

1.1 A bill for an act

1.2 relating to elections; providing for instant runoff voting in federal, state, and
1.3 local elections; amending Minnesota Statutes 2008, sections 200.02, by adding
1.4 a subdivision; 204B.36, subdivision 2; 204D.10, subdivision 1; 205A.03,
1.5 subdivision 1; 205A.06, subdivision 1a; 206.80; proposing coding for new law
1.6 in Minnesota Statutes, chapter 204C.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2008, section 200.02, is amended by adding a
1.9 subdivision to read:

1.10 Subd. 25. **Instant runoff voting.** "Instant runoff voting" means the voting
1.11 procedure in sections 204C.331 to 204C.336.

1.12 Sec. 2. Minnesota Statutes 2008, section 204B.36, subdivision 2, is amended to read:

1.13 Subd. 2. **Candidates and offices.** The name of each candidate shall be printed at a
1.14 right angle to the length of the ballot. At a general election the name of the political party
1.15 or the political principle of each candidate for partisan office shall be printed above or
1.16 below the name of the candidate. The name of a political party or a political principle
1.17 shall be printed in capital and lowercase letters of the same type, with the capital letters
1.18 at least one-half the height of the capital letters used for names of the candidates. At a
1.19 general election, blank lines containing the words "write-in, if any" shall be printed below
1.20 the name of the last candidate for each office, or below the title of the office if no candidate
1.21 has filed for that office, so that a voter may write in the names of individuals whose names
1.22 are not on the ballot. One blank line shall be printed for each officer of that kind to be
1.23 elected. At a primary election, no blank lines shall be provided for writing in the names of
1.24 individuals whose names do not appear on the primary ballot.

2.1 At an election using instant runoff voting under sections 204C.331 to 204C.336, the
2.2 ballot must be as prescribed in section 204C.335.

2.3 At an election not using instant runoff voting, on the left side of the ballot at the
2.4 same level with the name of each candidate and each blank line shall be printed a square
2.5 in which the voter may designate a vote by a mark (X). Each square shall be the same size.
2.6 Above the first name on each ballot shall be printed the words, "Put an (X) in the square
2.7 opposite the name of each candidate you wish to vote for." At the same level with these
2.8 words and directly above the squares shall be printed a small arrow pointing downward.
2.9 Directly underneath the official title of each office shall be printed the words "Vote for
2.10 one" or "Vote for up to ..." (any greater number to be elected).

2.11 Sec. 3. **[204C.331] DEFINITIONS.**

2.12 Subdivision 1. **Application.** The definitions in this section apply to sections
2.13 204C.331 to 204C.336.

2.14 Subd. 2. **Choice.** "Choice" means an indication on a ballot of a voter's ranking of
2.15 candidates for a particular office according to the voter's preference.

2.16 Subd. 3. **Continuing ballot.** "Continuing ballot" means a ballot that is not
2.17 exhausted.

2.18 Subd. 4. **Exhausted ballot.** "Exhausted ballot" means a ballot on which all available
2.19 choices have been used; for example, all choices made on the ballot have become votes
2.20 for the various candidates so indicated or contain choices for eliminated candidates or
2.21 both and contain no other choices.

2.22 Subd. 5. **Instant runoff voting.** "Instant runoff voting" means a system of voting
2.23 whereby voters may rank up to three candidates for the same office in order of preference
2.24 so that voters may indicate a first choice, a second choice, and a third choice if they wish.

2.25 Subd. 6. **Last place candidate.** "Last place candidate" means a candidate who has
2.26 received the fewest votes among the candidates who remain at any stage. Two or more
2.27 candidates simultaneously become last place candidates if their combined votes add up to
2.28 less than all votes for the candidate with the next highest number of votes.

2.29 Subd. 7. **Next choice.** "Next choice" means the highest ranked choice for a
2.30 remaining candidate that has not become a vote at the stage referred to.

2.31 Subd. 8. **Remaining candidate; candidates who remain.** "Remaining candidate"
2.32 means a candidate who has not been eliminated. "Candidates who remain" are all those
2.33 who have not been eliminated at the stage referred to.

