378 the application or the petition may request withdrawal of his or
379 her signature from the application or petition by executing and
380 filing an affidavit, in the form prescribed by this section, with
381 the board of election commissioners. Any signature so withdrawn
382 shall not be counted in determining the legal sufficiency of the
383 application or petition. The affidavit shall:

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

385 (b) State the elector's residence address, the name of
386 the county of residence, and the number of the recall application
387 or petition which he or she signed; and

388 (c) Affirm the elector's intention to withdraw his or
389 her signature from the application or petition.

390 (2) The affidavit shall be substantially in the following
391 form:

392 AFFIDAVIT OF SIGNATURE WITHDRAWAL

393 State of Mississippi

394 County of _____

395 I, _____ (name as it appears on the application or
396 recall petition), being first duly sworn, say that I am an elector
397 of the _____ (electoral district) in which the recall
398 election will be conducted.



399 That my residence address is _____

400 _____

401 (Number and street or route) (City)

402 That I signed or caused to be signed the application or the
403 petition for the recall of _____ (name and office of
404 person sought to be recalled) and that the recall application or
405 petition has been assigned number _____.

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

408 _____

409 (Signature of elector)

410 Subscribed and sworn to before me this _____ day of
411 _____, _____.

412 _____

413 Notary public

414 _____, Mississippi

415 My commission expires on the _____ day of _____, ____.

416 **SECTION 8.** (1) No county registrar or other person
417 authorized by law to register electors and no person other than an
418 elector of the electoral district of the official sought to be
419 recalled shall circulate a recall application or petition.

420 (2) No employee of the state shall circulate a recall
421 application or petition.



422 (3) All signatures obtained by any unqualified person shall
423 be void and shall not be counted in determining the legal
424 sufficiency of the petition.

425 **SECTION 9.** (1) Before a person may file a petition with the
426 appropriate board of election commissioners, the signatures on the
427 petition must be verified by the circuit clerk of each county in
428 which the petition was circulated.

429 (2) The circuit clerk shall verify the name of each
430 qualified elector signing on each recall petition. The circuit
431 clerk shall certify the signatures of qualified electors of that
432 county and shall state the total number of qualified electors
433 signing the petition in that county.

434 (3) (a) The circuit clerk is granted unrestricted authority
435 to examine the registration records maintained by the county
436 registrar to receive evidence and testimony, and to require the
437 personal appearance of any person signing the recall petition for
438 the purpose of determining if the signers are qualified electors
439 eligible to sign the recall petition. If the circuit clerk shall
440 not be reasonably able to ascertain that any signature is that of
441 a qualified elector eligible to sign the recall petition, the
442 signature shall not be counted in determining whether the petition
443 contains a sufficient number of signatures as required by law.

444 (b) The nullification of a signature on any sheet of
445 the recall petition shall not affect the validity of other
446 signatures contained on such sheet.



447 (4) A circuit clerk may not receive any fee, salary or
448 compensation from any private person or private legal entity for
449 the clerk's duties in certifying a petition.

450 **SECTION 10.** (1) When the sponsor has secured upon the
451 petition a number of signatures of qualified electors equal to or
452 exceeding the minimum number required by Section 3 of this act,
453 and the circuit clerks of the various counties have certified the
454 signatures, the sponsor may submit the petition to the board of
455 election commissioners for filing.

456 (2) The board of election commissioners shall be responsible
457 for determining the legal sufficiency of the recall petition
458 within fifteen (15) days after the petition has been filed. In
459 cases where more than one (1) recall petition is subject to review
460 for verification, the board of election commissioners shall be
461 responsible for determining the legal sufficiency of any recall
462 petition within thirty (30) days after it has been filed with it.

463 (3) A petition shall not be submitted to the board of
464 election commissioners for verification for:

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

468 (b) Any official holding an office other than statewide
469 office and for whom five thousand (5,000) signatures or more are
470 required for the petition under Section 3(1)(b) of this act if



471 more than forty-five (45) days have elapsed since the date the
472 petition forms were issued to the sponsor; or

473 (c) Any official holding an office other than a
474 statewide office and for whom less than five thousand (5,000)
475 signatures are required under Section 3(1)(b) of this act if more
476 than thirty (30) days have elapsed since the date the recall
477 petition forms were issued to the sponsors.

