

Act No. 261  
Public Acts of 1995  
Approved by the Governor  
January 4, 1996  
Filed with the Secretary of State  
January 5, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

Introduced by Rep. Brackenridge

Reps. Bodem, Dalman, DeHart, DeMars, Dobronski, Dolan, Gernaat, Gnodtke, Goschka, Green, Hammerstrom, Hill, Horton, Jaye, Jersevic, Kukuk, Law, Martinez, McBryde, McManus, McNutt, Middaugh, Middleton, Oxender, Palamara, Porreca, Profit, Rocca, Varga, Voorhees, Weeks and Wetters named co-sponsors

# **ENROLLED HOUSE BILL No. 4242**

AN ACT to amend sections 14a, 171, 662, 671, 674, 677, 679, 727, 730, 731, 733, 744, 758c, 759, 761, 764a, 764b, 765, 769, 792a, 794a, 795a, 805, 809, 824, 826, 841, 847, 868, 871, 874, 875, 879, 881, 882, 890, 931, 932, and 942 of Act No. 116 of the Public Acts of 1954, entitled as amended "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," section 14a as added by Act No. 8 of the Public Acts of 1992, section 758c as added by Act No. 172 of the Public Acts of 1982, sections 759 and 932 as amended and sections 764a and 764b as added by Act No. 201 of the Public Acts of 1982, section 761 as amended by Act No. 140 of the Public Acts of 1980, section 792a as amended by Act No. 95 of the Public Acts of 1990, section 794a as amended by Act No. 109 of the Public Acts of 1990, section 795a as amended by Act No. 8 of the Public Acts of 1992, section 826 as amended by Act No. 162 of the Public Acts of 1985, sections 879 and 882 as amended by Act No. 61 of the Public Acts of 1980, section 881 as amended by Act No. 200 of the Public Acts of 1980, and section 931 as amended by Act No. 113 of the Public Acts of 1984, being sections 168.14a, 168.171, 168.662, 168.671, 168.674, 168.677, 168.679, 168.727, 168.730, 168.731, 168.733, 168.744, 168.758c, 168.759, 168.761, 168.764a, 168.764b, 168.765, 168.769, 168.792a, 168.794a, 168.795a, 168.805, 168.809, 168.824, 168.826, 168.841, 168.847, 168.868, 168.871, 168.874, 168.875, 168.879, 168.881, 168.882, 168.890, 168.931, 168.932, and 168.942 of the Michigan Compiled Laws; to add sections 16, 22, 22a, 22b, 22c, 22d, 22e, 22f, 22g, 36, 552a, 673a, 806a, 810a, and 871a; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Sections 14a, 171, 662, 671, 674, 677, 679, 727, 730, 731, 733, 744, 758c, 759, 761, 764a, 764b, 765, 769, 792a, 794a, 795a, 805, 809, 824, 826, 841, 847, 868, 871, 874, 875, 879, 881, 882, 890, 931, 932, and 942 of Act No. 116 of the Public Acts of 1954, section 14a as added by Act No. 8 of the Public Acts of 1992, section 758c as added by Act No. 172 of the Public Acts of 1982, sections 759 and 932 as amended and sections 764a and 764b as added by Act No. 201 of the Public Acts of 1982, section 761 as amended by Act No. 140 of the Public Acts of 1980, section 792a as amended by Act No. 95 of the Public Acts of 1990, section 794a as amended by Act No. 109 of the Public Acts of 1990, section 795a as amended by Act No. 8 of the Public Acts of 1992, section 826 as amended by Act No. 162 of the Public Acts of 1985, sections 879 and 882 as amended by Act No. 61 of the Public Acts of 1980, section 881 as amended by Act No. 200 of the Public Acts

of 1980, and section 931 as amended by Act No. 113 of the Public Acts of 1984, being sections 168.14a, 168.171, 168.662, 168.671, 168.674, 168.677, 168.679, 168.727, 168.730, 168.731, 168.733, 168.744, 168.758c, 168.759, 168.761, 168.764a, 168.764b, 168.765, 168.769, 168.792a, 168.794a, 168.795a, 168.805, 168.809, 168.824, 168.826, 168.841, 168.847, 168.868, 168.871, 168.874, 168.875, 168.879, 168.881, 168.882, 168.890, 168.931, 168.932, and 168.942 of the Michigan Compiled Laws, are amended and sections 16, 22, 22a, 22b, 22c, 22d, 22e, 22f, 22g, 36, 552a, 673a, 806a, 810a, and 871a are added to read as follows:

Sec. 14a. As used in this act, “metal seal” or “seal” means a seal of high tensile strength that is approved by the secretary of state pursuant to section 36.

Sec. 16. As used in this act, “major political party” means each of the 2 political parties whose candidate for the office of secretary of state received the highest and second highest number of votes at the immediately preceding general election in which a secretary of state was elected.

Sec. 22. (1) A board of state canvassers is continued as previously provided for in section 1 of former Act No. 239 of the Public Acts of 1955. This section and sections 22a to 22g are subject to section 7 of article II of the state constitution of 1963.

(2) The board of state canvassers has the duties prescribed in section 841. The board of state canvassers shall perform other duties as prescribed in this act.

(3) A member of the board of state canvassers on the effective date of this section continues to be a member of the board of state canvassers for the remainder of the term to which he or she was appointed. Subject to this subsection, the board of state canvassers consists of the 4 members appointed by the governor by and with the advice and consent of the senate. The board of state canvassers shall consist of 2 members from each major political party appointed in the manner provided in section 22a.

Sec. 22a. (1) On or before the tenth day of January in an odd numbered year, the state central committee of each major political party shall submit to the governor the names of 3 individuals as nominees for each position that is up for reappointment that the major political party is entitled to on the board of state canvassers. On or before the twentieth day of January in an odd numbered year, the governor shall appoint 1 individual from the 3 individuals nominated to each position of the political party on the board of state canvassers.

(2) If a vacancy in the office of a member of the board of state canvassers occurs other than the expiration of a term, the state central committee of the appropriate major political party shall submit to the governor the names of 3 individuals as nominees for the vacant position on or before the tenth day following the date of the vacancy. On or before the thirtieth day following the date of the vacancy, the governor shall appoint 1 individual from the 3 individuals nominated to the vacant position. A member appointed to the board of state canvassers under this subsection shall serve for the remainder of the vacant term.

(3) If the state central committee of a major political party fails to submit the names of nominees within the prescribed period of time in subsection (1) or (2), the governor shall appoint to the board of state canvassers an individual who was formerly elected as a state officer as a member of the appropriate major political party and who is currently affiliated with that political party. If a person appointed by the governor under subsection (1) or (2) declines to serve, the governor shall do 1 of the following:

(a) Appoint another individual from the 3 individuals nominated by the major political party under subsection (1) or (2) to that position on the board of state canvassers.

(b) Appoint an individual who was formerly elected as a state officer as a member of the appropriate major political party and who is currently affiliated with that political party to that position on the board of state canvassers.

Sec. 22b. The term of office of a member of the board of state canvassers appointed under section 22a(1) is 4 years, which term begins on the February 1 immediately following appointment. A member of the state board of canvassers shall hold office until his or her successor is appointed and qualified.

Sec. 22c. A member of the board of state canvassers shall be a qualified and registered elector of this state. Before taking office, a member of the board of state canvassers shall take and subscribe to the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963.

Sec. 22d. (1) The board of state canvassers shall meet as necessary to conduct the business of the board. The board of state canvassers shall conduct its meetings pursuant to this act and the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) Three members of the board of state canvassers constitute a quorum of the board. However, an action of the board of state canvassers shall only be effective upon concurrence of at least 1 member of each major political party appointed to the board.

(3) In February of each odd numbered year, the board of state canvassers shall elect a chairperson and vice-chairperson from its members.