2.34 Subd. 9. **Stage; stage in the counting.** "Stage" or "stage in the counting" means a
2.35 step in counting votes where votes for all remaining candidates are counted to determine

3.1 whether a candidate has achieved a majority and, if not, which candidate or candidates
3.2 are eliminated.

3.3 Subd. 10. **Vote.** "Vote" means a ballot choice that is counted toward nomination or
3.4 election of a candidate. All first choices are votes. Lower ranked choices are potential
3.5 votes that may, according to the procedures in sections 204C.335 and 204C.336, be
3.6 credited to a candidate, and thus become votes for the candidate.

3.7 Sec. 4. **[204C.332] APPLICATION.**

3.8 Subdivision 1. **Federal and state offices.** Instant runoff voting applies to voting
3.9 in all primary, regular, and special elections where three or more candidates are running
3.10 for the same office, if the office is one of the following:

3.11 (1) president and vice president of the United States;

3.12 (2) members of the United States Senate and House of Representatives;

3.13 (3) governor and lieutenant governor, attorney general, secretary of state, and state
3.14 auditor; or

3.15 (4) senator or representative in the legislature.

3.16 Subd. 2. **Statutory cities.** A statutory city may approve the use of instant runoff
3.17 voting to elect the offices of mayor, clerk, treasurer, clerk-treasurer, or a member of the
3.18 city council elected from a single-member ward. Approval must be by a majority vote of
3.19 the electors voting on the question at a special election held under section 205.10. The
3.20 question presented must be "Shall instant runoff voting be used in city elections?"

3.21 Subd. 3. **Home rule charter cities.** Nothing in Minnesota Statutes prohibits a home
3.22 rule charter city from adopting by ordinance for use in city elections instant runoff voting,
3.23 cumulative voting, ranked-order voting, or another method of voting with a form of ballot
3.24 that differs from the form required by section 204B.36, subdivision 2.

3.25 Subd. 4. **School districts.** School district use of instant runoff voting is governed by
3.26 section 205A.03, subdivision 1.

3.27 Sec. 5. **[204C.333] COUNTING OF BALLOTS.**

3.28 Subdivision 1. **General explanation.** In general, instant runoff counting proceeds
3.29 in the following manner:

3.30 (a) All votes must be counted. A candidate who receives a majority of the votes
3.31 is nominated or elected.

3.32 (b) If no candidate receives a majority at the first or any subsequent stage, then the
3.33 last-place candidate at each stage is eliminated.

4.1 (c) The next choices on ballots for an eliminated candidate become votes for the
4.2 candidates indicated in those choices, and this process continues until all but one candidate
4.3 has been eliminated.

4.4 Subd. 2. **Specific procedures.** (a) This subdivision governs how votes must be
4.5 counted for each office covered by instant runoff voting, subject to the conditions in
4.6 section 204C.336.

4.7 (b) All first choices are counted first and if a candidate has obtained a majority of
4.8 those votes that candidate is nominated or elected and counting ends.

4.9 (c) If no candidate receives a majority of votes at the first stage, then second-stage
4.10 counting begins by eliminating the last-place candidate and the second choices made
4.11 on ballots for the eliminated candidate become votes for the second-choice candidate
4.12 indicated on those ballots. A candidate who receives a majority of votes at that stage
4.13 is nominated or elected.

4.14 (d) If no candidate receives a majority at a previous stage, the last-place candidate
4.15 among the remaining candidates is eliminated and the next choices made on ballots for
4.16 an eliminated candidate become votes for the candidate indicated on those ballots. A
4.17 candidate who receives a majority of votes at that stage is nominated or elected.

4.18 (e) If at any stage in the counting there are two or more last-place candidates, these
4.19 candidates are eliminated simultaneously and the next choices made on ballots that had
4.20 votes for one or more eliminated candidates become votes for indicated candidates who
4.21 remain.

4.22 (f) The counting process continues in this manner with successive last-place
4.23 candidates being eliminated and the next choices made on continuing ballots on which
4.24 votes were cast for eliminated candidates are counted for the remaining candidate or
4.25 candidates indicated by those choices until all but one candidate has been eliminated and
4.26 that candidate is then nominated or elected.

