

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

Section 1. **BROOKLYN PARK, CITY OF; MUNICIPAL IMPROVEMENTS.** All actions and proceedings heretofore taken by and on behalf of the city of Brooklyn Park in Hennepin county precedent to and in the initiation and construction of its Improvements Nos. 74-03, 74-04, and ST410, and of all improvements separately initiated and consolidated in each of said improvements, and all actions and proceedings heretofore taken precedent to and in the issuance of bonds and the levy of assessments to finance said improvements, are legalized and validated, notwithstanding any defect, omission, or irregularity (other than constitutional) in any notice of hearing or advertisement for bids or otherwise in connection with any of said improvements; and all obligations heretofore or hereafter issued pursuant to said actions and proceedings are and shall be valid and binding obligations of the city in accordance with their terms.

Sec. 2. This act shall be effective on the day following final enactment.

Approved February 28, 1975.

CHAPTER 5—H.F.No.75

[Coded in Part]

An act relating to elections; recodifying statutes relating to caucuses and conventions; primary elections; candidates; general elections; special elections; preparation of ballots; conduct of elections; providing penalties; amending Minnesota Statutes 1974, Sections 40.05, Subdivision 3; 123.31, Subdivision 2; 206.11; 206.18; 206.185, Subdivision 1; 365.51; 365.52; 375.20; and 382.28; repealing Minnesota Statutes 1974, Chapters 202, 203, and 204; and Sections 210.02; 210.03; 210.07; 210.08; 210.09; 210.10; 210.12; 210.13; 210.15; and 210.16.

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

Section 1. **[202A.01] ELECTION RECODIFICATION; DEFINITIONS.** The words used in this chapter have the meanings prescribed to them in Minnesota Statutes, Chapter 200.

Sec. 2. **[202A.11] PARTY NAME. Subdivision 1. CHANGE.** Any political party as defined in the Minnesota election law may change its name by complying with the following conditions:

The state central committee of the party may call a convention, and shall state in its call that a convention is called for a certain time and place, for the purpose of changing the name of the party to some specific name given in the call. The convention shall be held before the

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termination of the time for filing for nomination for primary elections preceding the state general election, and the change shall be agreed upon by resolution of a majority of the convention. A copy of the resolution determining the change of the name, certified by the chairman and secretary of the convention, shall be filed with the secretary of state within five days after the holding of the convention. Thereafter the political party shall be known by the new name called for by the resolution, and the party under its new name shall have all the rights that it had under its former name.

Subd. 2. RIGHT TO USE. A political party, as defined in the Minnesota election law, which has adopted a party name, is entitled to the exclusive use of the name for the designation of its candidates on all ballots, and no candidate of any other political party is entitled to have printed on a ballot as a party designation any part of that name.

Sec. 3. [202A.12] STATE CONVENTION, AUTHORITY OF. Subdivision 1. TIME OF CONVENTION. The final authority over the affairs of each political party is vested in the party's state convention to be held at least once every general election year at the call of the state central committee.

Subd. 2. STATE CENTRAL COMMITTEE. Subject to the control of the state convention the general management of the affairs of the state party is vested in the party's state central committee.

Subd. 3. STATE EXECUTIVE COMMITTEE. The state executive committee of the party shall have charge of the administration of the party's affairs, subject to the direction and control of the state convention and the state central committee.

Subd. 4. CONSTITUTION, FILING. The chairman of the state central committee of each party shall file with the secretary of state a copy of the party's constitution and all amendments to the constitution as they are enacted.

Sec. 4. [202A.13] COMMITTEES, CONVENTIONS. The rules of each political party shall provide that for each congressional district and each county or legislative district a convention shall be held at least once every general election year. Each political party shall also provide for each congressional district and each county or legislative district an executive committee consisting of a chairman and such other officers as may be necessary. The party rules may provide for only one executive committee and one convention where any county and congressional district have the same territorial limits.