478 (4) (a) No petition shall be amended, supplemented or
479 returned after it has been filed with the board of election
480 commissioners for verification.

481 (b) If a petition contains more than one (1) sheet, the
482 petition shall be bound together and each sheet shall be numbered
483 consecutively at the foot of each page beginning with page one.

484 (5) (a) If the board of election commissioners determines
485 that the petition is legally sufficient, the board of election
486 commissioners shall immediately certify the petition.

487 (b) If the board of election commissioners determines
488 that the petition is legally insufficient, the board of election
489 commissioners shall immediately deny the petition.

490 (c) Within two (2) business days from the date of
491 either certification or denial of the petition, the board of
492 election commissioners shall:

493 (i) Notify the petition chairman in writing or by
494 electronic communication; and



495 (ii) Notify the officeholder in writing or by
496 electronic communication.

497 (6) Within five (5) business days of filing the
498 certification of the petition, the board of election commissioners
499 shall notify the appropriate official to call a recall election as
500 provided in Section 11 of this act.

501 **SECTION 11.** (1) Within ten (10) days after having received
502 certification of the sufficiency of the petition by the board of
503 election commissioners, a recall election shall be called and
504 published, as provided in this section, and shall be conducted not
505 less than fifty (50) calendar days nor more than sixty-five (65)
506 calendar days after the call; however, if a primary or general
507 election is to be held not less than thirty (30) calendar days nor
508 more than forty-five (45) calendar days after such call is issued,
509 the recall election shall be conducted on that date.

510 (2) A recall election shall be called:

511 (a) By the Governor, if for a state official or a
512 member of the Legislature;

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

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

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

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



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

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

524 (a) In a newspaper of general circulation in the
525 electoral district, if the election is for a state official or a
526 member of the Legislature;

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

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

531 (5) If an officeholder resigns prior to the holding of a
532 recall election, no recall election shall be conducted.

533 (6) (a) It shall be the duty of the appropriate officials
534 authorized by law to conduct elections to hold and conduct the
535 recall election and to declare and certify the results.

536 (b) If the person sought to be recalled is the official
537 authorized by law to conduct elections, the clerk of the circuit
538 court of the county in which such recall election is to be held
539 shall hold and conduct the recall election and declare and certify
540 the results.

541 (7) The ballot for the recall election shall state the name
542 and office of the person whose recall has been petitioned, and the
543 ballot shall be in the form prescribed by law for state, county or



544 municipal officials. The ballot shall have written or printed
545 thereon the following:

546 " YES Shall (name of officeholder), (name of office),
547 be recalled and removed from public office on
548 the grounds that said official has, while
549 NO holding public office, conducted himself or
550 herself in a manner which relates to and
551 adversely affects the administration of his
552 or her office and adversely affects the
553 interests of the public?"

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

559 (8) (a) Those persons desiring to vote in favor of recall
560 shall vote "Yes," and those persons desiring to vote against
561 recall shall vote "No."

562 (b) If more than one-half (1/2) of the votes cast on
563 the question are in favor of recall, the public office in question
564 shall immediately become vacant. Otherwise, the public official
565 named in the petition shall continue in office.

566 (c) If a public office position becomes vacant due to
567 recall, impeachment or death, a special election shall be held
568 within ninety (90) days of the vacancy. All special elections to



569 fill vacancies shall, in all respects, be held, conducted and
570 returned in the same manner as general elections, except that
571 where no candidate receives a majority of the votes cast in the
572 election, a runoff election shall be held three (3) weeks after
573 the election. The two (2) candidates who receive the highest
574 popular votes for the office shall have their names submitted as
575 the candidates to the runoff and the candidate who leads in the
576 runoff election shall be elected to the office. When there is a
577 tie in the first election of those receiving the next highest
578 vote, these two (2) and the one receiving the highest vote, none
579 having received a majority, shall go into the runoff election and
580 whoever leads in the runoff election shall be entitled to the
581 office.