4.27 **Sec. 6. [204C.334] VOTING CONDITIONS AND LIMITATIONS.**

4.28 Subdivision 1. **Exhausted ballots.** Once a ballot is exhausted it is disregarded
4.29 and no longer counted. A ballot assigning the same ranking to more than one candidate
4.30 for an office is exhausted when the duplicate ranking is reached, in which case no vote
4.31 is recorded for any of the duplicate candidates so chosen.

4.32 Subd. 2. **Skipped ranking.** If a ballot choice skips a ranking, the next ranking
4.33 below the skipped choice is moved up and counted as though it were the rank of the
4.34 skipped choice.

4.35 Subd. 3. **Tie votes.** Ties must be decided by lot according to section 204C.33.

5.1 Subd. 4. Maximum effective choices. Only three choices for any one office are
5.2 counted.

5.3 Subd. 5. Write-in votes. Voters may write in one candidate for each office and
5.4 assign a ranking to the write-in candidate along with candidates whose names are already
5.5 on the ballot. Write-in candidates with fewer than ten votes are automatically eliminated
5.6 in elections in jurisdictions where more than 1,000 total ballots were cast in the previous
5.7 election.

5.8 Subd. 6. Insufficient choice votes made. If ballots do not contain sufficient
5.9 effective second and lower choices for a particular office, so that at the end of the counting
5.10 no candidate achieves a majority, the candidate who has received the most votes is
5.11 nominated or elected.

5.12 Subd. 7. Votes for eliminated candidates. No votes may be counted for a candidate
5.13 who has been eliminated no matter how many second and lower-ranked choices might
5.14 otherwise have become votes for the candidate in a later stage.

5.15 Sec. 7. **[204C.335] BALLOT SPECIFICATIONS AND DIRECTIONS TO**
5.16 **VOTERS.**

5.17 Sample ballots illustrating voting procedures must be posted in or near the voting
5.18 booth and included in the instruction packet of absentee ballots. Directions provided to
5.19 voters must conform substantially to the following specifications: "You may vote for
5.20 candidates in order of preference. Indicate your first choice by marking the number "1"
5.21 beside a candidate's name (or by marking in the column labeled "First Choice"), your
5.22 second choice by marking the number "2" (or by marking the column labeled "Second
5.23 Choice"), your third choice by marking the number "3" (or by marking in the column
5.24 labeled "Third Choice"), for as many or as few choices as you wish, up to three. You are
5.25 under no obligation to rank more than one candidate for each office, but ranking additional
5.26 candidates will not affect your first-choice candidate. Do not mark the same number
5.27 beside more than one candidate (or put more than one mark in each column for the office
5.28 you are voting on). Do not skip numbers."

5.29 Sec. 8. **[204C.336] CHANGES IN VOTING DEVICES AND COUNTING**
5.30 **METHODS.**

5.31 Appropriate election officials of this state may provide for the use of electronic,
5.32 computerized, or other devices for marking, sorting, and counting the ballots and
5.33 tabulating the results and may modify the design and form of the ballots, the directions to
5.34 voters, and the details with respect to the method of marking, sorting, invalidating, and

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6.1 retaining of ballots, and the counting of votes. No change may be made inconsistent with
6.2 provisions, purposes, or principles of this section. Election officials must provide voters
6.3 with a ballot that has a special design, format, or layout for offices to which instant runoff
6.4 voting applies, but the parts of ballots for contests that have only one or two candidates for
6.5 the same office may differ from the parts of a ballot to which instant runoff voting applies.

6.6 Sec. 9. Minnesota Statutes 2008, section 204D.10, subdivision 1, is amended to read:

6.7 Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a
6.8 major political party for a partisan office on the state partisan primary ballot who receives
6.9 ~~the highest number~~ a majority of votes or is the last candidate remaining under a system of
6.10 instant runoff voting shall be the nominee of that political party for that office, except as
6.11 otherwise provided in subdivision 2.