Sec. 5. [202A.14] PRECINCT CAUCUS. Subdivision 1. TIME AND MANNER OF HOLDING. On the fourth Tuesday in February in every general election year there shall be held for every election precinct a party caucus in the manner provided in sections 5 to 9.

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Subd. 2. CAUCUS CALL. The chairman of the county or legislative district executive committee, whichever is provided for by party rules, shall issue the call for the precinct caucus at least 20 days before the time set for holding the caucus, and the call shall contain the following:

- (a) Name of party;
- (b) Precinct number;
- (c) Date caucus is to be held;
- (d) Place caucus is to be held;
- (e) Hours during which caucus shall be held;
- (f) Statutory rules governing the caucus;

(g) A statement of business to be conducted including the election of a chairman and such other officers as may be provided by party rules, and the election of delegates to county or district conventions;

(h) Number of delegates to be elected;

(i) Name of the county or legislative district chairman issuing the call;

(j) Name of the present precinct chairman or other person who will be the convener of the caucus;

(k) A space for entering the names of the officers and delegates elected by the caucus.

Subd. 3. NOTICE. The county or legislative district chairman shall give two weeks' published notice and at least six days' posted notice at the regular polling place of the holding of the precinct caucus, stating the place, date, and time for holding the caucus.

Sec. 6. [202A.15] TIME AND PLACE OF CAUCUS. Subdivision 1. Precinct caucuses within a county shall be held on the day provided by law at a time set by the county auditor at least 45 days before the caucus date, after consultation with the chairmen of each political party's executive committee. The hour for convening all caucuses throughout a county shall be uniform. No caucus shall be convened before 2:00 p.m. nor later than 9:00 p.m., and the caucuses shall remain open for at least one hour.

Subd. 2. The precinct caucuses shall be held at the regular polling places for each precinct or other suitable places designated in the call, and no caucus may be adjourned to any other place or time.

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In the event that there is only one suitable meeting place in the precinct polling place and the political parties cannot agree as to its use, the county auditor shall decide by lot prior to January 15, 1970, the party which is to receive the use of the meeting place in years evenly divisible by four and which party shall receive the use of the meeting place in other years in which a general election is held. The report of such selections by lot in the county shall be filed by the auditor with the county board which shall publish the same as a part of the minutes of the board meeting at which the report is filed.

Sec. 7. [202A.16] CAUCUS, WHO MAY PARTICIPATE AND VOTE. Subdivision 1. Only those persons who are qualified to vote for candidates for federal office in the precinct as defined by the Minnesota election law in Minnesota Statutes, Section 200.02, Subdivision 25, or who will be qualified to so vote at the time of the next general election, may vote or be elected a delegate or officer at the precinct caucus.

Subd. 2. Only those persons who are in agreement with the principles of the party as stated in the party's constitution, and who either voted or affiliated with the party at the last general election or intend to vote or affiliate with the party at the next general election, may vote at the precinct caucus.

Subd. 3. In case the right of a person to participate at the caucus is challenged, the question of his right to participate shall be decided by a vote of the whole caucus. A person so challenged may not vote on the question of his right to participate.

Subd. 4. No person may vote or participate at more than one party's caucuses in any one year.

Sec. 8. [202A.17] CAUCUS, BUSINESS. Each precinct caucus shall elect a chairman and such other officers as may be provided by party rules, and the proper number of delegates to congressional district, county, or legislative district conventions as determined by the party's call. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.

Sec. 9. [202A.18] CAUCUS, PROCEDURE. Subdivision 1. The convener shall be the temporary chairman of the caucus.

Subd. 2. Nominations for the election of officers and delegates shall remain open for at least the first half hour of the caucus.

Subd. 3. All voting shall be by secret ballot.

Subd. 4. Upon completion of the counting of votes the chairman shall announce the names of persons who are elected, and he shall certify the names to the chairman of the county or legislative district executive committee and to the chairman of the state central committee.

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Subd. 5. All questions concerning the manner in which a caucus is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by party rules.