Sec. 22e. (1) The board of state canvassers shall meet to consider and approve a statement of the purpose of a proposed constitutional amendment or other ballot question prepared pursuant to sections 32 and 474. The board of state canvassers shall give not less than 3 full business days' notice to the public of a meeting held under this subsection. The board of state canvassers shall also give not less than 3 full business days' notice to all of the following:

(a) The legally or generally recognized sponsor of the proposed constitutional amendment or other ballot question, if any.

(b) The legislative sponsor of the proposed constitutional amendment or ballot question, if any.

(c) The senate majority leader.

(d) The speaker of the house of representatives.

(e) The minority leaders of the senate and the house of representatives.

(f) A legislator who does not receive notice under subdivisions (c), (d), or (e).

(2) The board of state canvassers shall publicly request and allow a person described in subsection (1)(a) or (b), or a representative of that person, to address a meeting held under this section.

Sec. 22f. A member of the board of state canvassers is entitled to actual and necessary expenses incurred in the performance of his or her official duties. A member of the board of state canvassers shall receive \$75.00 for each day's actual physical attendance at a meeting of the board of state canvassers. A member of the board of state canvassers shall not receive any other compensation for the performance of those duties.

Sec. 22g. Notwithstanding any other provision of law to the contrary, if authorized jointly by the board of state canvassers and the secretary of state, all expenses incurred for services performed by the office of the secretary of state for the board of state canvassers shall be charged against funds appropriated to the board of state canvassers and credited to the secretary of state.

Sec. 36. The secretary of state may approve seals to be used for the same purpose as metal seals when required by this act. The secretary of state shall only approve a seal under this section if that seal meets all of the following requirements:

(a) Is designed and manufactured for the purpose of proving authenticity, attesting to accuracy, or closing to outside interference or influence.

(b) Is made out of metal, plastic, fiberglass, or any combination of these materials that would provide resistance to or evidence of a force tending to break the seal.

(c) Contains an embossed or imprinted serial number.

Sec. 171. The board of state canvassers or the board of county canvassers, as appropriate, shall determine which candidate has received the greatest number of votes and shall declare that candidate to be duly elected. The board of state canvassers shall proceed as prescribed in section 841. The board of county canvassers shall proceed as prescribed in section 826.

Sec. 552a. (1) Notwithstanding any other provision of this act to the contrary, a petition or a signature is not invalid solely because the designation of city or township has not been made on the petition form if a city and an adjoining township have the same name.

(2) Notwithstanding any other provision of this act to the contrary, if a person who signs a petition uses his or her mailing address on the petition and that mailing address incorporates the political jurisdiction in which the person is registered to vote, that signature shall be counted if the signature is otherwise determined to be genuine and valid under this act.

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election in the city, village, or township, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If a publicly owned or controlled building is not possible and convenient for use as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is

exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986, 26 U.S.C. 501, or any successor statute. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall cause the polling places to be equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less to each central polling place if possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places.

(4) The legislative body of a city, village, or township shall ensure that a polling place established under this section complies with the voting accessibility for the elderly and handicapped act, Public Law 98-435, 42 U.S.C. 1973ee to 1973ee-6.

Sec. 671. At the time of delivering the official ballots and other election supplies to the township and city clerks or, for city, village, or township elections, to the wards or precincts, a sufficient number of blank forms for use by the election inspectors in making the statement of returns of the election as required by law shall be delivered. At the same time, a sufficient number of seals for the use of the election inspectors in sealing the ballot boxes after the close of the election shall be delivered. A record of the number of seals delivered to each voting precinct and absent voter counting board precinct shall be recorded and preserved.

Sec. 673a. Not later than May 15 of each year, the county chair of a major political party may submit to the appropriate city, township, or village clerk a list of individuals who are interested in serving as an election inspector in that city, township, or village. The county chair may designate in the list the precinct in which each individual on the list wishes to serve.

Sec. 674. (1) Notwithstanding any other provision of law to the contrary and subject to this section, the city and township board of election commissioners and the village board of election commissioners for village elections only, at least 21 days but not more than 40 days before each election, but in no case less than 5 days before the date set for holding schools of instruction, shall appoint for each election precinct at least 3 election inspectors and as many more as in its opinion is required for the efficient, speedy, and proper conduct of the election. The board of election commissioners may appoint as election inspector an individual on the list submitted by a major political party under section 673a who is qualified to serve under section 677. An appointment of an election inspector under this section is void if a properly completed application for that election inspector is not on file in the clerk's office as prescribed in section 677.

(2) The board of election commissioners shall designate 1 appointed election inspector as chairperson. The board of election commissioners shall appoint an equal number, as nearly as possible, of election inspectors in each election precinct from each major political party. Not later than 2 business days following the appointment of election inspectors under subsection (1), the board of election commissioners shall notify by certified mail, personal service, or electronic transmission capable of determining date of receipt the county chair of each major political party of the names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed. A board of election commissioners shall not appoint a person as an election inspector if that person declares a political party preference for 1 political party but is a known active advocate of another political party. As used in this section, "a known active advocate" means a person who meets 1 or more of the following:

(a) Is a delegate to the convention or an officer of that other party.

(b) Is affiliated with that party through an elected or appointed government position.

(c) Has made documented public statements specifically supporting by name the other political party or its candidates in the same calendar year as the election for which the appointment is being made. As used in this subdivision, "documented public statements" means statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant.

(3) The county chair of a major political party may challenge the appointment of an election inspector based upon the qualifications of the election inspector, the legitimacy of the election inspector's political party affiliation, or whether there is a properly completed declaration of political party affiliation in the application for that election inspector on file in the clerk's office. The challenge shall be in writing, specifically identify the reason for the challenge, and include any available documentation supporting the challenge. The county chair of the political party shall file a challenge under this

subsection with the board of election commissioners not later than 4 business days following receipt of the board of election commissioners' notice of appointed election inspectors under subsection (2).

(4) Upon receipt of a challenge under subsection (3), the board of election commissioners shall determine whether the appointee has the necessary qualifications by reviewing the application or any other official records, such as voter registration records, or whether the applicant has a properly completed certification of political party affiliation in the application. If the challenge alleges that the appointee is a known active advocate of a political party other than the one on the appointee's application, the board of election commissioners immediately shall provide the appointee with a copy of the challenge by certified mail, personal service, or electronic transmission capable of determining date of receipt. The appointee may respond to the challenge within 2 business days after receiving a copy of the challenge. A response shall be by affidavit addressing the specific reasons for the challenge. Failure to respond shall result in revocation of the appointment. Within 2 business days after receiving the challenge or a response from the appointee, whichever is later, the board of election commissioners shall make a final determination and notify the appointee and the county chair of the political party of the determination.

(5) If a vacancy occurs in the office of chairperson or in the office of election inspector before election day, the chairperson of the board of election commissioners shall designate some other properly qualified applicant or election inspector as chairperson or some other qualified applicant as election inspector, as applicable, subject to this section. If a vacancy occurs in the office of chairperson on election day, the remaining election inspectors shall designate 1 of the inspectors as chairperson.

Sec. 677. (1) A precinct election inspector shall be a qualified and registered elector of the city, township, or village in which he or she serves, shall have a good reputation, and shall have sufficient education and clerical ability to perform the duties of the office. A person shall not be appointed to a board of election inspectors unless the person has filed with the city, township, or village clerk an application.

(2) The application shall be in his or her own handwriting and shall contain the applicant's name, home address, ward and precinct registration, date of birth, length of residence in the city, township, or village, political party affiliation, education, employment, and other experience qualifications. The application shall provide a certification that the applicant is not a member or a known active advocate, as defined in section 674, of a political party other than the one entered on the application. The form of the application under this section shall be approved by the state director of elections. The clerk shall maintain a file of applications filed under this section and make the applications available for public inspection at the clerk's office during normal business hours.

