

HOUSE RESOLUTION NO. 118

Reps. DeSana, Schriver, Markkanen, Greene, Maddock, Fox and Smit offered the following resolution:

1 A resolution directing the impeachment of Jocelyn Benson,
2 Secretary of State of the state of Michigan, for corrupt conduct in
3 office and for crimes and misdemeanors.

4 Whereas, Article XI, Section 7 of the Michigan Constitution
5 states, in part:

6 The house of representatives shall have the sole power of
7 impeaching civil officers for corrupt conduct in office or
8 for crimes or misdemeanors, but a majority of the members
9 elected thereto and serving therein shall be necessary to
10 direct an impeachment.

11 ; and

12 Whereas, Jocelyn Benson has repeatedly exceeded her authority,
13 acted with insufficient transparency, and abused her position as

1 Secretary of State. She has issued guidance and taken actions in
2 violation of Michigan statute and the Michigan Constitution, failed
3 to adequately respond to the public's concerns about the accuracy,
4 security, and integrity of our elections, and refused to engage
5 with those who question or criticize her practices. An entity
6 associated with Secretary Benson corruptly contributed to the
7 campaign of a Justice on the Michigan Supreme Court during the
8 pendency of a case challenging Secretary Benson's instructions, and
9 several aspects of the manner in which Secretary Benson administers
10 elections may violate state and federal law; now, therefore, be it

11 Resolved by the House of Representatives, That Jocelyn Benson,
12 Secretary of State of the state of Michigan, is impeached for
13 corrupt conduct in office and for crimes and misdemeanors. The
14 following Articles of Impeachment are adopted by the House of
15 Representatives and shall be exhibited to the Senate:

16
17 ARTICLES OF IMPEACHMENT EXHIBITED BY THE HOUSE OF
18 REPRESENTATIVES OF THE STATE OF MICHIGAN IN THE NAME OF
19 ITSELF AND OF THE PEOPLE OF THE STATE OF MICHIGAN AGAINST
20 JOCELYN BENSON, SECRETARY OF STATE OF THE STATE OF
21 MICHIGAN, IN MAINTENANCE AND SUPPORT OF ITS IMPEACHMENT
22 AGAINST HER FOR CORRUPT CONDUCT IN OFFICE AND FOR CRIMES
23 AND MISDEMEANORS.

24
25 ARTICLE I

26
27 Jocelyn Benson, Secretary of State of the state of
28 Michigan, has repeatedly exceeded the scope of authority
29 delegated to her by Michigan statute, and even infringed

1 on the Michigan Constitution, and has exhibited corrupt
2 conduct when these actions were challenged. Through these
3 actions, she has demonstrated her contempt for her oath of
4 office and the rule of law.

5 Article III, Section 2 of the Michigan Constitution
6 provides: "The powers of government are divided into three
7 branches: legislative, executive and judicial. No person
8 exercising powers of one branch shall exercise powers
9 properly belonging to another branch except as expressly
10 provided in this constitution." Under Article IV, Section
11 1, "the legislative power of the State of Michigan is
12 vested in a senate and a house of representatives."

13 Article XI, Section 1 of the Michigan Constitution
14 provides, in part: "All officers, legislative, executive
15 and judicial, before entering upon the duties of their
16 respective offices, shall take and subscribe the following
17 oath or affirmation: I do solemnly swear (or affirm) that
18 I will support the Constitution of the United States and
19 the constitution of this state, and that I will faithfully
20 discharge the duties of the office of according
21 to the best of my ability."

22 Secretary Benson's actions in administering
23 Michigan's elections have intruded on the legislative power
24 and violated the Michigan Constitution, and she has not
25 fulfilled her oath to faithfully discharge the duties of
26 her office.

27 Secretary Benson's disrespect for the constitutional
28 separation of powers was evident over the course of the
29 *O'Halloran v. Benson* lawsuit. Plaintiffs in this case

1 challenged various provisions of a manual published by
2 Secretary Benson, titled "The Appointment, Rights, and
3 Duties of Election Challengers and Poll Watchers," alleging
4 that they were contrary to the provisions of the Michigan
5 Election Law, 1954 PA 116, MCL 168.1 *et seq.*, and that they
6 constituted "rules" that were not properly promulgated
7 under the Administrative Procedures Act of 1969 (APA), 1969
8 PA 306, MCL 24.201 *et seq.*

9 On October 3, 2023, legal counsel for Secretary Benson
10 stated before the Michigan Court of Appeals that it was
11 her client's position that the Secretary of State is not
12 bound to promulgate rules pursuant to the APA. Rather, she
13 argued that the Secretary has the authority under the
14 Michigan Election Law to simply issue instructions, even
15 on subjects that would qualify as a "rule" under the
16 definitions of the APA, ignoring the procedural
17 requirements imposed by the Legislature in that statute.
18 She also argued that, if the Legislature enacted a statute
19 requiring the Secretary to promulgate rules in accordance
20 with the APA on a particular subject, the Secretary might
21 choose to ignore the statute and continue to use
22 instructions and guidance if the Secretary felt it was a
23 bad idea to promulgate rules on that subject.