Sec. 10. [202A.19] CAUCUS, SCHOOL SCHEDULE PREEMPTION, EXCUSAL FROM EMPLOYMENT TO ATTEND. Subdivision 1. No school board, county board of commissioners, township board, or city council may conduct a meeting after 7:00 p.m. on the day of a political party precinct caucus.

Subd. 2. Every employee who is entitled to attend a political party precinct caucus is entitled, after giving the employer at least ten days written notice, to absent himself from his work for the purpose of attending the caucus during the time for which the caucus is scheduled without penalty or deduction from his salary or wages on account of his absence other than a deduction in salary for the time he absented himself from his employment.

Subd. 3. No state college may schedule an event which will take place after 7:00 p.m. on the day of a political party precinct caucus unless permission to do so has been received from the state college board. No state community college may schedule an event which will take place after 7:00 p.m. on the day of a political party precinct caucus unless permission to do so has been received from the state community college board.

Subd. 4. No school official may deny the use of a public school building for the holding of a political party precinct caucus if the school office has received a written request for the use of the school building 30 days or more prior to the date of the caucus.

Subd. 5. No public elementary or secondary school may hold a school sponsored event after 7:00 p.m. on the day of a political party precinct caucus.

Sec. 11. [202A.21] PRIMARY ELECTION, DATE. On the first Tuesday after the second Monday in September preceding any general election an election of nominees hereinafter designated as the "primary election" shall be held in each election precinct for the selection of party and other candidates for all elective offices to be filled at the general election except presidential electors.

Sec. 12. [202A.22] AFFIDAVIT OF CANDIDACY. Subdivision 1. FILING, DATE Not more than 70 nor less than 56 days before the primary election any eligible person who desires to have his name placed on the primary ballot as a candidate for any elective office to be filled at the general election, except presidential electors, shall file his affidavit with the secretary of state when to be voted for in more than one county, and with the county auditor when to be voted for in a single county stating the following:

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(a) That he is a qualified voter in the subdivision where he seeks nomination;

(b) The name of his political party if for a partisan office;

(c) The office for which he desires to be a candidate;

(d) That he has not filed as a candidate for any other office at the same primary election;

(e) That he is, or will be on assuming the office, 21 years of age or more, and that he will have been for 30 days previous to the general election a resident in the district from which he seeks election;

(f) If filing to be a United States senator, that on the next January 3 he will be 30 years of age or more and nine years a citizen of the United States;

(g) If filing to be a United States representative, that on the next January 3, or in the case of an election to fill a vacancy within 21 days after the election, he will be 25 years of age or more and seven years a citizen of the United States;

(h) If filing to be governor or lieutenant governor, that on the first Monday of the next January he will be 25 years of age or more and on general election day he will have been a resident of Minnesota for one year;

(i) If filing to be a supreme court justice, a district court judge, a probate judge, county court judge or a municipal judge that he is learned in the law as defined by Minnesota Statutes, Section 488.06 or other law;

(j) If filing to be a senator or representative in the legislature, that on election day he will have resided in the state for not less than one year and in the legislative district from which he seeks election for not less than six months;

(k) If for a partisan office, that he affiliated with his political party at the last general election, and either that he did not vote thereat or voted for a majority of the candidates of the political party at the election, and intends to so vote at the ensuing election.

Subd. 2. UNITED STATES SENATOR, CANDIDATES, DESIGNATION OF TERM. When two persons are to be elected United States senators in congress from this state at the same general election, each person filing for the nomination, as provided in this chapter, in addition to all other matters necessary to be stated in his affidavit, shall designate the term for which he desires to be a candidate by stating the date of the expiration of such term. The designation of terms shall be observed by all the election officials and canvassing boards at both

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the primary and general elections.