(3) A person shall not be knowingly appointed or permitted to act as a precinct election inspector if the person or any member of his or her immediate family is a candidate for nomination or election to any office at the election or who has been convicted of a felony or election crime. A person shall not be permitted to act as an election inspector if he or she has failed to attend a school of instruction or failed to take an examination as provided in section 683. This section does not prohibit the candidate for or delegate to a political party convention from acting as an election inspector in a precinct other than the precinct in which he or she resides. An election shall not be invalidated merely because of the violation of the provisions of this section.

Sec. 679. (1) The legislative body of a city, township, or village, by resolution, may provide that for an election in a precinct of the city, township, or village, there shall be an additional board of election inspectors, known as the counting board. The counting board shall consist of 3 or more election inspectors. Sections 673a and 674 apply to the appointment of election inspectors to counting boards under this section. The counting board shall count the ballots cast in the precinct at an election and make a statement of returns of that count. The provisions of this chapter relative to the appointment, qualifications, privileges, powers, duties, and oaths of office of election inspectors shall apply to the members of a counting board, to the extent that they apply to the counting of the votes cast at and the making of the statement of returns of an election.

(2) In a precinct for which a counting board has been provided, the duties of the election inspectors who have conducted the election during the day shall cease on the closing of the polls and, upon the closing of the polls, the counting board shall assume charge and control of the place of voting, the ballot boxes, the ballots, and all other equipment of the polling place and shall proceed with the counting of votes. The counting board shall perform all duties required by this act to be performed after the closing of the polls at an election by the board of election inspectors in a precinct that does not have a counting board, as provided in this section.

Sec. 727. (1) An election inspector shall challenge a person applying for ballots if the inspector knows or has good reason to suspect the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that person is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of a person attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

(a) Identify pursuant to section 746 any ballot voted by the challenged individual, if any.

(b) Make a written report including all of the following information:

(i) All election disparities or infractions complained of or believed to have occurred.

(ii) The name of the person making the challenge.

(iii) The time of the challenge.

(iv) The name, telephone number, and address of the challenged individual.

(v) Any other information considered appropriate by the election inspector.

(c) Retain the written report created under subdivision (b) and make it a part of the election record.

(3) A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. A person who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

Sec. 730. (1) At an election, a political party or an incorporated organization or organized committee of citizens interested in the adoption or defeat of a ballot question being voted for or upon at the election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in this act. Except as otherwise provided in this act, a political party, incorporated organization, or organized committee of interested citizens may designate not more than 2 challengers to serve in a precinct at any 1 time. A political party, incorporated organization, or organized committee of interested citizens may designate not more than 1 challenger to serve at each counting board.

(2) A challenger shall be a registered elector of this state. Except as otherwise provided in this section, a candidate for nomination or election to an office shall not serve as a challenger at the election in which he or she is a candidate. A candidate for the office of delegate to a county convention may serve as a challenger in a precinct other than the 1 in which he or she is a candidate. A person who is appointed as an election inspector at an election shall not act as a challenger at any time during the election day.

(3) A challenger may be designated to serve in more than 1 precinct. The political party, incorporated organization, or organized committee of interested citizens shall indicate which precincts the challenger will serve when designating challengers under subsection (1). If more than 1 challenger of a political party, incorporated organization, or organized committee of interested citizens is serving in a precinct at any 1 time, only 1 of the challengers has the authority to initiate a challenge at any given time. The challengers shall indicate to the board of election inspectors which of the 2 will have this authority. The challengers may change this authority and shall indicate the change to the board of election inspectors.

Sec. 731. (1) Not less than 20 and not more than 30 days before an election, an incorporated organization or organized committee of interested citizens other than political party committees authorized by this act intending to appoint challengers at the election shall file with the clerk of the county, city, village or township in which the election is to be held, a statement setting forth the intention of the organization or committee to appoint challengers. The statement shall set forth the reason why the organization or committee claims the right to appoint challengers, with a facsimile of the card to be used, and shall be signed and sworn to by the chief presiding officer, the secretary, or some other officer of the organization or committee. The clerk or secretary of state, as applicable under subsection (2), may deny an organization or committee the authorization to appoint challengers if that organization or committee fails to furnish evidence satisfactory to the clerk or secretary of state that the organization or committee is devoted to the purposes enumerated in section 730.

(2) Not later than 2 business days after receipt of a statement of intent to appoint challengers under subsection (1), a clerk shall approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee of that approval or denial. If authorization is denied under this subsection, an organization or committee may appeal the denial with the secretary of state not later than 2 business days after receipt of the denial. Not later than 2 business days after receipt of an appeal of a denial under this subsection, the secretary of state shall review the clerk's denial and approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee and the clerk of that decision.

(3) Before the opening of the polls, the clerk shall certify in writing to the board of election inspectors in a county, city, village, or township in which the election will be conducted the names of organizations and committees that are authorized under this section to appoint and keep challengers at the polling places in the county, city, village, or township.

(4) A person who files a statement under this section on behalf of an organization or committee that is not authorized by this act to appoint challengers or a clerk who knowingly fails to perform the duties required by this section is guilty of a felony, punishable by a fine of not more than \$1,000.00, or by imprisonment for not more than 2 years, or both.

Sec. 733. (1) The board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote. A challenger may do 1 or more of the following:

(a) Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.

(b) Observe the manner in which the duties of the election inspectors are being performed.

(c) Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.

(d) Challenge an election procedure that is not being properly performed.

(e) Bring to an election inspector's attention any of the following:

(i) Improper handling of a ballot by an elector or election inspector.

(ii) A violation of a regulation made by the board of election inspectors pursuant to section 742.

(iii) Campaigning being performed by an election inspector or other person in violation of section 744.

(iv) A violation of election law or other prescribed election procedure.

(f) Remain during the canvass of votes and until the statement of returns is duly signed and made.

(g) Examine without handling each ballot as it is being counted.

(h) Keep records of votes cast and other election procedures as the challenger desires.

(i) Observe the recording of absent voter ballots on voting machines.

(2) The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots. A challenger at the counting board may do 1 or more of the activities allowed in subsection (1), as applicable.

(3) Any evidence of drinking of alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger from the polling place or the counting board. The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.

Sec. 744. (1) An election inspector or any other person in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located shall not persuade or endeavor to persuade a person to vote for or against any particular candidate or party ticket, or for or against any ballot question that is being voted on at the election. A person shall not place or distribute stickers, other than stickers provided by the election officials pursuant to law, in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located.

(2) A person shall not solicit donations, gifts, contributions, purchase of tickets, or similar demands, or request or obtain signatures on petitions in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located.

(3) On election day, a person shall not post, display, or distribute in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of an entrance to a building in which a polling place is located any material that directly or indirectly makes reference to an election, a candidate, or a ballot question. This subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a polling place on election day.

(4) A person who violates this section is guilty of a misdemeanor.

Sec. 758c. (1) A qualified and registered elector who is a resident of a community college district and whose election precinct, that is within the community college district, contains less than 50 registered electors shall be considered an absent voter under this act for purposes of a special election of a community college district that is not held in conjunction with any other state or local election.

(2) The local unit of government conducting the special election shall mail, by first-class mail, an absent voter ballot to each elector considered an absent voter under this section. This mailing shall also include the separate printed instructions prescribed by section 764a. Mailings pursuant to this section shall be made not less than 20 days nor more than 30 days before the election.

(3) Election precincts to which this section applies are not required to be open for any community college district special election for which ballots were mailed pursuant to this section.

Sec. 759. (1) At any time during the 75 days before a primary or special primary, but not later than 2 p.m. of the Saturday immediately before the primary or special primary, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the elector is registered. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows.

(2) Except as otherwise provided in subsection (1), at any time during the 75 days before an election, but not later than 2 p.m. of the Saturday before the election, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the voter stating the statutory grounds for making the application.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city, township, or village.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person other than the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant; or a clerk, assistant of the clerk, or other authorized election official shall not be in possession of a signed absent voter ballot application. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of the city, township, or village shall have absent voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application shall be in substantially the following form:

"Application for absent voter ballot for:

☐ The primary or special primary election to be held on ..... , 19 ..... .