6.12 Sec. 10. Minnesota Statutes 2008, section 205A.03, subdivision 1, is amended to read:

6.13 Subdivision 1. **Resolution requiring primary in certain circumstances.** The
6.14 school board of a school district may, by resolution adopted by June 1 of any year, decide
6.15 to choose nominees for school board by a primary as provided in this section. The
6.16 resolution, when adopted, is effective for all ensuing elections of board members in that
6.17 school district until it is revoked. If the board decides to choose nominees by primary
6.18 and if there are more than two candidates for a specified school board position or more
6.19 than twice as many school board candidates as there are at-large school board positions
6.20 available, the school district must either hold a primary or hold the general election using
6.21 instant runoff voting.

6.22 Sec. 11. Minnesota Statutes 2008, section 205A.06, subdivision 1a, is amended to read:

6.23 Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose
6.24 nominees for school board by a primary election, affidavits of candidacy must be filed
6.25 with the school district clerk no earlier than the 70th day and no later than the 56th day
6.26 before the first Tuesday after the second Monday in September in the year when the
6.27 school district general election is held. In all other school districts, affidavits of candidacy
6.28 must be filed no earlier than the 70th day and no later than the 56th day before the school
6.29 district general election. In a school district that uses instant runoff voting, affidavits of
6.30 candidacy must be filed no earlier than the 70th day and no later than the 56th day before
6.31 the school district general election.

7.1 Sec. 12. Minnesota Statutes 2008, section 206.80, is amended to read:

7.2 **206.80 ELECTRONIC VOTING SYSTEMS.**

7.3 (a) An electronic voting system may not be employed unless it:

7.4 (1) permits every voter to vote in secret;

7.5 (2) permits every voter to vote for all candidates and questions for whom or upon
7.6 which the voter is legally entitled to vote;

7.7 (3) supports cumulative voting and rank-order voting;

7.8 (4) provides for write-in voting when authorized;

7.9 ~~(4)~~ (5) automatically rejects, except as provided in section 206.84 with respect to
7.10 write-in votes, all votes for an office or question when the number of votes cast on it
7.11 exceeds the number which the voter is entitled to cast;

7.12 ~~(5)~~ (6) permits a voter at a primary election to select secretly the party for which
7.13 the voter wishes to vote;

7.14 ~~(6)~~ (7) automatically rejects all votes cast in a primary election by a voter when the
7.15 voter votes for candidates of more than one party; and

7.16 ~~(7)~~ (8) provides every voter an opportunity to verify votes recorded on the permanent
7.17 paper ballot, either visually or using assistive voting technology, and to change votes or
7.18 correct any error before the voter's ballot is cast and counted, produces an individual,
7.19 discrete, permanent, paper ballot cast by the voter, and preserves the paper ballot as an
7.20 official record available for use in any recount.

7.21 (b) An electronic voting system purchased on or after June 4, 2005, may not be
7.22 employed unless it:

7.23 (1) accepts and tabulates, in the polling place or at a counting center, a marked
7.24 optical scan ballot; or

7.25 (2) creates a marked optical scan ballot that can be tabulated in the polling place or
7.26 at a counting center by automatic tabulating equipment certified for use in this state.

7.27 Sec. 13. **EFFECTIVE DATE.**

7.28 Subdivision 1. Effective date. This act is effective July 1, 2009, except that section
7.29 4, subdivision 1, and sections 9 to 11 are effective beginning with the first state primary
7.30 and general election following the declaration of readiness under subdivision 2.

7.31 Subd. 2. Declaration of readiness. By January 15 of each even-numbered year, the
7.32 secretary of state shall report to the legislature on the readiness of the state to implement
7.33 instant runoff voting for the offices named in section 4, subdivision 1. Readiness may be
7.34 achieved by using paper ballots or by upgrading electronic voting equipment to have
7.35 the capacity to process a ranked ballot. When the state has achieved full readiness to

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8.1 implement instant runoff voting as described in Minnesota Statutes, sections 204C.331
8.2 to 204C.336, at the following state primary and general election, the secretary of state
8.3 shall declare that fact.