24 On October 19, 2023, the Court of Appeals issued a
25 unanimous three-to-zero decision in *O'Halloran*, Docket No.
26 363503, striking down the challenged provisions of
27 Secretary Benson's manual on election challengers. Despite
28 this, Secretary Benson filed an appeal on November 30,
29 2023, prolonging the legal dispute.

1 On April 26, 2024, while the appeal in *O'Halloran* was
2 pending before the Michigan Supreme Court, a political
3 action committee launched by and affiliated with Secretary
4 Benson, known as Michigan Legacy PAC, made a contribution
5 of \$82,5000 to the Keep Kyra Harris Bolden for Justice
6 committee, Justice Bolden's candidate committee. One month
7 later, on May 29, 2024, the Court ordered oral argument in
8 *O'Halloran*, scheduled less than three weeks later, on June
9 18, 2024. Subsequently, on August 28, 2024, Justice Bolden
10 authored the majority opinion in *O'Halloran*, Docket. No.
11 166424, overturning nearly all of the lower courts' rulings
12 against Secretary Benson's manual. This created at least
13 the appearance of corruption and could even be construed
14 as a violation of Section 117 of the Michigan Penal Code,
15 MCL 750.117, bribery of a public officer.

16 Though the Michigan Supreme Court ultimately upheld
17 many, though not all, aspects of the guidance challenged
18 in *O'Halloran*, several other directives issued by Secretary
19 Benson have been struck down by the courts. For instance,
20 the Court of Claims in *O'Halloran* invalidated the
21 Secretary's ban on appointing election challengers on
22 election day, an issue that was not appealed in that case.
23 In 2020, the Court of Claims also held in *Davis v. Benson*,
24 Docket No. 20-000207-MZ, that plaintiffs were likely to
25 succeed on the merits of their APA challenge to a directive
26 from Secretary Benson directing local election officials
27 to prohibit the open carry on election day in polling
28 places, the clerk's office, and absent voter counting
29 boards, and within 100 feet of those locations.

1 Furthermore, Secretary Benson has repeatedly
2 attempted to establish a standard for verifying signatures
3 on absent voter ballot applications and absent voter
4 ballots that included a presumption of validity, and been
5 repeatedly rebuffed by the courts. In *Genetski v. Benson*,
6 Docket No. 20-000216-MM, the Court of Claims held that the
7 signature verification standards published by the
8 Secretary constituted "rules" under the APA that were not
9 properly promulgated. After this 2021 ruling, the
10 Department of State began the APA rulemaking process and
11 eventually promulgated rules on this subject, receiving
12 significant pushback on the idea of using an initial
13 presumption of validity during the public comment period.
14 The presumption was ultimately excluded from the text of
15 the rules adopted but was somehow retained in the catch
16 line to one rule. Secretary Benson then issued updated
17 guidance on signature verification that again stated that
18 signatures were entitled to an initial presumption of
19 validity. The rules and guidance were challenged in
20 *Republican National Committee v. Benson*, Docket No. 24-
21 00041-MZ, and the Court of Claims held in 2024 that the
22 initial presumption of validity violated the
23 constitutional and statutory requirements to verify the
24 identity of absentee voters.

25 The Bureau of Elections, which operates under the
26 Department of State, also arguably exceeded its authority
27 when it recommended that the Board of State Canvassers
28 certify the results of the November 3, 2020, general
29 election, despite the fact that they had been made aware

1 of allegations that the Wayne County Board of Canvassers
2 never properly certified the results. At the November 17,
3 2020, meeting of the Wayne County Board of Canvassers, the
4 board initially deadlocked on certification, with the two
5 Democratic members voting in favor of the motion to approve
6 the certification and the two Republican members voting
7 against it. This vote did not satisfy Section 24e of the
8 Michigan Election Law, MCL 168.24e(1), which requires one
9 member of each political party to concur in any action.
10 Later that day, the board unanimously adopted a motion "for
11 certification of the November 3, 2020 General Election,"
12 but the board had never moved to reconsider the earlier
13 vote. Thus, it could be argued that the Wayne County
14 election results were not properly certified, such that
15 the election records should have been delivered to the
16 Board of State Canvassers for certification under Section
17 822 of the Michigan Election Law, MCL 168.822(2), as
18 amended by 2018 PA 614. This did not occur. Instead, the
19 Board of State Canvassers certified the result of the
20 November 2020 general election, as recommended by the
21 Bureau of Elections, on November 23, 2020. This was
22 arguably in contravention of Section 842 of the Michigan
23 Election Law, MCL 168.842(1), as amended by 2018 PA 382,
24 which provided that the Board of State Canvassers may
25 "canvass the returns for any office for which the complete
26 returns have been received." If the complete returns for
27 offices voted for in Wayne County were never received by
28 the Board of State Canvassers, it may not have had the
29 authority to canvass the returns for those offices and

1 certify the result.

