

[No. 269]

(SB 173)

AN ACT to amend 1954 PA 116, entitled "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," by amending sections 31, 73, 283, 393, 509y, 509aa, 561a, 624, 624a, 686, 706, 727, 737, 745, 769, 782b, 795, 795c, 797a, 798c, 799a, 803, 804, 842, and 931 (MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931), section 31 as amended by 1999 PA 220, sections 73, 283, 393, and 686 as amended by 1999 PA 216, sections 509y and 509aa as added by 1994 PA 441, sections 624 and 795 as amended by 1999 PA 218, section 624a as amended by 1988 PA 116, sections 706 and 737 as amended by 1985 PA 160, sections 727 and 769 as amended by 1995 PA 261, sections 795c and 798c as amended by 1990 PA 109, sections 797a and 931 as amended by 1996 PA 583, and sections 799a and 803 as amended by 1997 PA 137, and by adding section 701; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

**168.31 Secretary of state; duties as to elections; rules.**

Sec. 31. (1) The secretary of state shall do all of the following:

(a) Subject to subsection (2), issue instructions and promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.

(b) Advise and direct local election officials as to the proper methods of conducting elections.

(c) Publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.

(d) Publish indexed pamphlet copies of the registration, primary, and election laws and furnish to the various county, city, township, and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions. The secretary of state may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference.

(e) Prescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations.

(f) Prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of this state.

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(g) Require reports from the local election officials the secretary of state considers necessary.

(h) Investigate, or cause to be investigated by local authorities, the administration of election laws, and report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.

(i) Publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the county clerks on or before the first day of December following the election. All clerks shall furnish to the secretary of state, promptly and without compensation, any further information requested of them to be used in the compilation of the legislative manual.

(j) Establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school elections officials.

(k) Establish and require attendance by each newly appointed or elected election official at an initial course of instruction within 6 months after the date of the official's election or appointment.

(l) Establish a comprehensive training curriculum for all precinct inspectors.

(m) Create an election day dispute resolution team that has regional representatives of the department of state, which team shall appear on site, if necessary.

(n) Do all of the following in regard to the training of election officials:

(i) Require each local jurisdiction to report a detailed plan for the instruction of its precinct inspectors. A report under this subparagraph shall include the dates and times of scheduled precinct inspector training sessions and shall be submitted through the qualified voter file system as prescribed by the secretary of state.

(ii) Require each county, city, and township election commission that conducts precinct inspector training sessions to submit a biennial report listing the individuals who attain accreditation under section 33.

(iii) Require each county, city, township, and village election commission and each school board to submit a biennial report attesting that the county's, city's, township's, or village's clerk or school board's secretary is accredited under subdivisions (j) and (k). If that election official is not accredited under subdivisions (j) and (k), the election commission's or school board's report shall include an explanation of why not and shall specify the date by which the election official will be accredited.

(o) Request an appropriation of sufficient money to produce a comprehensive training video for distribution to each precinct chairperson and vice-chairperson.

(2) Under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the secretary of state may promulgate rules establishing uniform standards for state and local nominating, recall, and ballot question petition signatures. The standards for petition signatures may include, but need not be limited to, standards for all of the following:

(a) Determining the validity of registration of a circulator or individual signing a petition.

(b) Determining the genuineness of the signature of a circulator or individual signing a petition.

(c) Proper designation of the place of registration of a circulator or individual signing a petition.

**168.73 Offices of lieutenant governor, secretary of state, and attorney general; nominees; list.**

Sec. 73. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for the offices of lieutenant governor, secretary of state, and attorney general. Not more than 1 business day after the conclusion of the convention, the chairperson and secretary of the state central committee shall forward to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of candidates nominated at the state convention. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**168.283 Candidates for state board of education and boards of state universities; determination; vignette; list.**

Sec. 283. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for membership on the state board of education, the board of regents of the university of Michigan, the board of trustees of Michigan state university, and the board of governors of Wayne state university. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a copy of the vignette adopted by the state central committee and a typewritten or printed list of the names and residence, including the street address if known, of the candidates nominated at the convention for the offices specified in this section. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**168.393 Candidates for justice of supreme court; determination of nomination; list; printing on nonpartisan judicial ballot.**

Sec. 393. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of the convention and determine the nominee or nominees of the convention for the office or offices of justice of the supreme court. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of the candidate or candidates nominated at the convention for the office or offices of justice of the supreme court. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat. The name of each nominee on the list shall be printed upon a nonpartisan judicial ballot containing no party designation together with the names of incumbent justices filing an affidavit under section 392a.