☐ The election to be held on ..... , 19 ..... .

(Check applicable election or elections)

I, ..... , a qualified and registered elector of the ..... precinct of the township of ..... or village of ..... or of the ..... ward of the city of ..... , in the county of ..... and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

The statutory grounds on which I base my request are:

☐ I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.

☐ I am physically unable to attend the polls without the assistance of another.

☐ I cannot attend the polls because of the tenets of my religion.

☐ I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.

☐ I am 60 years of age or older.

☐ I cannot attend the polls because I am confined to jail awaiting arraignment or trial.

(Check applicable reason)

Send absent voter ballot to me at:

.....  
(Street No. or R.R.)

.....  
(Post Office)

.....  
(State)

My registered address .....  
(Street No. or R.R.)

.....  
(Post Office)

.....  
(State)

Date .....

I declare that the statements in this absent voter ballot application are true.

.....  
(Signature)



## WARNING

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the office of the clerk must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

### Certificate of Authorized Registered Elector Returning Absent Voter Ballot Application

I certify that my name is ..... , my address is ..... , and my date of birth is ..... ; that I am delivering the absent voter ballot application of ..... at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)"

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

### INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.

(d) In the event an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

Sec. 761. (1) If the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that city, township, or village and if the signature on the application agrees with the signature on the registration card, the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot to be voted to the applicant. Absent voter ballots may be delivered to an applicant in person at the office of the clerk.

(2) Notwithstanding section 759, providing that no absent voter applications shall be received by the clerk after 2 p.m. on the Saturday before the election, a person qualified to vote as an absent voter may apply in person at the clerk's office before 4 p.m. on a day preceding the election except Sunday or a legal holiday to vote as an absent voter. The applicant shall receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city, village, or township or to a hospital or similar institution, in which case the absent voter ballots shall be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter

ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

(3) Absent voter ballots shall be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued shall bear the lowest number of each kind available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk's office for absent voter ballots. The clerk shall enclose with the ballot or ballots a return envelope properly addressed to the clerk and bearing upon the back of the envelope a printed statement in substantially the following form:

TO BE COMPLETED  
BY THE CLERK

Name of Voter		Street Address or R.R.	
City, Township or Village		County	
Ward	Precinct	Date of Election	

=====

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person.

I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

DATE:	SIGN HERE: X
	Signature of Absent Voter

The above form must be signed or your vote will not be counted.

AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A MISDEMEANOR.

=====

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING  
BY ANOTHER PERSON

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking his or her absent voter ballot pursuant to his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter	Street Address or R.R.	City, Twp., or Village
--	------------------------	------------------------

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.

=====

WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

(4) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. A person who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.

Sec. 764a. The following instructions for an absent voter shall be included with each ballot or set of ballots furnished an absent voter:

#### INSTRUCTIONS FOR ABSENT VOTERS

Step 1. On the absent voter ballot enclosed you will find voting instructions. Read these carefully and then vote the ballot.

Step 2. After voting a ballot, prepare it for placing in the return envelope addressed to the clerk in the manner directed in the voting instructions.

Step 3. Place the ballot or ballots in the return envelope and securely seal the envelope.

Step 4. Sign and date the return envelope in the place designated. Your signature must appear on the return envelope or the ballot will not be counted. If you are disabled or otherwise unable to mark the ballot and required assistance in voting your absent voter ballot, have the person who assisted you complete the section on the return envelope entitled "TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON".

Step 5. Deliver the return envelope by 1 of the following methods:

(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) If you are unable to return your absent voter ballot by mail or other authorized delivery service, in person, or with the assistance of an immediate family member, a person residing in your household, or an assistant to the clerk authorized to accept delivery of absent voter ballots, you may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All persons authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials.

Step 6. The ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

#### WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

(1) To vote an absent voter ballot at a meeting or gathering at which other people are voting absent voter ballots.

(2) For a person who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(3) For a person who is present and knows that a person is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(4) For a person other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.

(5) For a person other than the absent voter; a person listed in these instructions; or a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment to be in possession of a voted or unvoted absent voter ballot.

Sec. 764b. (1) An absent voter ballot shall be delivered to the clerk only as authorized in the instructions for an absent voter provided in section 764a.

(2) The clerk of a city, township, or village may accept delivery of absent voter ballots at any location in the city, township, or village.

(3) The clerk of a city, township, or village may appoint the number of assistants necessary to accept delivery of absent voter ballots at any location in the city, township, or village. An appointment as assistant to accept delivery of absent voter ballots shall be for 1 election only. An assistant appointed to receive ballots at a location other than the office of the clerk shall be furnished credentials of authority by the clerk. If an absent voter's ballot is received by an

assistant at any location other than the clerk's office the assistant, upon request, shall exhibit the credentials to the absent voter before the assistant accepts an absent voter ballot. An assistant, before entering upon the discharge of duties, shall take and subscribe to the oath of office as provided in section 1 of article XI of the state constitution of 1963. An assistant shall perform only the duties assigned by the clerk. A person shall not be appointed as an assistant to accept delivery of absent voter ballots who is a candidate or a member of the immediate family of a candidate whose name appears on the ballot at that election.

(4) A clerk who receives a request from an absent voter under section 764a for assistance in returning his or her absent voter ballot shall make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant. The clerk shall maintain a list open to the public that contains the names and addresses of all authorized assistants appointed under this section who are available to collect absent voter ballots on or before election day in that city or township.

(5) An absent voter ballot received by the clerk before the close of the polls on election day shall not be invalidated solely because the delivery to the clerk was not in compliance with section 764a or this section, however the ballot shall be considered challenged and shall be marked and processed as provided in section 745.

Sec. 765. (1) A clerk who receives an absent voter ballot return envelope containing the marked ballots of an absent voter shall not open that envelope before delivering the envelope to the board of election inspectors as provided in this section. The city, village, or township clerk shall safely keep in his or her office until election day any absent voter ballot return envelopes received by the clerk before election day containing the marked ballots of an absent voter.

(2) Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk shall deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter's precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk's list or record kept relative to those absent voters. However, if higher numbered ballots are used pursuant to section 717, the clerk shall retain the applications and lists in his or her office and shall keep the applications and lists open to public inspection at all reasonable hours.

(3) The city, village, or township clerk, or authorized designee of the clerk shall call for and receive absent voter ballots from the post office at which the city, village, or township clerk regularly receives mail addressed to the city, village, or township clerk on election day in sufficient time to deliver any envelopes containing absent voter ballots to the board of election inspectors before the close of the polls.

(4) If a marked absent voter ballot is received by the clerk after the close of the polls, the clerk shall plainly mark the envelope with the time and date of receipt and shall file the envelope in his or her office. Except as otherwise provided in section 759b, the clerk shall not deliver an absent voter ballot to a voter after the opening of the polls on election day.

(5) On or before 8 a.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk before election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. On or before 9 p.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk on election day and delivered to the board of election inspectors pursuant to subsection (3), along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk both before and on election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. As soon as possible after all precincts in the city, township, or village are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the election inspectors at the precincts on election day, along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received in the city, township, or village for that election.

Sec. 769. (1) An absent voter may vote in person within his or her precinct at an election, notwithstanding that he or she applies for an absent voter ballot and the ballot is mailed or otherwise delivered to the absent voter by the clerk. This subsection only applies if the absent voter does not vote the absent voter ballot mailed or otherwise delivered by the clerk.

(2) Before voting in person, except as otherwise provided in this section, the absent voter shall return the absent voter ballot to the board of election inspectors in his or her precinct. If an absent voter ballot is returned under this subsection, the board of election inspectors shall mark it "CANCELED" and place it in the regular box with other canceled ballots.

(3) An absent voter who did not receive an absent voter ballot that he or she applied for or lost or destroyed an absent voter ballot he or she received, and who desires to vote in person in his or her precinct on election day, shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, a voter being allowed to vote under this subsection is subject to challenge as provided in section 727.