2 Wherefore, Jocelyn Benson, by such conduct, warrants
3 impeachment and trial, and removal from office.

4
5 ARTICLE II

6
7 The Secretary of State is the chief election officer
8 of this state. In this role, the Secretary is responsible
9 for both administering our elections in a secure manner
10 and responding appropriately when questions are raised
11 about election security, so as to maintain the public trust
12 in our representative system of government. However,
13 Jocelyn Benson has failed to adequately respond to the
14 concerns of the people, and thus has failed to fulfill her
15 role as chief election officer.

16 Allegations have been made that the electronic and
17 paper copies of the Qualified Voter File and Electronic
18 Poll Book records differ, but this has been difficult to
19 investigate. The electronic records are only made available
20 by the Department of State, not local clerks, due to
21 concerns about revealing sensitive information about the
22 software design and redacting confidential information.
23 Some are concerned about the centralization of these
24 records and their inability to independently verify whether
25 the records held by the Department of State are the same
26 as those at the local level.

27 There are also concerns about the regular deletion of
28 Electronic Poll Book data following elections. Following
29 the 2020 and 2022 November general elections, Secretary

1 Benson issued a directive ordering the deletion of the
2 Electronic Poll Book software and associated files "by the
3 seventh calendar day following the final canvass and
4 certification of the election," with certain exceptions
5 for recounts, audits, and court orders. While Section 799a
6 of the Michigan Election Law, MCL 168.799a(4), provides
7 that sealed materials, including programs, may be released
8 from their original seal seven days after the final
9 determination of the board of canvassers, it also provides
10 that the released materials are to be secured and preserved
11 as required by that act. Furthermore, federal statute
12 requires every officer of election to retain and preserve,
13 for a period of 22 months from the date of any election
14 for a federal office, "all records and papers which come
15 into his possession relating to any application,
16 registration, payment of poll tax, or other act requisite
17 to voting in such election." Willfully failing to comply
18 with this requirement, or willfully destroying any record
19 required to be retained by this law, creates criminal
20 liability. The deletion of the Electronic Poll Book
21 software and associated files arguably violates both of
22 these laws. While a paper copy of the poll book contents
23 is printed for retention as the official record, "all"
24 records of the election are not maintained. This also does
25 not suffice to satisfy those who worry that the electronic
26 record may be altered before the paper copy is produced.

27 Secretary Benson's efforts to verify the accuracy and
28 digital security of election machinery have also been
29 inadequate. Some have concerns about the security protocols

1 provided for in the Department of State's rules for
2 Electronic Voting Systems, and they have doubts about the
3 rigor and scope of testing these systems undergo. Many have
4 also called for more intensive audits of our elections, a
5 matter that has been almost entirely delegated to the
6 Secretary of State. Secretary Benson has the power to
7 create stricter and more thorough audit procedures, but
8 she has failed to do so.

9 Michiganders have been asking questions and
10 expressing concerns about the security and integrity of
11 our elections for years, but they do not feel that their
12 voices are being heard. Secretary Benson's failure to
13 adequately address these issues, and her potential
14 violation of state and federal requiring the retention of
15 election records, is grounds for her impeachment.

16 Wherefore, Jocelyn Benson, by such conduct, warrants
17 impeachment and trial, and removal from office.

18 ARTICLE III

19
20
21 Transparency and communication should be a priority
22 for any elected official, who is responsible to and derives
23 her power from the people. But Jocelyn Benson has not
24 demonstrated her commitment to these ideals during her time
25 as Secretary of State. Instead, the people have felt
26 ignored, belittled, and disrespected.

27 Secretary Benson allegedly blocks people on her
28 social media pages, insulating herself from opinions she
29 does not want to hear, questions she does not want to

1 answer, and problems she does not want to address. She has
2 also threatened local boards of canvassers, stating in a
3 video posted on social media in August 2024: "If someone
4 were to violate the law and not certify the election at
5 the local level, we will come for you."

6 Secretary Benson has demonstrated her willingness to
7 follow through on threats of this nature, as the Director
8 of the Bureau of Elections ordered Stephanie Scott, the
9 Adams Township Clerk, to refrain from any election
10 administration activities in October 2021. Clerk Scott was
11 officially removed because she would not confirm that she
12 would sign certificates confirming that Public Accuracy
13 Testing had been performed, refused to agree to allow
14 preventative maintenance on her township's voting
15 equipment, and would not say that she would continue using
16 that equipment. However, Clerk Scott indicated that her
17 reluctance was due to her questions about the sufficiency
18 of the accuracy testing and the potential vulnerability of
19 her township's tabulators to hacking. It is the Secretary
20 of State's responsibility to ensure that such questions
21 are answered and both election officials and the public
22 are informed about the operations of Michigan's elections,
23 so the people can trust the results.

24 Wherefore, Jocelyn Benson, by such conduct, warrants
25 impeachment and trial, and removal from office.

26 ; and be it further

27 Resolved, That in accordance with Article XI, Section 7 of the
28 Michigan Constitution, the House of Representatives will proceed
29 with the election of three members from its own body whose duty it

1 shall be to prosecute such impeachment and that these members are
2 authorized and empowered to prepare and present the Articles of
3 Impeachment adopted by this resolution.