**168.509y Voter unlisted in registration records, precinct voting list, or qualified voter file; conditions permitting vote; challenged vote.**

Sec. 509y. (1) If a voter who has applied to register to vote as provided in this chapter on or before the close of registration appears at a polling place on election day and is not listed in the registration records, precinct voting list, or qualified voter file, the inspectors of election shall allow the individual to vote if 1 of the following requirements is met:

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(a) The voter presents a receipt issued by a department of state office, a designated voter registration agency, or the office of the voter's county clerk verifying the acceptance of an application, the voter completes a new application, and the voter otherwise meets the qualifications to vote in that city or township.

(b) The voter is unable to present a receipt issued under this chapter verifying the acceptance of an application, the voter otherwise meets the qualifications to vote in that city or township, and, at the polling place or at a place as designated by the clerk within that jurisdiction, the voter does all of the following:

(i) Signs an affidavit affirming that the person submitted an application to a department of state office, a designated voter registration agency, or the office of his or her county clerk, or mailed an application as provided in this act, on or before the close of registration. An individual who provides information in a signed affidavit under this subparagraph that is false is guilty of perjury.

(ii) Completes a new application.

(iii) Provides picture identification sufficient to verify the voter's identity and residence.

(2) If an individual complies with subsection (1) so that the inspectors of election are required to allow the individual to vote, the individual's ballot shall be considered a challenged ballot and shall be processed as required in section 745.

### **168.509aa Change of residence; duties of clerk; instruction by clerk to challenge voter; cancellation of registration.**

Sec. 509aa. (1) A clerk may use change of address information supplied by the United States postal service or other reliable information received by the clerk that identifies registered voters whose addresses may have changed as provided in this section.

(2) Upon receipt of reliable information that a registered voter has moved his or her residence within the city or township, the clerk shall send by forwardable mail all of the following to the voter:

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence within the city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice explaining that, if the address information is correct and the voter has moved his or her residence within the city or township, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the voter has moved his or her residence within the city or township and does not complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election, the voter will be required to vote in his or her former precinct of residence in the city or township. The voter will also be required to submit an address correction before being permitted to vote.

(3) Upon the receipt of reliable information that a registered voter has moved his or her residence to another city or township, the clerk shall send by forwardable mail all of the following to the voter:

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence to another city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice containing all of the following information:

(i) If the address information is incorrect and the voter has not moved his or her residence to another city or township and wishes to remain registered to vote, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the card is not completed and returned with a postmark of 30 days or more before the date of the next election, the voter may be required to affirm his or her current address before being permitted to vote. Further, if the voter does not vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date on the notice, the registration of the voter will be canceled and his or her name will be removed from the registration record of that city or township.

(ii) If the voter has moved his or her residence to another city or township, information on how the voter can become registered to vote at the next election in his or her new city or township.

(4) If a notice sent under this section is returned to the clerk by the post office as undeliverable, the clerk shall identify the registration record of a voter as challenged as provided in this act. The clerk shall instruct the board of election inspectors to challenge that voter at the first election at which the voter appears to vote. If in response to the challenge the voter indicates that he or she resides at the registration address or has changed addresses within the city or township, the voter shall be permitted to vote a regular ballot rather than a challenged ballot. The voter shall complete a change of address form at the polling place, if applicable. If the person does not appear to vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date of the notice, the clerk shall cancel the registration of the voter and remove his or her name from the registration record of the city or township.

