SENATE BILL No. 1466

September 26, 2002, Introduced by Senator BYRUM and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending section 871 (MCL 168.871), as amended by 2000

PA 207.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 871. (1) In a precinct using paper ballots, the board

2 of canvassers conducting a recount pursuant to this chapter shall

3 conduct the recount, subject to all of the following:

4   (a) The ballots in packages or ballot bags that are secured

5 and sealed so that a ballot cannot be removed or inserted unless

6 the ballot corresponds in number with the poll list delivered to

7 the appropriate clerk by the board of election inspectors, shall

8 be recounted even though the ballot box or other ballot container

9 is not securely sealed with the seal of record.

1   (b) If the ballot box or other ballot container is securely

2 sealed with the seal of record, only the ballots that correspond

3 in number with the poll list delivered to the appropriate clerk

4 by the board of election inspectors shall be recounted even

5 though the ballots are not secured and sealed in packages or

6 ballot bags.

7   (c) If the ballot box or other ballot container is not

8 securely sealed or if the seal on the ballot box or other ballot

9 container is not the seal of record and the ballots in packages

10 or ballot bags are not secured and sealed so that a ballot cannot

11 be removed or inserted, the ballots shall not be recounted and

12 the original count of the ballots as reported by the board of

13 election inspectors shall stand as the correct count.

14   (d) If the number of ballots in a secured and sealed package

15 or bag and the number of ballots issued on election day as shown

16 on the poll list do not match and the difference is not explained

17 to the satisfaction of the board of canvassers, the ballots shall

18 not be recounted and the original count of the ballots as

19 reported by the board of election inspectors shall stand as the

20 correct count.

21   (2) Except as otherwise provided in this section, the board

22 of canvassers conducting a recount pursuant to this chapter shall

23 recount all ballots of a precinct using an electronic voting

24 system unless 1 or more of the following circumstances exist:

25   (a) The seal on the transfer case or other ballot container

26 is broken or bears a different number than that recorded on the

27 poll book, the breaking or discrepancy is not explained to the

1 satisfaction of the board of canvassers, and security of the

2 ballots has not been otherwise preserved.

3   (b) The number of ballots to be recounted and the number of

4 ballots issued on election day as shown on the poll list or the

5 computer printout do not match and the difference is not

6 explained to the satisfaction of the board of canvassers.

7   (c) The seal used to seal the ballot label assembly to a

8 voting device in the precinct is broken or bears a different

9 number than that recorded in poll records and the ballot labels

10 or rotation of candidates' names is different than that shown by

11 other voting devices in the precinct and records of the board of

12 election commissioners.

13   (3) In a precinct in which voting machines are used, the

14 board of canvassers conducting a recount pursuant to this chapter

15 shall recount all voting machines used in the precinct unless 1

16 or more of the following circumstances exist:

17   (a) All voting machines used in a precinct shall not be

18 recounted if the sum of the numbers appearing on the public

19 counters of all voting machines used in the precinct exceeds the

20 total number of voters who voted in the precinct as shown by the

21 poll book, plus the number of times the machine was operated by

22 the inspectors of election and custodians, as shown by the record

23 of the board of election inspectors, and the excess is not

24 explained to the satisfaction of the board of canvassers by the

25 inspectors of election of that precinct.

26   (b) A voting machine used in a precinct shall not be

27 recounted if the voting machine is not sealed with the seal of

1 record in such a manner as to render it impossible to vote on the

2 machine or to otherwise change the totals appearing on the indi-

3 vidual candidate or ballot question counters.

4   (c) A voting machine used in a precinct shall not be

5 recounted if the number appearing on the protective counter of

6 the voting machine at the time of the recount does not equal the

7 sum of the number appearing on the protective counter at the

8 opening of the polls as shown by the certificate of the board of

9 election inspectors and the number appearing on the public

10 counter at the time of the recount.

11   (4) In a precinct in which voting machines are used, which

12 precinct cannot be recounted under subsection (3), absent voter

13 ballots tallied in that precinct shall not be recounted unless

14 recorded separately. This section does not prohibit the recount-

15 ing of absent voter ballots tallied in a precinct using an absent

16 voter counting board or in a precinct in which 1 or more voting

17 machines are recountable, if the absent voter ballots are

18 securely packaged and sealed.

19   (5) If a board of canvassers conducting a recount pursuant

20 to this chapter determines that the ballots of a precinct are not

21 eligible for recount under this section, the original return of

22 the votes for that precinct shall be taken as correct.

23   (6) A board of canvassers conducting a recount pursuant to

24 this chapter may conduct a recount by the following means:

25   (a) A manual tally of the ballots.

1   (b) A tabulation of the ballots on a computer using a

2 software application designed to specifically count only the

3 office or ballot question subject to the recount.

4   (c) A tabulation of the ballots on a computer using the same

5 software application used in the precinct on election day.

6   (d) Any combination of methods in subdivision (a), (b), or

7 (c), as determined appropriate by the board of canvassers.

8   (7) If a board of canvassers conducting a recount pursuant

9 to this chapter intends to conduct a recount on a computer, the

10 board of canvassers shall first test the software application by

11 use of a test deck to determine if the program accurately counts

12 the votes for the office or ballot question subject to the

13 recount. If the test under this subsection fails to show that

14 the software application accurately counts the votes for the

15 office or ballot question subject to the recount, the board of

16 canvassers shall use another means prescribed in subsection (6)

17 to conduct the recount.

18   (8) THE SECRETARY OF STATE SHALL CONSULT WITH THE CLERK

19 HAVING JURISDICTION OF A PRECINCT THAT WAS DETERMINED UNDER THIS

20 SECTION TO BE INELIGIBLE FOR RECOUNT TO IDENTIFY CORRECTIONS NEC-

21 ESSARY TO PREVENT THE CONDITIONS THAT CAUSED THE INELIGIBILITY

22 FROM RECURRING.