582 (9) If the special election would have equal to or less than
583 ninety (90) days before a regularly scheduled general election,
584 the position shall remain vacant until it is filled by the results
585 of the regularly scheduled election.

586 (10) Other than the specific provisions of this section, all
587 recall elections shall be conducted in the same manner as provided
588 by law for special elections.

589 **SECTION 12.** (1) After a recall election has been held, no
590 further petition shall be filed against the same official until
591 six (6) months have elapsed from the date of the previous recall
592 election. Any outstanding application or petitions against an
593 official on the date of the recall election shall be void.



594 (2) If the board of election commissioners denies a
595 petition, no further applications shall be filed against the same
596 official and no further application forms shall be issued against
597 the same official until six (6) months have elapsed from the date
598 of the denial of the petition.

599 (3) The denial of a petition by the board of election
600 commissioners shall not bar the verification of any other
601 petitions against that official which are available for signature
602 or pending verification at the time of the denial of the petition.

603 **SECTION 13.** (1) The State Board of Election Commissioners
604 shall promulgate rules and regulations in accordance with the
605 Mississippi Administrative Procedures Act as are necessary to
606 implement and carry out its duties under this act.

607 (2) The Secretary of State shall print the application forms
608 and petition forms and distribute the forms to the boards of
609 election commissioners.

610 **SECTION 14.** (1) If the board of election commissioners
611 fails to comply with this act, any elector may apply, within ten
612 (10) business days after such refusal, to the circuit court for a
613 writ of mandamus to compel the board of election commissioners to
614 perform its official duties. If the court finds that the board of
615 election commissioners has not complied with this act, the court
616 shall issue an order for the board to comply.

617 (2) An action against the board of election commissioners
618 shall be filed in the circuit court of the county of the board of



619 election commissioners, except that an action against the State
620 Board of Election Commissioners shall be filed in the Circuit
621 Court of Hinds County.

622 (3) The filing of an action under this section shall toll
623 the procedural filing deadlines of this act.

624 **SECTION 15.** An elector's eligibility to sign an application
625 for a recall petition or a petition for recall shall be determined
626 as of the date immediately preceding the date the application or
627 petition is signed by that elector.

628 **SECTION 16.** (1) Any person who gives or receives money or
629 any other thing of value for signing an application or petition or
630 for signing an affidavit of signature withdrawal shall be guilty
631 of a misdemeanor.

632 (2) A person who, by menace or threat either directly or
633 indirectly, induces or compels or attempts to induce or compel any
634 other person to sign or subscribe or to refrain from signing or
635 subscribing that person's name to an application or petition or,
636 after signing or subscribing that person's name, to have that
637 person's name taken therefrom shall be guilty of a misdemeanor.

638 (3) A person who signs any name other than his or her own to
639 an application or petition, except as provided in subsection (4)
640 of Section 6 of this act, or who knowingly signs his or her name
641 more than once for the same recall application or petition or who
642 knowingly is not at the time of signing a qualified elector of the



643 electoral district of the official sought to be recalled shall be
644 guilty of a misdemeanor.

645 (4) Any person found guilty of a misdemeanor under this
646 section may be subject to a fine in an amount not to exceed Five
647 Hundred Dollars (\$500.00).

648 **SECTION 17.** Sections 25-5-3, 25-5-5, 25-5-7, 25-5-9,
649 25-5-11, 25-5-13, 25-5-15, 25-5-17, 25-5-19, 25-5-21, 25-5-23,
650 25-5-25, 25-5-27, 25-5-29, 25-5-31, 25-5-33, 25-5-35 and 25-5-37,
651 Mississippi Code of 1972, which provide a recall procedure for
652 local officials pursuant to petition and election, provide for the
653 verification of the petition, provide for examination of a
654 petition for recall by the election commissioners, provide for
655 notice of a hearing, provide for the appointment of a removal
656 council, provide for the conduct of a removal election, provide
657 for the results of a removal election, and provide for appeals and
658 penalties, are hereby repealed.

659 **SECTION 18.** This act shall take effect and be in force from
660 and after July 1, 2023.