**168.561a Official ballots; designation of candidate with same given and surname as incumbent; effect of generational designation.**

Sec. 561a. (1) In a primary election, if a candidate for elective office has the same given name and surname as the names of the person last elected to that office and if the person last elected is not seeking renomination, below the name of the candidate on the ballot shall appear the words “not the present .....”. The title of the office sought shall appear in the space. The size of type used for a designation under this section shall not be smaller than the size of type normally used for any other ballot designation.

(2) For the purpose of this section, a candidate’s and an officeholder’s surnames shall not be considered different solely because 1 or both of the surnames include a generational designation.

**168.624 Delegate to county or district conventions; qualifications; affidavits of identity; seating of delegates; violation as misdemeanor; complaints; procedure.**

Sec. 624. (1) A person holding a public office in this state or a municipal subdivision of this state may become a candidate for delegate to the county or district conventions.

(2) A candidate for delegate to the county or district conventions of a political party shall be a qualified and registered elector residing within, as well as having his or her actual bona fide residence within, the election precinct for which he or she desires to become a candidate on the filing deadline. A candidate shall file an affidavit of identity as prescribed in section 558 with the county clerk of the county or the clerk of the city or township in which the candidate resides. A clerk shall receive affidavits of identity under this section up to 4 p.m. on the twelfth Tuesday preceding the time designated for holding

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a primary election in the county. Within 4 days after the last day for filing affidavits of identity under this section, the city or township clerk shall forward to the county clerk the affidavit of identity of each candidate who has qualified for a position on the primary ballot. All duly elected and certified delegates shall be seated at the county or district county conventions. A person violating this section is guilty of a misdemeanor.

(3) If a written complaint is made to the county clerk with respect to the registration or bona fide residence, or both, of a candidate, the county clerk shall check with the township or city clerk of the township or city in which the candidate is registered or residing, or both. The township or city clerk shall report back to the county clerk within 48 hours as to the registration or bona fide residence, or both, of the candidate.

(4) Except as otherwise provided in this subsection, if the township or city clerk's report shows that the candidate is not a registered elector or a bona fide resident of the election precinct of the township or city for which the petition shows the candidate is a resident, the county clerk shall remove the name of the candidate from the ballot. The county clerk shall not remove a candidate's name from the ballot if the sole reason that the candidate no longer resides in the precinct is as a result of a division, consolidation, or rearrangement of the precinct under section 656, 658, or 661. A county clerk shall not act upon a complaint under subsection (3) that is received by the county clerk after the ballots have been released for printing and before the primary election.

(5) If a county clerk does not remove a candidate's name under subsection (4) because the change in the candidate's precinct is a result of a change in the precinct's boundaries under section 656, 658, or 661, the county clerk shall notify the candidate about the change in his or her precinct boundaries, that the candidate remains a qualified candidate, and that the candidate's name will appear on the ballot for the precinct in which the candidate currently resides.

### **168.624a Precinct delegate; resignation; notice; withdrawal of name from ballot; qualification of delegate to participate in convention; complaint regarding qualification of delegate; report; certification that delegate not qualified to hold office.**

Sec. 624a. (1) A precinct delegate may resign his or her office upon written notice to the chairperson of the county committee and the county clerk of the county or district in which the delegate resides.

(2) A person who has filed petitions for precinct delegate may withdraw his or her name from the ballot by filing a statement of withdrawal with the county clerk within 72 hours after 4 p.m. of the last day to file for the office of precinct delegate.

(3) A person elected to fill a delegate vacancy or elected as a precinct delegate is not qualified to participate in a convention if, at the time of the convention, that person does not reside in the precinct from which he or she was elected. A delegate is not disqualified if the delegate no longer resides in the precinct as a result of a division, consolidation, or rearrangement of the precinct under section 656, 658, or 661.

(4) If a written complaint is made to the county clerk regarding a delegate's qualification to hold the office, the county clerk shall check with the township or city clerk of the township or city in which the delegate indicated on the nominating petition as his or her place of residence. The township or city clerk shall report back to the county clerk within 48 hours as to the complaint made under this subsection. If the township or city clerk's report shows that the delegate is not qualified to hold the office, the county clerk shall certify to the chairperson of the county committee of the political party the name of the delegate of that political party who is no longer qualified to hold the office of delegate under this subsection.