Subd. 3. JUDICIAL CANDIDATES, DESIGNATION OF TERM. In addition to the statements required to be set forth in subdivision 1 any person who files as a candidate for the office of associate justice of the supreme court, as a candidate for the office of judge of the district court, or as a candidate for the office of county court judge, shall state in his affidavit of candidacy the office of the particular justice or judge for which he is a candidate. The filing of the affidavit of candidacy and a compliance with all other requirements of this section and section 15, subdivision 1, makes the person a candidate for that nonpartisan office only.

Subd. 4. GOVERNOR AND LIEUTENANT GOVERNOR. A person who desires to have his name placed on the primary ballot as a candidate to be governor or lieutenant governor shall file his affidavit jointly with the affidavit of another person who desires to have his name placed on the primary ballot as a candidate for the other office.

Subd. 5. JUDICIAL OFFICE. Each justice of the supreme court and each district or county court judge is deemed to hold a separate nonpartisan office.

Sec. 13. [202A.23] CANDIDATES, ELIGIBILITY. Subdivision 1. CANDIDATES OF PARTY. No person may be named on any ballot as the candidate of more than one political party, or any political party other than that whose certificate of his nomination was first properly filed.

Subd. 2. CANDIDATES INELIGIBLE. A person who has been a candidate for an office at the primary election in any year is not eligible for nomination for the same office in that year by nominating petition under the provisions of section 17 or 18, except as provided in subdivision 3 of section 23.

Sec. 14. [202A.24] WOMAN CANDIDATE, NAMES USED. Any married woman including a widow who files as a candidate for a public office under the laws of this state may use the prefix "Mrs." and the full name of her husband or, in the case of a widow who has not remarried, her deceased husband, or the initials of her husband or, in the case of a widow who has not remarried, her deceased husband's given name, in stating her own name on her affidavit of candidacy; and the proper state, county, or municipal official in the preparation of the official ballot, shall use the name as written on the affidavit of candidacy, in designating the candidate on the ballot.

Sec 15. [202A.25] CANDIDATES, FILING FEES. Subdivision 1. AMOUNT. Each candidate at the time of filing his affidavit shall pay to the secretary of state or the county auditor a filing fee as follows:

(a) If for the office of governor, lieutenant-governor, secretary of

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state, state auditor, state treasurer, attorney general, commissioner of the public service commission, judge of the supreme court, representative in congress, judge of the district court, or judge of the municipal court of Hennepin county, the sum of \$100;

(b) If for the office of senator in congress, the sum of \$150;

(c) If for the office of senator or representative in the legislature, the sum of \$20;

(d) If for a county office, the sum of \$20;

(e) If no compensation is provided by law for the office or if the office is that of presidential elector, no filing fee is required.

Subd. 2. FILING FEES, DISPOSITION. The secretary of state and county auditor, respectively, shall number each affidavit and petition in numerical order as received. The auditor shall immediately pay to the county treasurer all fees received by him from candidates. The secretary of state shall immediately pay to the state treasurer all fees received by him from candidates.

Sec. 16. [202A.26] CANDIDATES, WITHDRAWAL. Subdivision 1. AFFIDAVIT OF WITHDRAWAL. No candidate may withdraw his name from the primary ballot unless he files an affidavit with the secretary of state or with the county auditor, as the case may be, within six days after the last day for filing for the office, requesting the officer to withdraw affiant's name from the ballot.

Subd. 2. FILING OR WITHDRAWAL, TIME LIMIT. No affidavit of filing by any candidate, or affidavit of withdrawal by any candidate, may be accepted by the secretary of state or county auditor later than 5:00 o'clock P.M. of the last day for filing or withdrawal as provided in this chapter.

Subd. 3. FILING FEES, NOT RETURNED. If an affidavit of candidacy has been filed and a filing fee has been paid, no filing officer may refund the filing fee.

Sec. 17. [202A.27] NONPARTISAN OFFICE, VACANCY. No persons may be nominated by nominating petition pursuant to section 18 for any office now or hereafter designated as nonpartisan except in the case of a vacancy.