(4) A person who votes at an election both in person and by means of an absent voter ballot or a person who attempts to vote both in person and by means of an absent voter ballot is guilty of a felony.

(5) An election official who becomes aware of a person who votes or attempts to vote both in person and by means of an absent voter ballot shall report that information to the prosecuting attorney for that county and to the secretary of state.

Sec. 792a. (1) Except as otherwise provided in this subsection, the absent voter ballots in a city, township, or village that uses voting machines shall be counted by absent voter counting boards. The board of election commissioners of a city, township, or village that has 2 precincts or less or of a city that has 500,000 or more in population may decide that the absent voter ballots shall be counted in the manner provided in section 791. In a city, township, or village that does not use voting machines, the absent voter ballots may be counted by absent voter counting boards or in the same manner as is otherwise provided for precincts in which voting is not done on voting machines.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards. If a signature on the registration card and on the absent voter ballot return envelope does not agree, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record

required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, township, or village clerk, the secretary of a school board, or an employee of a school district designated to conduct a school election.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this

subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, village, school district, or any other jurisdiction empowered to conduct an election under this act.

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state, in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state. After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

(2) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

Sec. 805. (1) After the ballots of each kind are counted, the board of election inspectors shall securely tie the ballots in packages or rolls, and the board of election inspectors shall cause to be indorsed and attached to each ballot bag a statement showing the number and kind of ballots included in the ballot bag. The statement shall be securely attached to the outside of the bag, as prescribed by the secretary of state.

(2) After all ballots are tied in packages or rolls, the board of election inspectors shall place the ballots in ballot bags approved by the secretary of state. The board of election inspectors shall then seal the bags with an approved seal that shall be furnished with the election supplies. The bags shall then together with 1 tally sheet, when not combined with the statement of returns, be placed in the ballot box provided for such ballots. The board of election inspectors shall securely fasten and seal the ballot box with an approved seal furnished with the election supplies, the seal shall be affixed in a manner that renders it impossible to open the ballot box without breaking the seal. The board of election inspectors shall then deliver the ballot box to the township or city clerk.

Sec. 806a. Notwithstanding any other provision of this act to the contrary, when the board of election inspectors is required to seal a ballot box, voting machine, transfer case, electronic voting device, or any other election material, the following procedure shall be followed:

(a) An election inspector shall properly affix the seal to the item and shall certify the sealing on a form prescribed by the secretary of state for this purpose.

(b) Another election inspector who is from the other major political party than the election inspector described in subdivision (a) shall verify that the seal is properly affixed to the item and shall certify the verification on the form described in subdivision (a).

(c) The completed form described in this section shall be securely attached to the outside of the ballot box in the manner prescribed by the secretary of state.

Sec. 809. (1) The board of election inspectors shall seal 1 of the statement of returns and 1 of the tally sheets or the combined tally return sheet with a red state election seal in an envelope and shall address the envelope to the board of county canvassers, in care of the judge of probate. The board of election inspectors shall deliver the sealed envelope to the clerk of the township or city. Upon receipt of the sealed envelope, the township or city clerk shall immediately deliver the envelope to the person to whom addressed. The judge of probate shall deliver the sealed envelope received by him or her to the board of county canvassers when it meets to canvass the returns.

(2) The board of election inspectors shall seal the other statement of returns or combined tally and statement, together with the poll list, in an envelope addressed to the county clerk. The board of election inspectors shall deliver the sealed envelope to the clerk immediately upon completion of the count. The county clerk shall open the envelope at that time, compile unofficial returns, and make the returns in the envelope available to the public. The office of the county clerk shall be open on election day for election purposes and shall remain open until the last returns have been received and the clerk completes an unofficial tabulation.

(3) If a city or township election to be canvassed by a board of city or township canvassers is held at a time at which no election returns must be forwarded to the board of county canvassers, the board of election inspectors shall return all poll books, tally sheets, and returns to the city or township clerk. The city or township clerk shall perform the duties required in this section of the county clerks. If a local election to be canvassed by the board of county canvassers is not held in conjunction with a county or state election, the board of election inspectors shall deliver both sealed envelopes to the local clerk. The local clerk shall deliver both sealed envelopes to the county clerk before 11 a.m. on the day following the election. In a city or township election, in which the city or township consists of more than 5 precincts, held in conjunction with an election to be canvassed by the board of county canvassers, the board of election inspectors shall deliver the duplicate returns required by section 806 to the city or township clerk.

Sec. 810a. (1) Upon request of the county clerk, a member of the board of county canvassers, or the county chair of a major political party, a city or township clerk, as appropriate, shall provide for security as prescribed in this section of the ballots, ballot boxes, voting machines, and other election material described in the request and used in a precinct on election day. The city or township clerk shall provide the required security until 1 p.m. on the day immediately following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3). Subject to this section, the city or township clerk shall retain possession of the ballots, ballot boxes, keys to the boxes or machines, and other election materials as otherwise required by law, until otherwise directed by the board of county canvassers.

(2) Upon receipt of the election materials described in subsection (1), the clerk shall immediately place the described election materials in a secure location. The clerk shall ensure that he or she is the only person who has access to the election materials placed in the secure location. A major political party may designate individuals to monitor all access points to the secure location that contains the election material. The clerk shall provide space for an individual designated by the county chair of a major political party to monitor all access points to the secure location that contains the election materials until 1 p.m. on the day immediately following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3).

(3) On and after 1 p.m. on the day immediately following the election, the county clerk, a member of the board of county canvassers, or the county chair of a major political party may petition the board of county canvassers for security as prescribed in this section of the ballots, ballot boxes, voting machines, and other election material described in the petition and used in a precinct on election day. If the board of county canvassers grants the petition for the additional security, the board of county canvassers shall prescribe the amount of security to be provided and the persons responsible for that security.

Sec. 824. (1) Upon completion of the canvass under section 822, the board of county canvassers shall prepare a statement in detail of the number of votes cast for each office, the names of the persons for whom such votes were given, and the number of votes given to each person, as shown by the returns of the boards of inspectors of election of the various voting precincts of the county. The board of county canvassers shall also prepare a statement in detail of the number of votes cast on any proposed constitutional amendment or other ballot question submitted to the electors at the election and the number of votes cast in favor of and the number of votes cast against such proposed amendment or other ballot question, as shown by such returns.

(2) Immediately upon completion of the canvass under section 822, the board of county canvassers shall seal the statement of returns or combined tally and statement and poll list, if applicable, received from the board of election inspectors in an envelope to prevent tampering with those items.

Sec. 826. (1) Except as otherwise provided in this subsection, the board of county canvassers shall determine and declare the result of the election for county and local officers, and for all county and local ballot questions. If a city or township has more than 5 precincts, the board of city or township canvassers shall canvass votes for city or township officers and ballot questions. If a state senatorial or representative district is located solely within 1 county, the board of county canvassers shall determine and declare the result of the election for that office. Upon making the



determination under this subsection, the board of county canvassers shall prepare a certificate of determination and deliver the properly certified certificate of determination to the county clerk. In addition, if the determination relates to a state senatorial or representative district located solely within 1 county, the board of county canvassers shall deliver the properly certified certificate of determination to the board of state canvassers.

(2) Upon receipt of a properly certified certificate of determination from a board of county canvassers pursuant to subsection (1), the county clerk shall file the certificate in his or her office. The county clerk may cause a statement of the total county or district votes cast for the various candidates and the total vote cast for and against the various ballot questions at the election to be published in at least 1 newspaper printed or circulated in that county. The county clerk shall immediately execute and deliver to the persons declared elected, a properly certified certificate of election.