**168.686 State convention; canvass of returns; determination of nominees; presidential and vice-presidential candidates.**

Sec. 686. Within 24 hours after the conclusion of the state convention before a general election, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention. Not more than 1 business day after the state convention, the chairperson and secretary of the state central committee shall forward to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of all candidates nominated at the state convention. In each presidential election year, the state central committee of each political party shall, at the same time, forward to the secretary of state the typewritten or printed names of the candidates of that party for the offices of president of the United States and vice-president of the United States certified to by the chairman and secretary of the committees. A party is not required to certify nominations made at an official primary election. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**168.701 Voting straight political party ticket prohibited.**

Sec. 701. In an election to choose the officeholders for more than 1 elective office, an elector is prohibited from voting a straight political party ticket, that is, from voting for all of the candidates for elective office who are on the ballot representing a single political party by a single selection on the ballot. A ballot that would violate this section shall not be produced, printed, or distributed.

**168.706 Official ballot; form; instructions.**

Sec. 706. The arrangement of the ballot containing the names of candidates for office shall conform as nearly as possible to the following form, and shall contain the specific instructions set forth in the form and no others:

OFFICIAL BALLOT

County of ..... Date .....

INSTRUCTIONS - Candidates for president and vice-president must be voted for as a unit, and the vote cannot be split. Candidates for governor and lieutenant governor must be voted for as a unit, and the vote cannot be split.

Make a cross (X) or a check mark (✓) in the square [ ] before the name of each candidate for whom you desire to vote.

If you wish to vote for a candidate not on the ballot, write or place the name of that candidate on your ballot under the name of the office and make a cross (X) or a check mark (✓) in the square [ ] before his or her name.

Before leaving the booth, fold the ballot so that the face of the ballot is not exposed and so that the numbered corner is visible.

Name of Offices Voted For:	Vignette with Name of Party	Vignette with Name of Party	Vignette with Name of Party
PRESIDENTIAL	Name of Candidate for President.	Name of Candidate for President.	Name of Candidate for President.



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Electors of President and Vice- President of the United States	<input type="checkbox"/> Name of Candidate for Vice-President.	<input type="checkbox"/> Name of Candidate for Vice-President.	<input type="checkbox"/> Name of Candidate for Vice-President.
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STATE Governor and Lieutenant Governor	Governor Name of Candidate <input type="checkbox"/> Lieut. Governor Name of Candidate	Governor Name of Candidate <input type="checkbox"/> Lieut. Governor Name of Candidate	Governor Name of Candidate <input type="checkbox"/> Lieut. Governor Name of Candidate
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Secretary of State	Secretary of State <input type="checkbox"/> Name of Candidate	Secretary of State <input type="checkbox"/> Name of Candidate	Secretary of State <input type="checkbox"/> Name of Candidate
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CONGRESSIONAL United States Senator	U.S. Senator <input type="checkbox"/> Name of Candidate	U.S. Senator <input type="checkbox"/> Name of Candidate	U.S. Senator <input type="checkbox"/> Name of Candidate
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Represent- ative in Congress .....District	U.S. Repre- sentative <input type="checkbox"/> Name of Candidate	U.S. Repre- sentative <input type="checkbox"/> Name of Candidate	U.S. Repre- sentative <input type="checkbox"/> Name of Candidate
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LEGISLATIVE Senator .....District	State Senator <input type="checkbox"/> Name of Candidate	State Senator <input type="checkbox"/> Name of Candidate	State Senator <input type="checkbox"/> Name of Candidate
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Represent- ative .....District	State Repre- sentative <input type="checkbox"/> Name of Candidate	State Repre- sentative <input type="checkbox"/> Name of Candidate	State Repre- sentative <input type="checkbox"/> Name of Candidate
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COUNTY Prosecuting Attorney	Pros. Attorney <input type="checkbox"/> Name of Candidate	Pros. Attorney <input type="checkbox"/> Name of Candidate	Pros. Attorney <input type="checkbox"/> Name of Candidate
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Sheriff	Sheriff <input type="checkbox"/> Name of Candidate	Sheriff <input type="checkbox"/> Name of Candidate	Sheriff <input type="checkbox"/> Name of Candidate
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**168.727 Challenges; duty of election inspector; indiscriminate challenges; penalty.**

