

Act No. 32
Public Acts of 1990
Approved by the Governor
March 21, 1990
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STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990

Introduced by Reps. Bandstra, Krause, DeLange, Mathieu and Sikkema

ENROLLED HOUSE BILL No. 5167

AN ACT to amend sections 325, 409b, 409d, 409e, 409l, 415, 416, 424, 424a, 426d, 426f, 426i, 426k, 433, 435, 435a, 436, 444, 467b, 467c, 467e, 467f, 467i, and 467m of Act No. 116 of the Public Acts of 1954, entitled "An act to reorganize, consolidate and add to the election laws; to provide for election officials and prescribe their powers and duties; 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 prescribe the penalties therefor; and to repeal certain acts and all other acts inconsistent herewith," sections 325, 409b, 409l, 424, 426d, 433, 444, 467b, and 467m as amended by Act No. 7 of the Public Acts of 1990, sections 424a, 426k, 436, and 467c as amended and section 435a as added by Act No. 149 of the Public Acts of 1982, and section 467i as amended by Act No. 4 of the Public Acts of 1981, being sections 168.325, 168.409b, 168.409d, 168.409e, 168.409l, 168.415, 168.416, 168.424, 168.424a, 168.426d, 168.426f, 168.426i, 168.426k, 168.433, 168.435, 168.435a, 168.436, 168.444, 168.467b, 168.467c, 168.467e, 168.467f, 168.467i, and 168.467m of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 325, 409b, 409d, 409e, 409l, 415, 416, 424, 424a, 426d, 426f, 426i, 426k, 433, 435, 435a, 436, 444, 467b, 467c, 467e, 467f, 467i, and 467m of Act No. 116 of the Public Acts of 1954, sections 325, 409b, 409l, 424, 426d, 433, 444, 467b, and 467m as amended by Act No. 7 of the Public Acts of 1990, sections 424a, 426k, 436, and 467c as amended and section 435a as added by Act No. 149 of the Public Acts of 1982, and section 467i as amended by Act No. 4 of the Public Acts of 1981, being sections 168.325, 168.409b, 168.409d, 168.409e, 168.409l, 168.415, 168.416, 168.424, 168.424a, 168.426d, 168.426f, 168.426i, 168.426k, 168.433, 168.435, 168.435a, 168.436, 168.444, 168.467b, 168.467c, 168.467e, 168.467f, 168.467i, and 168.467m of the Michigan Compiled Laws, are amended to read as follows:

Sec. 325. If a vacancy occurs in the office of a judge of a municipal court of record, the governor shall appoint a qualified person to fill the vacancy, and the person so appointed shall hold the office until 12 noon of January 1 following the general election at which a successor is elected and qualified. Except as otherwise provided in section 426f(2), at the next fall primary or municipal primary election held at least 91 days after the vacancy occurs, candidates shall be nominated to fill the vacancy in the same manner as candidates are nominated for the office. The vacancy shall be filled at the election next following the primary in the manner provided for the election of judges of the municipal court of record. The person elected shall hold the office for the remainder of the unexpired term.

Sec. 409b. (1) To obtain the printing of the name of a qualified person other than an incumbent judge of the court of appeals as a candidate for nomination for the office of judge of the court of appeals upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the appellate court district equal to not less than 1/2 of 1% or more than 2% of the total number of votes cast in that appellate court district for secretary of state at the last general November election in which a secretary of state was elected. The provisions of sections 544a and 544b apply. The secretary of state shall receive nominating petitions up to 4 p.m. on the twelfth Tuesday preceding the primary.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with subsection (6):

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

(3) Nominating petitions specifying a new or existing court of appeals judgeship may not be used to qualify a candidate for another judicial office of the same court in the same judicial district. A person who files for election to more than 1 court of appeals judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) An incumbent judge of the court of appeals may become a candidate in the primary election for the office of which he or she is the incumbent by filing with the secretary of state an affidavit of candidacy not less than 120 days before the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent judge of the court of appeals, is domiciled within the district, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the court of appeals.

(5) In the primary and general November election for 2 or more judgeships of the court of appeals in a judicial district, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (6):

- (a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.
- (b) The names of candidates for the judgeship or judgeships for which the incumbent is not seeking election.
- (c) The names of candidates for a newly created judgeship or judgeships.

(6) If the death or disqualification of an incumbent judge triggers the application of section 409d(2), then for the purposes of subsections (2) and (5), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 409d(2).

Sec. 409d. (1) In each appellate court district the candidates for office of judge of the court of appeals receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers and election precincts, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominees for the office at the next general November election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 409b, there are fewer candidates for nomination or nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 409b. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 409b, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners of each county in the appellate court district for the general November election.

Sec. 409e. (1) Except as otherwise provided in this section, a judge or judges of the court of appeals shall be elected in each appellate court district at the general November election in which judges of the court of appeals are to be elected as provided by law.