Sec. 18. [202A.28] NOMINATING PETITIONS; NUMBER OF SIGNERS. A petition for nomination of a candidate may be signed by electors resident within the district or political division from which the candidate is presented, as follows:

(a) If for a state office on a state ticket, equal to one percent of the total number of persons voting in the state at the last preceding

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general election, or 2,000, whichever is the lesser;

(b) If for a congressional or judicial district office, by five percent of the total number of persons voting in the district at the last preceding general election, or 1,000, whichever is the lesser;

(c) If for a county or legislative office, by ten percent of the total number of persons voting in the county, ward, or other election district at the last preceding general election, or 500, whichever is the lesser.

(d) If for a municipal office in a city of the first class, by two percent of the total number of persons voting in the municipality, ward, or other election district at the last preceding municipal general election, or 500, whichever is greater.

Sec. 19. **[202A.29] NOMINATING PETITION.** Subdivision 1. FORM. The nominating petition may consist of one or more writings and shall contain the name of the person nominated, the office for which he is nominated, the party or political principle he represents, expressed in not more than three words, and his place of residence, with street and number thereof, if any. It shall include or be supplemented by an affidavit of the person nominated conforming to the requirements of section 12. In case of presidential electors, the names of the candidates for president and vice-president shall be added to the party or political designation. Only one petition shall be required for the nomination of each group of presidential electors which shall be the number to which the state is entitled.

Subd. 2. SIGNER'S ADDRESS, OATH. After the signature of each signer there shall be written his post office address. Following the facts required to be stated in each petition signed by the voter shall be an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed the same of my own free will." No signature shall require notarization or certification before any officer, but each signer in so signing shall be guilty of perjury for making a false oath therein.

Sec. 20. **[202A.30] TIME OF SIGNING.** Nominating petitions for partisan offices may be signed and filed during the period allowed by law for the filing of affidavits of candidacy by candidates at the state primary election, and no nominating petition may be signed or filed thereafter except in the case of a vacancy in a nomination. With respect to candidates for presidential electors, nominating petitions may be filed up to and including primary election day.

Sec. 21. **[202A.31] NOMINATING PETITION, MORE THAN ONE CANDIDATE.** Subdivision 1. NUMBER OF CANDIDATES. All nominating petitions containing the names of more than one candidate are void except those jointly nominating persons to be governor and

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lieutenant governor.

Subd. 2. SIGNERS, MORE THAN ONE NOMINEE. No person may join as a petitioner in nominating more than one candidate for the same office unless more than one person is to be elected thereto. If more than one person is to be elected to the office, the petitioner, if eligible, may petition for as many candidates therefor as there are persons to be chosen.

Sec. 22. [202A.32] NOMINATING PETITIONS, FILED WITH SECRETARY OF STATE, TIME. Subdivision 1. FILING, ACKNOWLEDGMENT OF FILING, FEE. Nominating petitions for names to be placed on the state white ballot shall be filed with the secretary of state when to be voted for in more than one county, and with the county auditor when to be voted for in a single county. The secretary of state or the county auditor shall give or send to the person filing a nominating petition an acknowledgment thereof on the same day it is received, and he shall file and preserve the nominating petitions, subject to public inspection. No filing of any nominating petition is effective unless at the time thereof the prescribed fee is paid or tendered.

Subd. 2. FILING, CANARY BALLOT, DISTRICTS ENCOMPASSING MORE THAN ONE COUNTY. In the case of names to be placed upon the state white ballot or the county and district canary ballot, whenever the nomination of a candidate to be voted for in any district larger than a single county is made by nominating petition, the petition shall be filed with the secretary of state, who shall certify the nomination to the auditor of each county within the district, and such certification shall be authority for the auditor to place the name upon the state white ballot or the county and district canary ballots.

Subd. 3. TIME. Except with respect to the nomination of candidates for presidential electors, no nomination for any office may be made either by nominating petition or otherwise later than the last day for filing affidavits of candidacy at the state primary election, except nominations to fill a vacancy in a nomination previously made. Candidates for presidential electors may be nominated on or before primary election day.