Sec. 727. (1) An election inspector shall challenge an individual applying for ballots if the election inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, if the applicant's name does not appear in at least 1 of the registration book, precinct voting list, or qualified voter file, 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 the individual is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of an individual 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) Process as provided in sections 745 and 746 a 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 individual making the challenge.

(iii) The time of the challenge.

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

(v) 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.

**168.737 Manner of marking ballot.**

Sec. 737. After receiving the ballots as provided in section 736, the elector shall then go directly into an unoccupied voting booth and indicate in the following manner, with pencil or pen on the proper ballot, the candidate or candidates for whom the elector desires to vote:

(a) If the elector wishes to vote for a candidate on the ballot, the elector shall make a cross (X) or a check mark (✓) in the square before the candidate's name.

(b) If the elector wishes to vote for a candidate not on the ballot, the elector may write or place the name of that candidate on the elector's ballot opposite the name of the office and shall make a cross (X) or a check mark (✓) in the square before the candidate's name.

(c) A cross (X) or a check mark (✓) in the square before the name of a candidate printed on the ballot or before a name that is written or pasted on the ballot is considered a vote for that candidate unless an elector has voted for more candidates for the office than are to be elected.

(d) An elector shall indicate the elector's preference on a constitutional amendment or other submitted question by making a cross (X) or a check mark (✓) in the square in front of the word "Yes" or in the square in front of the word "No" opposite or below the question on the proper ballots.

**168.745 Ballot of challenged voter; endorsement; rejection; processing.**

Sec. 745. (1) If an individual who is challenged at an election as an unqualified voter takes the oath provided by law for that circumstance, is given a ballot, and votes, an election inspector shall plainly endorse in pencil on that individual's ballot the number corresponding to the number placed after the individual's name on the poll lists. The election inspector shall execute the endorsement before depositing the ballot in the ballot box and without opening the ballot.

(2) If an individual ballot is considered a challenged ballot under section 509y or 769, an election inspector shall process that individual's ballot in the same manner as a challenged elector's ballot under subsection (1) and section 746.

(3) If a ballot requiring an endorsement under subsection (1) or (2) is so folded, defaced, printed, or prepared that the number cannot be legibly and permanently written on the ballot, the election inspectors shall refuse to accept the ballot.

(4) A ballot that is considered a challenged ballot under section 509y or 769 shall be processed in the same manner as a challenged ballot under this act.

**168.769 Absent voter ballots; voting in person; return of ballot; voting in person and absent voter ballot as felony; report.**

Sec. 769. (1) An elector 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 elector 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 elector 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 elector 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. If the elector signs the affidavit, the elector shall be allowed to vote a ballot that shall be considered a challenged ballot and shall be processed as required in section 745.

(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.

**168.782b Voting machines; use of emergency ballots when reserve machine unavailable.**

Sec. 782b. If there is no reserve machine available, emergency ballots may also be provided by the county board of election commissioners. Emergency ballots shall have suitable blank spaces to permit the voter to vote for the candidates for whom the elector desires to vote. The ballots shall be used only in emergency and upon special permission of the board or official whose duty it is to provide ballots for the election. The board or

official shall prepare the emergency ballots that shall be held by the city, township, or village clerk, subject to the order of the county clerk or other authorized person. It shall not be necessary to provide emergency ballots for each election unless previously provided ballots have been used, destroyed, or lost, in which case similar ballots shall again be provided. If at any time during the election, the voting machine is disabled and cannot be repaired and no other voting machine is available, an emergency shall be declared to exist and the voting after an emergency is declared at that election in that voting precinct shall be by emergency ballot, in the manner provided in this section. The board or official that has custody of the emergency ballots, when so directed, shall supply a sufficient number of emergency ballots to the election board for use by the voters. One of the ballots shall be delivered by the election board to each voter who arrives to vote after an emergency is declared. Emergency ballots shall be voted and counted subject to the provisions relative to voting by ballot at general elections, except as otherwise provided in this section. The ballots shall be numbered consecutively from 1 up, which number and identification shall be printed upon a perforated stub as in the case where only regular ballots are used at elections.

