STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

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Recall Elections:
The Role of the Board of State Canvassers

The Board of State Canvassers is required to perform certain functions relating to the recall of the following officers –

- State-level offices: U.S. Senators, U.S. Representatives, State Senators, State Representatives, Governor, Lieutenant Governor, Attorney General, Secretary of State, and members of the State Board of Education, University of Michigan Board of Regents, Michigan State University Board of Trustees, and Wayne State University Board of Governors.

- County-level offices: County Executive, Prosecuting Attorney, County Clerk, County Register of Deeds, Clerk/Register of Deeds, County Treasurer, Sheriff, Drain Commissioner, Surveyor, Coroner, County Auditor, and County Road Commissioner.

Petitions seeking the recall of any officer listed above must be filed with the Board of State Canvassers before the petition can be circulated. MCL 168.951a. The individual submitting the recall petition must be registered to vote in the electoral district represented by the officer whose recall is sought.

Hearing Regarding the Clarity and Factuality of the Reasons for Recall

Reasons for recall: Each reason for recall printed on the petition must be stated "factually and clearly," and must be based on conduct during the officer's current term of office. If any reason is based on specific legislation, "the reason for recall shall not misrepresent the content of the specific legislation." Each reason for recall must be factual and of sufficient clarity to enable the officer targeted for recall and voters to identify the course of conduct that is the basis for the recall. MCL 168.951a.

Hearing: Upon submission of a recall petition, the Board of State Canvassers must provide notice to the officer targeted for recall within 24 hours, consisting of (1) the reasons that the officer's recall is sought, and (2) the date of the Board of State Canvassers hearing. The Board of State Canvassers must meet between the 10th and 20th day after the recall petition is submitted. If the Board fails to meet during this period, the petition is deemed approved. MCL 168.951a.

At the hearing, both sides may present written and oral arguments. An affirmative vote of at least 3 members is required for the approval of the recall petition. If any reason is not factual or of sufficient clarity, the entire petition must be rejected. MCL 168.951a.

For further instructions, please see the "Board of State Canvassers Clarity/Factual Hearing Instructions," adopted May 22, 2013, at www.michigan.gov/elections.

Submission barred during certain time periods: A recall petition cannot be submitted to the Board of State Canvassers for hearing purposes during the first and last 6 months of the officer's term of office. MCL 168.952b.

Appeal Following Board of State Canvassers Hearing

An appeal of the Board of State Canvassers determination may be filed with the Court of Appeals and must be submitted within 10 days. If the Court of Appeals determines that the petition is not of sufficient clarity or factual, it is not valid. MCL 168.951a.

Circulation of the Recall Petition

Circulation barred during certain time periods: Once an appeal is taken, the recall petition cannot be circulated until the Court of Appeals renders a decision or until 40 days following the date of appeal, whichever is sooner. MCL 168.951a.

Validity: The recall petition is valid for a period of 180 days after either of the following, whichever occurs later:

- The date of the Board of State Canvassers determination; or
- The sooner of the following dates –
    - The date that the Court of Appeals renders a decision, or
    - 40 days following the date of appeal.

A recall petition filed more than 180 days after the period described above is invalid and shall not be accepted by the designated filing official. MCL 168.951a.

Invalid signatures: Signatures that were collected more than 60 days prior to the filing of the petition, or during the period while circulation is barred, are invalid. MCL 168.961.

The Role of the Designated Filing Official

The Secretary of State is the designated filing official for recall petitions seeking the ouster of any of the officials identified above, except that a petition seeking the recall of the Secretary of State must be filed with the Governor. MCL 168.959.

The designated filing official is responsible for canvassing the recall petitions and if necessary, issuing the call for a special recall election (if the Governor's recall is sought) or recall primary and recall general election (for all other elective officers listed above).

Filing of Recall Petition

Upon the filing of a recall petition, the designated filing official will issue a receipt showing the date of filing, number of petition sheets filed, and the number of signatures claimed. MCL 168.961. He or she must also provide written notice of the filing to the officer whose recall is sought not later than the business day following the date of filing. MCL 168.961a. Supplemental filings are not permitted. MCL 168.961.