Sec. 841. (1) The board of state canvassers shall canvass the returns and determine the result of all elections for electors of president and vice-president of the United States, state officers, United States senators, representatives in congress, circuit judges, state senators and representatives elected by a district that is located in more than 1 county, and other officers as required by law. The board of state canvassers shall also determine the result of an election on a proposed amendment to the constitution or on any other ballot question that has been submitted, pursuant to law, to the qualified and registered electors of this state at large for ratification or rejection. Upon making the determination, the board of state canvassers shall immediately prepare a certificate of determination and deliver the properly certified certificate of determination to the secretary of state.

(2) Upon receipt of a properly certified certificate of determination from a board of county canvassers pursuant to section 826, the board of state canvassers, at its next meeting, shall record the results of the county canvass contained in the certificate.

Sec. 847. The secretary of state may authorize the release of all ballots, ballot boxes, voting machines, and equipment after 10 days following certification of an election by the board of state canvassers in a precinct other than a precinct in which 1 or more of the following occur:

(a) A petition for recount has been filed with the board of state canvassers.

(b) A petition has been filed pursuant to section 879.

(c) A court of competent jurisdiction has issued an order restraining interference with ballots, ballot boxes, voting machines, and equipment.

Sec. 868. (1) If a candidate has filed a recount petition and made the deposit under sections 862 and 866, the clerk of the board of canvassers shall give notice of the recount petition to the opposing candidates described in this subsection within 24 hours after filing of the petition by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the clerk of the board of canvassers may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence. The clerk of the board of canvassers is not required to give notice to candidates other than the 2 candidates who, according to the return of the board of canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of canvassers, received the highest number of votes among those candidates who were not nominated or elected.

(2) A candidate may file a counter petition in the same manner as the original petition under section 866 within 48 hours after the original recount petition was filed with the board of canvassers. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 866 for the original petitioner. The clerk of the board of canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election. Except as otherwise provided in this subsection, the counter petitioner shall file a copy of the counter petition with the secretary of state within 4 days after the time the original petition is filed with the proper board of canvassers as provided in this section. If the office or ballot question in question is a city, township, ward, village, or district office or ballot question, the counter petitioner is not required to file a copy of the counter petition with the secretary of state.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 866, an opposing candidate may file objections to the recount petition with the appropriate board of canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of canvassers to consider the objections. The board of canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of canvassers shall rule on the objections raised to the recount petition. The board of canvassers shall not begin a recount unless 2 or more business days have elapsed since the board ruled on the objections under this subsection, if applicable.

(4) If the time designated for filing a petition under this section falls on a Saturday, Sunday, or legal holiday, the petition may be filed on the next succeeding business day. Failure of the clerk of the board of canvassers or the secretary of state to give notice to the opposing candidate as required in this section shall not affect the results of the recount.

Sec. 871. (1) In a precinct using paper ballots, the board of canvassers conducting a recount pursuant to this chapter shall conduct the recount, subject to all of the following:

(a) The ballots in packages or ballot bags that are secured and sealed so that a ballot cannot be removed or inserted unless the ballot corresponds in number with the poll list delivered to the appropriate clerk by the board of election inspectors, shall be recounted even though the ballot box is not securely sealed with the seal of record.

(b) If the ballot box is securely sealed with the seal of record, only the ballots that correspond in number with the poll list delivered to the appropriate clerk by the board of election inspectors shall be recounted even though the ballots are not secured and sealed in packages or ballot bags.

(c) If the ballot box is not securely sealed or if the seal on the ballot box is not the seal of record and the ballots in packages or ballot bags are not secured and sealed so that a ballot cannot be removed or inserted, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(d) If the number of ballots in a secured and sealed package or bag and the number of ballots issued on election day as shown on the poll list do not match and the difference is not explained to the satisfaction of the board of canvassers, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(2) Except as otherwise provided in this section, the board of canvassers conducting a recount pursuant to this chapter shall recount all ballots of a precinct using an electronic voting system unless 1 or more of the following circumstances exist:

(a) The seal on the transfer case is broken or bears a different number than that recorded on the poll book, the breaking or discrepancy is not explained to the satisfaction of the board of canvassers, and security of the ballots has not been otherwise preserved.

(b) The number of ballots and the number of ballots issued on election day as shown on the poll list of the computer printout do not match and the difference is not explained to the satisfaction of the board of canvassers.

(c) The seal used to seal the ballot label assembly to a voting device in the precinct is broken or bears a different number than that recorded in poll records and the ballot labels or rotation of candidates' names is different than that shown by other voting devices in the precinct and records of the board of election commissioners.

(3) In a precinct in which voting machines are used, the board of canvassers conducting a recount pursuant to this chapter shall recount all voting machines used in the precinct unless 1 or more of the following circumstances exist:

(a) All voting machines used in a precinct shall not be recounted if the sum of the numbers appearing on the public counters of all voting machines used in the precinct exceeds the total number of voters who voted in the precinct as shown by the poll book, plus the number of times the machine was operated by the inspectors of election and custodians, as shown by the record of the board of election inspectors, and the excess is not explained to the satisfaction of the board of canvassers by the inspectors of election of that precinct.

(b) A voting machine used in a precinct shall not be recounted if the voting machine is not sealed with the seal of record in such a manner as to render it impossible to vote on the machine or to otherwise change the totals appearing on the individual candidate or ballot question counters.

(c) A voting machine used in a precinct shall not be recounted if the number appearing on the protective counter of the voting machine at the time of the recount does not equal the sum of the number appearing on the protective counter at the opening of the polls as shown by the certificate of the board of election inspectors and the number appearing on the public counter at the time of the recount.

(4) In a precinct in which voting machines are used, which precinct cannot be recounted under subsection (3), absent voter ballots tallied in that precinct shall not be recounted unless recorded separately. This section does not prohibit the recounting of absent voter ballots tallied in a precinct using an absent voter counting board or in a precinct in which 1 or more voting machines are recountable if the absent voter ballots are securely packaged and sealed.

(5) If a board of canvassers conducting a recount pursuant to this chapter determines that the ballots of a precinct are not eligible for recount under this section, the original return of the votes for that precinct shall be taken as correct.

(6) A board of canvassers conducting a recount pursuant to this chapter may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on a computer using a software application designed to specifically count only the office or ballot question subject to the recount.

(c) A tabulation of the ballots on a computer using the same software application used in the precinct on election day.

(d) Any combination of methods in subdivision (a), (b), or (c), as determined appropriate by the board of canvassers.

(7) If a board of canvassers conducting a recount pursuant to this chapter intends to conduct a recount on a computer, the board of canvassers shall first test the software application by use of a test deck to determine if the program accurately counts the votes for the office or ballot question subject to the recount. If the test under this subsection fails to show that the software application accurately counts the votes for the office or ballot question subject to the recount, the board of canvassers shall use another means prescribed in subsection (6) to conduct the recount.

Sec. 871a. If a proper challenge is raised by a candidate or an elector interested in a ballot question during a recount being conducted by the board of state canvassers, a member of the board of state canvassers or other representative designated by the board of state canvassers under section 890 shall resolve that challenge before the recount is completed in that county. A candidate or elector interested in a ballot question who is involved in the recount and who disagrees with the resolution of the challenge may petition the state board of canvassers for a de novo review of the challenge. The candidate or elector shall file a petition disagreeing with the resolution of a challenge not later than 5 business days after the board of state canvassers mails notice that the recount has been completed to the candidates or electors. Upon receipt of a petition disagreeing with the resolution of a challenge under this section, the board of state canvassers shall notify all candidates and electors involved in the recount of the date of the hearing of the board of state canvassers to consider the petition. The board of state canvassers shall allow the candidates and electors involved in the recount to present oral or written, or both, arguments on the challenge at the hearing. The board of state canvassers shall rule on the challenge at that meeting.