**168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable.**

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall be programmed to reject a ballot containing that type of an error.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be programmed to reject a ballot containing that type of an error.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls.

**168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day.**

Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan, and questions, shall be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label shall be clearly marked to indicate the ballot for each election.

**168.797a Instruction in method of voting on electronic voting system; use of ballot processed through electronic tabulating equipment; replacement ballot; procedure; detached stub; spoiled ballot; processing of challenged voter ballot; removal of ballot.**

Sec. 797a. (1) Before entering the voting station, each elector shall be offered instruction in the proper method of voting on the electronic voting system. If the elector needs additional instruction after entering the voting station, 2 election inspectors from different political parties may, if necessary, enter the voting station and provide the additional instructions.

(2) If the electronic voting system provides for the use of a ballot that is processed through electronic tabulating equipment after the elector votes, the elector shall transport the ballot to the ballot box, or other approved ballot container, without exposing any votes. An election inspector shall ascertain, by comparing the number appearing on the ballot stub with the number recorded on the poll list, that the ballot delivered by the voter is the same ballot that was issued to the elector. If the numbers do not agree, the ballot shall be marked as "rejected", and the elector shall not be allowed to vote. If the numbers agree, an election inspector shall remove and discard the stub. Except as otherwise provided in subsection (3), the election inspector shall deposit the ballot in the ballot box or other approved ballot container.

(3) If electronic tabulating equipment that deposits the voted ballot into the ballot box or other approved ballot container is used at the precinct, the election inspector shall return the ballot to the elector, and the elector shall then deposit the ballot into the electronic tabulating equipment. If this electronic tabulating equipment rejects a ballot due to programming required under section 795, the elector shall be offered an opportunity to correct the error by voting a replacement ballot. If the voter refuses to accept the opportunity to vote a replacement ballot, the rejected ballot shall be accepted and tabulated as voted. The electronic tabulating equipment shall be arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the electronic tabulating equipment, 2 election inspectors from different political parties may periodically open the equipment to rearrange voted ballots and may transfer voted ballots to another approved ballot container.

(4) A ballot from which the stub is detached shall not be accepted by the election inspector in charge of the ballot box or other approved ballot container. An elector who spoils his or her ballot may return it and secure another ballot. The word "spoiled" shall be written across the face of the ballot, and the ballot shall be marked and secured for later return.

(5) A ballot of a challenged voter that has the names of candidates and questions printed directly on the voted ballot shall be processed in the manner prescribed for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual hard copy ballot shall be processed in the manner prescribed for challenging a vote cast on a voting machine.

(6) Except as otherwise provided in this act, an election inspector shall not allow any portion of a ballot, including a ballot stub, to be removed by any person other than an election inspector from the polling place.

**168.798c Casting absentee votes on paper ballots or ballot cards; count; recording; voting and processing absent voters' ballots; absent voter ballot rejected by electronic tabulating equipment.**

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspections on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

**168.799a Recounting punched, marked, or stamped ballot; procedure; releasing sealed materials.**

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within the predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of

canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

**168.803 Counting and recounting votes; rules; stray mark; issuance of instructions by secretary of state.**

Sec. 803. (1) Except as otherwise provided in this act, the following rules govern the counting and recounting of votes:

(a) If it is clearly evident from an examination of a ballot that the ballot has been mutilated for the purpose of distinguishing it or that there has been placed on the ballot some mark, printing, or writing for the purpose of distinguishing it, then that ballot is void and shall not be counted.