Sec. 23. [202A.41] PRIMARY ELECTION RESULTS. Subdivision 1. CANDIDATES, NONPARTISAN OFFICES, WHO NOMINATED. The candidates on nonpartisan ballots receiving the highest and the next highest votes shall be the nominees for the office for which they are candidates. When more than one person is to be elected for the same nonpartisan office, the candidates, to a number equal to twice the number of persons to be elected, who receive the highest number of votes, shall be the nominees for that office.

Subd. 2. CANDIDATES, PARTISAN OFFICES, WHO NOMINATED. The candidate for any political party office receiving the highest vote at the primary election shall be the nominee of that political

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party for the office except as provided in subdivision 3.

Subd. 3. PARTY PRIMARY, TEN PERCENT REQUIREMENT. If at the primary election any person seeking a party's nomination for an office receives a number of votes equal to ten percent of the average votes cast at the last general election for state officers of that political party within the district for which the office is voted, then all candidates of that political party who receive the highest vote for an office are the nominees of that political party. If none of the candidates of a political party receive the required ten percent, then no candidates are nominated, and all the candidates of that political party may be nominated, by nominating petitions as provided in sections 17 to 21. The term "state officers," as used in this section for the purpose of computing the average vote to determine the ten percent as provided in this section, means the governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general.

Subd. 4. GENERAL ELECTION, NOMINEES. The persons certified by canvassing boards to be nominated shall constitute the nominees of the several political parties or the nonpartisan nominees, as the case may be, to be voted for at the next ensuing general election, and their names shall be printed upon the official ballots prepared for the ensuing election.

Sec. 24. [202A.42] PRIMARY ELECTION CONTEST. Any candidate at a primary election who desires to contest the nomination of another candidate for the same office shall proceed in the manner prescribed for general election contests, and the proceedings shall be conducted in the manner prescribed for general election contests, so far as practicable.

Sec. 25. [202A.51] GENERAL ELECTION, WHEN HELD. An election which shall be known and designated as the "general election" shall be held in the several election precincts of the state on the first Tuesday after the first Monday in November in each even-numbered year.

Sec. 26. [202A.52] OFFICERS CHOSEN. All elective, state and county officers, judges of the supreme and district courts, members of the legislature, and senators and representatives in congress shall be elected at the general election next before the respective terms thereof shall expire, and at the general election held in the year preceding the expiration of a term of a president of the United States presidential electors shall also be chosen.

Sec. 27. [202A.53] VACANCY IN NOMINATION. Subdivision 1. DEATH OR WITHDRAWAL. A vacancy in a nomination exists when, after the primary election, any candidate who was nominated to a nonpartisan or partisan office dies, withdraws, or for any other reason ceases to be the nominated candidate for that office, or when, on the last day of filing or after the closing of filing for a nonpartisan office

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for which one or two candidates filed, any such candidate dies or withdraws. When a vacancy in a nomination occurs a nomination to fill the vacancy may be made in the manner provided in subdivisions 2, 3, and 4.

Subd. 2. PARTISAN OFFICE. If a vacancy in a nomination for a partisan office occurs after the primary election, it may be filled at any time before the general election by filing with the proper officer a nomination certificate executed by the chairman and secretary of the proper committee of the political party whose voters made the original nomination, under the direction of the committee; and the chairman and secretary when so filing the certificate shall attach thereto an affidavit to the effect that the candidate has been duly selected by said committee and that the persons signing said certificate and making the affidavit as such are the duly authorized chairman and secretary of said committee.

Subd. 3. NEXT HIGHEST CANDIDATE. If there is no proper committee to fill the vacancy as provided in subdivision 2, or if a vacancy occurs in a nonpartisan office, then the person receiving the next highest number of votes for the office at the primary election shall be the candidate for the office.