Sec. 874. (1) Pursuant to this chapter, the board of canvassers conducting the recount shall reject all previous returns from the precincts, townships, or wards, except the returns from a precinct that cannot be recounted as to that candidate or ballot question pursuant to section 871. In a public place where the candidates or persons interested in the ballot question and their counsel may be present, if they so desire, the board of canvassers shall proceed in the manner prescribed in section 871. If applicable, the board of canvassers shall open the ballot boxes from the precincts, townships, or wards, and the rolls or packages of ballots in the ballot boxes, and to make a recount of the ballots as to the candidates or ballot question. Upon completion of the recount, the board of canvassers shall make a full, complete, and correct return in writing, showing the full number of votes given to each candidate, or the total number of votes cast for and against any ballot question, written out in words and figures.

(2) The board of canvassers shall conduct the recount so that the complete procedure may be observed and noted by the candidates or persons interested in the ballot question, their counsel, and not to exceed 1 watcher and 1 tallier at each table to check the work of the recount clerks. The secretary of state shall develop instructions consistent with this act for conducting a recount pursuant to this subsection. All votes cast, whether for candidates or ballot questions, shall be recounted in the following manner:

(a) The ballots from any given precinct shall first be counted and the total compared with the number of ballots issued on election day as shown on the poll list. If the first count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, the ballots from that precinct shall be counted a second time and the total compared with the number of ballots issued on election day as shown on the poll list. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list match, the ballots from that precinct shall be counted a third time and the total compared with the number of ballots issued on election day as shown on the poll list. If the third count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871.

(b) If the first count described in subdivision (a) or the second and third counts described in subdivision (a) match the number of ballots issued on election day, the ballots shall be placed face up on the table and 1 recount clerk shall call the votes for each candidate or ballot question involved in the recount.

(c) Two tally clerks shall simultaneously record the called votes on forms provided for that purpose.

(3) The candidates or persons interested in the ballot question, their counsel, watchers, and talliers shall be allowed to observe each ballot as it is called and to take notes as they desire for their own records. The board of canvassers shall identify by an exhibit number a ballot counted or rejected under protest, keep a record of the protest, and proceed as required under section 871a.

Sec. 875. All recounts shall be completed for a primary election not later than the twentieth day and for any other election not later than the thirtieth day immediately following the last day for filing counter petitions or the first day that recounts may lawfully begin. As soon as the recount is completed, the board shall return any ballots to their respective containers and seal the containers. The board shall then return the ballots, voting devices, machines, any related keys, and seals to the officer or officers having the care and custody of those items.

Sec. 879. (1) A candidate voted for at a primary or election for an office may petition for a recount of the votes pursuant to the following requirements:

(a) The office shall be an office for which the votes are canvassed by the board of state canvassers.

(b) The office shall be the office of representative in congress, state representative, or state senator.

(c) The petition shall allege that the candidate is aggrieved on account of fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by the inspectors, or by a board of county canvassers or the board of state canvassers. The petition shall contain specific allegations of wrongdoing only if evidence of that wrongdoing is available to the petitioner. If evidence of wrongdoing is not available, the petitioner is only required to allege fraud or a mistake in the petition without further specification.

(d) Except as otherwise provided in this subdivision, the petition for a recount shall be filed not later than 48 hours following the completion of the canvass of votes cast at an election. If the recount petition relates to a state senatorial or representative district located solely within 1 county, the petition for a recount shall be filed not later than 48 hours following the adjournment of the meeting of the board of state canvassers at which the certificate of determination for that office was recorded pursuant to section 841.

(e) The petition shall be presented to and filed with the secretary of state.

(f) The petition shall be written or printed and shall be signed and sworn to by the candidate.

(g) The petition shall set forth as nearly as possible the nature and character of the fraud or mistakes alleged and the counties, cities, or townships and the precincts in which they exist.

(h) The petition shall specify the counties, cities, townships, and precincts in which the recount is requested.

(i) If the office is the office of state representative, a copy of the petition shall be filed with the clerk of the house of representatives. If the office is the office of state senator, a copy of the petition shall be filed with the secretary of the senate.

(2) If a state senatorial race is determined by a vote differential of 500 votes or less or a state representative race is determined by a vote differential of 200 votes or less, the chairperson of a state political party may petition for a recount of the votes on behalf of a candidate in that race in the manner prescribed in subsection (1). Notwithstanding subsection (1)(b) and (f), the petition filed under this subsection need not allege fraud or mistake. Notwithstanding subsection (1)(e), the petition shall be signed by the chairperson of the state political party filing the petition under this subsection.

(3) The ballots in a precinct petitioned for recount in a legislative contest shall be recounted for that office by the board of state canvassers and shall be preserved until the contest is disposed of under the rules of the legislative body that takes office beginning in January following the contested general election. In legislative recounts of a special general election, ballots in a precinct petitioned for recount shall be preserved until the contest is disposed of under the rules of the legislative body serving at the time the report in subsection (4) is filed.

(4) Upon the completion of a recount for a legislative office, the board of state canvassers, in addition to the certification required by section 892, shall forward to the appropriate legislative body a report of the results of the recount.

(5) This section does not limit the authority of the legislature under section 16 of article IV of the state constitution of 1963.

Sec. 881. (1) A person filing a recount petition pursuant to section 879 or 880 shall file the petition with the state bureau of elections. At the time of filing the petition, the petitioner shall deposit the sum of \$10.00 for each precinct in which a recount of the votes is demanded in cash or by check or other negotiable instrument made payable to the state of Michigan.

(2) If, by reason of the recount, the petitioner establishes fraud or mistake as set forth in his or her petition and receives a certificate of election or establishes sufficient fraud or mistake to change the result, upon an amendment or proposition, the votes for and against, which were recounted, the state bureau of elections shall refund the money deposited to the petitioner. The secretary of state shall refund the money deposited to a petitioner who is a chairperson of a state political party if the results of the race for which a recount was petitioned for under section 879 are changed. If a refund is not made as required by this section, then the secretary of state shall pay to the treasurer of each county its proportionate share of the deposit based upon the number of precincts in the county in which the votes were recounted.

Sec. 882. (1) If a candidate has filed a recount petition and paid the deposit under sections 879 and 881, the secretary of state shall give notice of the recount petition to each opposing candidate within 48 hours after the filing of the petition

by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the secretary of state may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence.

(2) A candidate may file a counter petition in the same manner as the original petition under section 881 not later than 4 p.m. of the seventh day after the original recount petition has been filed with the secretary of state. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 881 for the original petitioner. The secretary of state shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 881, an opposing candidate may file objections to the recount petition with the board of state canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of state canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of state canvassers to consider the objections. The board of state canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of state canvassers shall rule on the objections raised to the recount petition. The board of state canvassers shall not begin a recount unless 2 or more business days have elapsed since the board ruled on the objections under this subsection, if applicable.

Sec. 890. It is not necessary for all of the members of the board of state canvassers to be present in order to direct, supervise, or control the recount in a county. A member of the board of state canvassers or state officer, state employee or member of the board of county canvassers may direct, supervise, and control the recount if designated by the board of state canvassers, so that fairness, impartiality, and uniformity in the conduct of the recount may be obtained and the result of the election determined at the earliest possible moment. A member of the board of state canvassers or other representative designated by the board of state canvassers under this subsection has the same authority as the board of state canvassers to enforce and carry out the rules and regulations provided for the recount by the board.

Sec. 931. (1) A person who violates 1 or more of the following subdivisions is guilty of a misdemeanor:

(a) A person shall not, either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a candidate or ballot question, or as a reward for refraining from voting.

(b) A person shall not, either before, on, or after an election, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for 1 or more of the following:

(i) Voting or agreeing to vote, or inducing or attempting to induce another to vote, at an election.

(ii) Refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting at an election.

(iii) Doing anything prohibited by this act.

(iv) Both distributing absent voter ballot applications to voters and receiving signed applications from voters for delivery to the appropriate clerk or assistant of the clerk. This subparagraph does not apply to an authorized election official.

(c) A person shall not solicit any valuable consideration from a candidate for nomination for, or election to, an office described in this act. This subdivision does not apply to requests for contributions of money by or to an authorized representative of the political party committee of the organization to which the candidate belongs. This subdivision does not apply to a regular business transaction between a candidate and any other person that is not intended for, or connected with, the securing of votes or the influencing of voters in connection with the nomination or election.