(b) A cross, the intersection of which is within or on the line of the proper circle or square, or a check mark, the angle of which is within a circle or square, is valid. Crosses or check marks otherwise located on the ballot are void.

(c) Marks other than crosses or check marks used to designate the intention of the voter shall not be counted.

(d) A cross is valid even though 1 or both lines of the cross are duplicated, if the lines intersect within or on the line of the square or circle.

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, are valid if it is apparent that the voter intended to make a cross.

(f) A failure to properly mark a ballot as to 1 or more candidates does not alone invalidate the entire ballot if the ballot has been properly marked as to other candidates, unless the improper marking is determined to be a distinguishing mark as described in this subsection.

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for this purpose shall not be considered distinguishing marks or mutilations.

(h) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate is void as to the candidate or candidates affected by that determination.

(i) Any votes cast for a deceased candidate are void and shall not be counted, except that votes cast for a candidate for governor who has died, and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(j) All ballots cast that are not counted shall be marked by the inspector "not counted", kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(k) A vote shall not be counted for any candidate unless a cross or a check mark has been placed by the voter in the square before the space in which the name of the candidate has been printed, written, or placed.

(2) If an electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within the predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark with other marks appearing on the ballot. The secretary of state shall issue instructions relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

**168.804 Count; tally.**

Sec. 804. In the canvass of votes cast for candidates for public office, the board shall count and tally all ballots in the manner as will best ensure accuracy and promptness in determining the result. The inspectors of election shall see that proper credit is given on the tally sheets to the candidates voted for on the ballots. All computations and tallies shall be made upon the tally sheets used at the election.

**168.842 Board of state canvassers; meeting; time and place; notice; adjournment; vote differential less than certain number for president and vice president; canvass on expedited schedule.**

Sec. 842. (1) The board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of an election, shall meet at the office of the secretary of state on or before the twentieth day after the election. The secretary of state shall appoint the day of the meeting and shall notify the other members of the board. The board has power to adjourn from time to time to await the receipt or correction of returns, or for other necessary purposes, but shall complete the canvass and announce their determination not later than the fortieth day after the election. The board may at the time of its meeting, or an adjournment of its meeting, canvass the returns for any office for which the complete returns have been received.

(2) When the unofficial election returns show that the election of electors of president and vice president is determined by a vote differential between the first place and second place candidates for president and vice president of the United States of less than 25,000 votes, the secretary of state shall direct the boards of county canvassers to canvass returns for electors of president and vice president on an expedited schedule. The secretary of state shall direct the boards of county canvassers to complete the statements for electors of president and vice president required by section 824 and certify the statements as required by section 828 to the secretary of state by the seventh day after the election or by a date before the fourteenth day after the election.

(3) The secretary of state shall appoint the day for the board of state canvassers to conduct the expedited canvass of the returns for electors of president and vice president and determine the results of that election. The day appointed for the expedited canvass shall be as soon as practicable after receipt of the returns from the boards of county canvassers, but no later than the twentieth day after the election.

**168.931 Prohibited conduct; violation as misdemeanor; "valuable consideration" defined.**

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.



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(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 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

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(l) 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.

(m) 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.

(n) 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.

(o) An individual who receives compensation from a county, city, township, village, or school district for performing election related duties shall not accept, either directly or indirectly, valuable consideration for performing work to support or oppose the nomination or election of a candidate or the passage or defeat of a ballot proposal.

(p) A person shall not offer, either directly or indirectly, valuable consideration to an individual for performing work to support or oppose the nomination or election of a candidate or the passage or defeat of a ballot proposal if that individual receives compensation from a county, city, township, village, or school district for performing election related duties.

(q) A person shall not promise or give valuable consideration in exchange for stealing a campaign yard sign or for a stolen campaign yard sign.

(r) A person shall not steal, or receive valuable consideration for stealing, a campaign yard sign.

(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.

### **Repeal of § 168.509.**

Enacting section 1. Section 509 of the Michigan election law, 1954 PA 116, MCL 168.509, is repealed.

Approved January 11, 2002.

Filed with Secretary of State January 11, 2002.

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