(2) If there are fewer nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the court of appeals for which there is no nominee.

(3) The term of office for judge of the court of appeals shall be 6 years, commencing at 12 noon on January 1 next following his or her election and shall continue until a successor is elected and qualified.

Sec. 409l. (1) If a vacancy occurs in the office of judge of the court of appeals, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 409b(6), the person appointed by the governor shall be considered an incumbent for purposes of this act. The person appointed by the governor shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 409d(2), candidates shall be nominated at the next fall primary held at least 91 days after the vacancy occurs, to fill the vacancy in the manner provided in this chapter for the nomination of candidates for judge of the court of appeals. The vacancy shall be filled at the general November election next following the primary in the manner provided in this chapter for the election of judges of the court of appeals. The person elected shall hold office for the remainder of the unexpired term.

Sec. 415. (1) The candidates for the office of judge of the circuit court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various county boards of canvassers and election precincts or as determined by the board of state canvassers as the result of a recount, shall be declared the nominees for the office at the next general election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 413, there are fewer candidates for nomination or nominees for the office of judge of the circuit court than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 413. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 413, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

Sec. 416. (1) Except as otherwise provided in this section, a judge or judges of the circuit court shall be elected in each judicial circuit at the general election in which judges of the circuit court are to be elected as provided by law.

(2) If there are fewer nominees for the office of judge of the circuit court than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the circuit court for which there is no nominee.

Sec. 424. (1) If a vacancy occurs in the office of circuit judge, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 424a(3), the person appointed by the governor shall be considered an incumbent for purposes of this act. The person appointed by the governor shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 415(2), at the next fall primary election held at least 91 days after the vacancy occurs, candidates shall be nominated to fill the vacancy in the manner provided in this chapter for the nomination of candidates for circuit judge. The vacancy shall be filled at the general November election next following the primary in the manner provided in this chapter for the election of circuit judges. The person elected shall hold office for the remainder of the unexpired term.

Sec. 424a. (1) In the primary and general election for 2 or more judgeships of the circuit court, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (3):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(2) Nominating petitions filed under section 413 are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with subsection (3):

(a) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(b) A new judgeship.

(c) An unspecified existing judgeship for which the incumbent judge is seeking election.

(3) If the death or disqualification of an incumbent judge triggers the application of section 415(2), then for the purposes of subsections (1) and (2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 415(2).

(4) A person who files for election to more than 1 circuit judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

Sec. 426d. (1) To obtain the printing of the name of a person on the ballot as a candidate for the office of judge of the municipal court of record, there shall be filed with the city clerk nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in that city equal to not less than 1/2 of 1% or more than 2% of the votes cast in that municipality for secretary of state at the last general November election in which a secretary of state was elected. The city clerk shall receive nominating petitions up to 4 p.m. of the twelfth Tuesday preceding the August primary. The provisions of sections 544a and 544b apply.

(2) An incumbent judge of the municipal court of record may become a candidate in the primary election for the office of which the judge is the incumbent by filing, with the city clerk, an affidavit of candidacy not less than 120 days before the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent judge of the municipal court of record, is domiciled within the city, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the municipal court of record.

(3) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 426k(3):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(4) A person who files for election to more than 1 municipal court of record judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

Sec. 426f. (1) The candidates for the office of judge of the municipal court of record receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected, as set forth in the report of the city canvassers, based on returns from the various local boards of canvassers and election precincts, shall be declared the nominees for the office at the next general election.

(2) If, after the deadline for filing nominating petitions under section 426d, there are fewer candidates for nomination or nominees for the office of judge of a municipal court of record than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 426d. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 426d, whichever is less.

(3) The city clerk shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners of the city for the general November election.

Sec. 426i. (1) Except as otherwise provided in this section, subsequent elections for judges of a municipal court of record shall be held at the general November election immediately prior to the expiration of the term of each judge.

(2) If there are fewer nominees for the office of judge of a municipal court of record than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the municipal court of record for which there is no nominee.

Sec. 426k. (1) In the primary and general election for a judge of the municipal court of record, an incumbent judge who is a candidate shall have printed upon the ballot under the name of the candidate the designation of that office.

(2) In the primary and general election for 2 or more judgeships of the municipal court of record, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (3):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(3) If the death or disqualification of an incumbent judge triggers the application of section 426f(2), then for the purposes of subsection (2) and section 426d(3), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 426f(2).