(d) A person shall not, either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee's vote at an election.

(e) A priest, pastor, curate, or other officer of a religious society shall not for the purpose of influencing a voter at an election, impose or threaten to impose upon the voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.

(f) A person shall not, at an election, falsely impersonate another person, or vote or attempt to vote under the name of another person, or induce or attempt to induce a person to impersonate another person, or to vote or attempt to vote under the name of another person.

(g) A person shall not assume a false or fictitious name in order to vote or to offer to vote by that name; enter or cause to be entered upon the registration book in a voting precinct a false or fictitious name; or induce or attempt to

induce another person to assume a false or fictitious name in order to vote, or offer to vote, by that name, or enter or cause to be entered upon the registration book of a voting precinct, a false or fictitious name.

(h) A person who is not a qualified and registered elector shall not willfully offer to vote or attempt to vote at an election held in this state. A person shall not aid or counsel a person who is not a qualified and registered elector to vote or offer to vote at the place where the vote is given during an election.

(i) A qualified and registered elector shall not offer to vote or attempt to vote in a voting precinct in which the elector does not reside, except as otherwise provided in this act. A person shall not procure, aid, or counsel another person to go or come into a township, ward, or voting precinct for the purpose of voting at an election, knowing that the person is not qualified or registered to vote in that township, ward, or voting precinct.

(j) A person shall not offer to vote or attempt to vote more than once at the same election either in the same or in another voting precinct. A person shall not give 2 or more votes folded together.

(k) A person shall not hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election.

(l) In a city, township, village, or school district that has a board of election commissioners authorized to appoint inspectors of election, an inspector of election, a clerk, or other election official who accepts an appointment as an inspector of election shall not fail to report at the polling place designated on election morning at the time specified by the board of election commissioners, unless excused as provided in this subdivision. A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than \$10.00 or imprisonment for not more than 10 days, or both. An inspector of election, clerk, or other election official who accepts an appointment as an inspector of election is excused for failing to report at the polling place on election day and is not subject to a fine or imprisonment under this subdivision if 1 or more of the following requirements are met:

(i) The inspector of election, clerk, or other election official notifies the board of election commissioners or other officers in charge of elections of his or her inability to serve at the time and place specified, 3 days or more before the election.

(ii) The inspector of election, clerk, or other election official is excused from duty by the board of election commissioners or other officers in charge of elections for cause shown.

(m) A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election.

(n) A delegate or member of a convention shall not solicit a candidate for nomination before the convention for money, reward, position, place, preferment, or other valuable consideration in return for support by the delegate or member in the convention. A candidate or other person shall not promise or give to a delegate money, reward, position, place, preferment, or other valuable consideration in return for support by or vote of the delegate in the convention.

(o) A person elected to the office of delegate to a convention shall not accept or receive any money or other valuable consideration for his or her vote as a delegate.

(p) A person shall not, while the polls are open on an election day, solicit votes in a polling place or within 100 feet from an entrance to the building in which a polling place is located.

(q) A person shall not keep a room or building for the purpose, in whole or in part, of recording or registering bets or wagers, or of selling pools upon the result of a political nomination, appointment, or election. A person shall not wager property, money, or thing of value, or be the custodian of money, property, or thing of value, staked, wagered, or pledged upon the result of a political nomination, appointment, or election.

(r) A person shall not participate in a meeting or a portion of a meeting of more than 2 persons, other than the person's immediate family, at which an absent voter ballot is voted.

(s) A person, other than an authorized election official, shall not, either directly or indirectly, give, lend, or promise any valuable consideration to or for a person to induce that person to both distribute absent voter ballot applications to voters and receive signed absent voter ballot applications from voters for delivery to the appropriate clerk.

(2) A person who violates a provision of this act for which a penalty is not otherwise specifically provided in this act, is guilty of a misdemeanor.

(3) A person or a person's agent who knowingly makes, publishes, disseminates, circulates, or places before the public, or knowingly causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, either orally or in writing, an assertion, representation, or statement of fact concerning a candidate for public office at an election in this state, that is false, deceptive, scurrilous, or malicious, without the true name of the author being subscribed to the assertion, representation, or statement if written, or announced if unwritten, is guilty of a misdemeanor.

(4) As used in this section, “valuable consideration” includes, but is not limited to, money, property, a gift, a prize or chance for a prize, a fee, a loan, an office, a position, an appointment, or employment.

Sec. 932. A person who violates 1 or more of the following subdivisions is guilty of a felony:

(a) A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state.

(b) A person not duly authorized by law shall not, during the progress of any election or after the closing of the polls and before the final results of the election have been ascertained, break open or violate the seals or locks of any ballot box or voting machine used or in use at that election. A person shall not willfully damage or destroy any ballot box or voting machine. A person shall not obtain undue possession of that ballot box or voting machine. A person shall not conceal, withhold, or destroy a ballot box or voting machine, or fraudulently or forcibly add to or diminish the number of ballots legally deposited in the box or the totals on the voting machine. A person shall not aid or abet in any act prohibited by this subdivision.

(c) An inspector of election, clerk, or other officer or person having custody of any record, election list of voters, affidavit, return, statement of votes, certificates, poll book, or of any paper, document, or vote of any description, which pursuant to this act is directed to be made, filed, or preserved, shall not willfully destroy, mutilate, deface, falsify, or fraudulently remove or secrete any or all of those items, in whole or in part, or fraudulently make any entry, erasure, or alteration on any or all of those items, or permit any other person to do so.

(d) A person shall neither disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballots were seen by the person, nor in any manner obstruct or attempt to obstruct any elector in the exercise of his or her duties as an elector under this act.

(e) A person who is not involved in the counting of ballots as provided by law and who has possession of an absent voter ballot mailed or delivered to another person shall not do any of the following:

(i) Open the envelope containing the ballot.

(ii) Make any marking on the ballot.

(iii) Alter the ballot in any way.

(iv) Substitute another ballot for the absent voter ballot that the person possesses.

(f) A person other than an absent voter; a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment; a clerk or assistant of the clerk; a member of the immediate family of the absent voter including father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild; or a person residing in the absent voter's household shall not do any of the following:

(i) Possess an absent voter ballot mailed or delivered to another person, regardless of whether the ballot has been voted.

(ii) Return, solicit to return, or agree to return an absent voter ballot to the clerk of a city, township, village, or school district.

(g) A person who assists an absent voter who is disabled or otherwise unable to mark the ballot shall only render his or her assistance by showing the absent voter how to vote the ballot as the absent voter desires or by marking the ballot as directed by the absent voter. A person who assists an absent voter who is disabled or otherwise unable to mark the ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote or allow any other person to do so.

(h) A person present while an absent voter is voting an absent voter ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(i) A person shall not plan or organize a meeting at which absent voter ballots are to be voted.

Sec. 942. An offense under this act other than fraudulent registration shall not be prosecuted unless the prosecution is commenced within 2 years after the date of the registration, primary, or election in connection with which the offense is alleged to have been committed. Fraudulent registration under this act shall not be prosecuted unless the prosecution is commenced within 3 years after the time the offense is discovered. The complaining witness or any other person who is called to testify in behalf of the people in a proceeding under this section shall not be liable to criminal prosecution under this act for an offense in respect to which he or she is examined or to which his or her testimony relates, except to prosecution for perjury committed in the testimony.

Section 2. The following acts and parts of acts are repealed:

(a) Sections 24g, 764, and 864 of Act No. 116 of the Public Acts of 1954, being sections 168.24g, 168.764, and 168.864 of the Michigan Compiled Laws.

(b) Act No. 239 of the Public Acts of 1955, being sections 200.301 to 200.307 of the Michigan Compiled Laws.

-----  
Clerk of the House of Representatives.

-----  
Secretary of the Senate.

Approved -----

-----  
Governor.