The officer whose recall is sought must be provided at least 8 days in which to examine signatures and may file challenges on or before the 30th day after the filing of the petition. MCL 168.961a.

Filing Barred During Certain Time Periods

Officials serving term of office for 2 years or less: A circulated recall petition shall not be filed during the first and last 6 months of the term of office. MCL 168.951.

Officials serving term of office for more than 2 years: A circulated recall petition shall not be filed during the first and last year of the term of office. MCL 168.951.

Determination of Sufficiency or Insufficiency of Recall Petition

The designated filing official is required to declare whether the recall petition contains a sufficient number of valid signatures on or before the 35th day after the filing of the petition.

Governor: If the petition is sufficient, the designated filing official issues a call for a special recall election to be held at least 95 days after the filing of the recall petition on the next May or August election date, whichever occurs first. MCL 168.963, as amended by 2015 PA 99, effective September 28, 2015.

All other officers listed above: If the petition is sufficient, the designated filing official issues a call for a recall primary to be held at least 95 days after the filing of the recall petition on the next regular election date. MCL 168.963. A recall general election follows the recall primary and must be held on the next May or August election date, whichever occurs first. MCL 168.970e, as amended by 2015 PA 102, effective September 28, 2015.

Recall Elections

Recall of Governor Triggers One Election: The "Special Recall Election"

If a special recall election is called, the ballot shall include each reason for recall printed on the recall petition and the Governor's statement justifying his or her conduct in office. Each statement is subject to a limit of 200 words. The question presented on the ballot shall be, "Shall

(name) be recalled from the Office of Governor? YES [ ] NO [ ]." MCL 168.975e. If the Governor is recalled, the Lieutenant Governor assumes the office. MCL 168.975g.

Recall of All Other Officers Listed Above Triggers Two Elections: The "Recall Primary Election" and "Recall General Election"

If a special recall primary is called, the officer targeted for recall has the choice of participating (or not) in the recall primary election. Unless the officer withdraws, he or she shall be the nominee of their political party at the subsequent recall general election and no candidates of the officer's political party are eligible to be placed on the recall primary ballot. MCL 168.970b, 970c. Candidates may qualify for the recall primary election by filing an affidavit of identity and nominating petition or filing fee in accordance with MCL 168.970c, no later than 4:00 p.m. on the tenth day after the call is issued. The candidate of each political party receiving the greatest number of votes at the recall primary shall be the nominee of the parties at the recall general election. MCL 168.970e. The recall general election shall be held the next May or August regular election date following the recall primary, whichever occurs first. MCL 168.970e, as amended by 2015 PA 102, effective September 28, 2015.

Candidates without political party affiliation may qualify for the recall general election by filing an affidavit of identity and qualifying petition in accordance with MCL 168.970e, no later than 4:00 p.m. on the tenth day after the recall general election is scheduled.

Candidates affiliated with political parties that are not eligible to participate in primary elections (Green Party, Libertarian Party of Michigan, Natural Law Party, and U.S. Taxpayers Party) are nominated by party caucus or convention directly to the recall general election. MCL 168.532. Nominations must be certified to the filing official no later than one business day following the conclusion of the county caucus or state convention, and the county caucus or state convention must be held on or before the date of the recall primary election. MCL 168.686a. The party must provide written notice to the Secretary of State and Bureau of Elections of the date, time, and location of the county caucus or state convention at least 10 days in advance of the event. MCL 168.686b.

Canvass of the Special Recall Election and Recall Primary Election / Recall General Election

The Board of State Canvassers is responsible for canvassing the results of a recall election involving the officers identified above. MCL 168.968. The candidate receiving the greatest number of votes in the recall general election is elected for the remainder of the term. MCL 168.970g.

Additional Recall Petitions Prohibited

After a recall petition has been filed and election held, no additional recall petitions can be filed against the same incumbent of that office the term for which he or she was elected. MCL 168.969.