Sec. 433. (1) To obtain the printing of the name of a person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the county clerk of each county nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the county, equal to not less than 1% or more than 4% of the total number of votes cast in that county for secretary of state at the last general November election in which a secretary of state was elected or by the filing of an affidavit according to section 433a. In counties having a population of 1,500,000 or more, the petition shall contain not less than 5,000 and not more than 20,000 signatures. The county clerk shall receive nominating petitions up to 4 p.m. on the twelfth Tuesday preceding the August primary. The provisions of sections 544a and 544b apply.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 435a(2):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(3) A person who files for election to more than 1 probate judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

Sec. 435. (1) The candidates for the office of judge of probate receiving the largest number of votes at any primary election, to a number equal to twice the number of places to be filled as set forth in the report of the board of county canvassers, based on the returns from the various election precincts or as determined by the board of county canvassers as the result of a recount, shall be declared the nominees for the office at the next November election. The board of county canvassers shall certify the nominations to the county election commission.

(2) If, after the deadline for filing nominating petitions under section 433, there are fewer candidates for nomination or nominees for the office of judge of probate than there are persons to be elected because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions with the county clerk or, in case of a probate district, with the secretary of state in the manner required by section 433. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 433, whichever is less.

(3) The county clerk or, in case of a probate district, the secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

Sec. 435a. (1) In the primary and general election for 2 or more probate judgeships, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (2):

- (a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.
 - (b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.
 - (c) The names of candidates for a newly created judgeship or judgeships.
- (2) If the death or disqualification of an incumbent judge triggers the application of section 435(2), then for the purposes of subsection (1) and section 433(2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 435(2).
- (3) In the primary or general election for a judge of probate, any incumbent judge who is a candidate shall have printed upon the ballot under the name of the candidate the designation of that office.

Sec. 436. (1) Except as otherwise provided in this section, a judge or judges of probate shall be elected in each probate court district created pursuant to law and each county at the general November election in which judges of probate are to be elected as provided by law. Each probate court district created pursuant to law and each county shall have that number of judges of probate as provided by law.

(2) If there are fewer nominees for the office of judge of probate than there are persons to be elected because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of probate for which there is no nominee.

Sec. 444. (1) If a vacancy occurs in the office of judge of probate, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 435a(2), the person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 435(2), at the next primary election held at least 91 days after the vacancy occurs, candidates shall be nominated to fill the vacancy in the manner provided in this chapter for the nomination of candidates for judge of probate. The vacancies shall be filled at the general November election next following the primary in the manner provided in this chapter for the election of judges of probate. The person elected shall hold office for the remainder of the unexpired term.

Sec. 467b. (1) To obtain the printing of the name of a person as a candidate for nomination for the office of judge of the district court upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the judicial district or division, equal to not less than 1/2 of 1% or more than 2% of the total number of votes cast in that judicial district or division for secretary of state at the last general November election in which a secretary of state was elected. An incumbent district court judge may also become a candidate by the filing of an affidavit in lieu of petitions according to section 467c. The secretary of state shall receive nominating petitions up to 4 p.m. on the twelfth Tuesday preceding the primary. The provisions of sections 544a and 544b apply.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 467c(4):

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

(3) A person who files for election to more than 1 district judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

Sec. 467c. (1) An incumbent district court judge may become a candidate in the primary election for the office of which he or she is an incumbent by filing with the secretary of state an affidavit of candidacy in lieu of nominating petitions not less than 120 days prior to the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent district court judge for the district or election division in which election is sought, that he or she is domiciled within the district or election division, and that he or she will not attain the age of 70 by the date of election, and a declaration that the affiant is a candidate for election to the office of district court judge.

(2) There shall be printed upon the ballot under the name of each incumbent district judge who is a candidate for nomination or election to the same office the designation of that office.

(3) In the primary and general election for 2 or more judgeships of the district court, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (4):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(4) If the death or disqualification of an incumbent judge triggers the application of section 467e(2), then for the purposes of subsection (3) and section 467b(2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 467e(2).

Sec. 467e. (1) The candidates for the office of judge of the district court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various county boards of canvassers and election precincts or as determined by the board as the result of a recount, shall be declared the nominees for the office at the next general November election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 467b, there are fewer candidates for nomination or nominees for the office of judge of the district court than there are persons to be elected because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 467b. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 467b, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

Sec. 467f. (1) Except as otherwise provided in this section, judges of the district court shall be elected in each judicial district and election division of a judicial district at the general election to fill vacancies in office as of the following January 1.

(2) If there are fewer nominees for the office of judge of the district court than there are persons to be elected because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the district court for which there is no nominee.

Sec. 467i. Except as otherwise provided by law, the term of office for judge of the district court shall be 6 years, commencing at 12 noon on January 1 next following the judge's election and shall continue until a successor is elected and qualified.

Sec. 467m. (1) If a vacancy occurs in the office of district judge, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 467c(4), the person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 467e(2), candidates shall be nominated at the next fall primary held at least 91 days after the vacancy occurs, to fill the vacancy in the manner provided in this chapter for the nomination of candidates for district court judge. The vacancy shall be filled at the general November election next following the primary in the manner provided in this chapter for the election of district court judges. The person elected shall hold office for the remainder of the unexpired term.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.