Subd. 4. NOMINATING PETITIONS. If there is no proper committee to fill the vacancy as provided in subdivision 2, or if there is no person who may be nominated under subdivision 3 and a vacancy exists by reason of this fact, the vacancy may be filled by the proper officer placing upon the ballot the name or names of candidates as are nominated by nominating petition in the manner provided in sections 17 to 21. Every voter is eligible to sign a petition choosing a nominee to fill the vacancy.

Sec. 28. [202A.54] CANDIDATES, WITHDRAWAL. A candidate may withdraw any time after the primary election, but not during the 35 days preceding the general election, by filing an affidavit of withdrawal with the proper filing officer.

Sec. 29. [202A.61] VACANCY, CONGRESS, LEGISLATURE, SPECIAL ELECTION. Every vacancy in the office of representative in congress or member of the state legislature shall be filled for the unexpired term by election upon the writ of the governor as provided by sections 29 to 40. If there will not be any session of the congress or the legislature before the expiration of the term in which the vacancy exists, it shall not be necessary to fill the office.

Sec. 30. [202A.62] VACANCIES IN CERTAIN CASES. Subdivision 1. VACANCY FILLED AT GENERAL ELECTION. When a vacancy occurs more than 150 days before the next general election, and if there will not be any session of the congress or the legislature before the time fixed by law for the final canvass of the general election returns, the governor shall issue his writ directing that the vacancy be

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filled at the general election and that nominations therefor be made as provided in subdivision 1 of section 31.

Subd. 2. VACANCY FILLED AT SPECIAL ELECTION. If the congress or the legislature will be in session so that a person elected as provided by this section could take office and exercise the functions thereof immediately after his election, the governor shall issue and file his writ within five days after the vacancy occurs, calling the special election for the earliest possible time thereafter which will permit the giving of notice of the special election and the primary therefor as provided in subdivision 3 of section 31, and in any event not more than 28 days after the issuance of the writ.

Subd. 3. VACANCY FILLED AT SPECIAL OR OTHER ELECTION. In all cases other than those provided in subdivisions 1 and 2 and notwithstanding subdivision 2, if any vacancy in the legislature occurs after the last day of the session in odd-numbered years but more than 33 days prior to the date set for convening the legislature in the next even-numbered year, the governor shall issue his writ, seasonably calling the special election for such time that the person elected may take office at the opening of the next session of the congress or of the legislature, or at the reconvening of a session of the congress or of the legislature, so that candidates for the special election may be nominated as provided in section 31.

Subd. 4. VACANCIES FILLED AT SPECIAL OR OTHER ELECTIONS, MANNER. Two or more vacancies may be filled at the same election and candidates therefor may be nominated at the same primary. Any special election or special primary held pursuant to sections 29 to 39 may be held on the same day as any other election or primary, using the same polling places and election officials. Separate ballots and ballot boxes shall be used, except where voting machines are used, in which case, it shall be treated as a separate election.

Subd. 5. Notwithstanding subdivisions 1, 2, 3 and 4, if a vacancy is the result of a successful election contest, the governor shall issue his writ calling a special election 22 days after the first day of the legislative session unless the house in which the contest may be tried has passed a resolution which states that it will review the court's determination of the contest or which states that it will not review the court's determination of the contest in which case the governor shall issue his writ calling a special election within five days of the passage of such resolution.

Sec. 31. [202A.63] CANDIDATES TO FILL VACANCIES. Subdivision 1. NOMINATIONS AT REGULAR PRIMARY ELECTION. Candidates for nomination to fill a vacancy shall be nominated at the regular primary election when the vacancy is to be filled at the next general election as provided in subdivision 1 of section 30.

Subd. 2. NOMINATION AT SPECIAL PRIMARY ON DAY OF

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REGULAR PRIMARY. Candidates for nomination to fill a vacancy shall be nominated at a separate special primary election on the day of the regular primary election when the vacancy is to be filled at a special election to be held more than 14 days after the regular primary election.

Subd. 3. NOMINATION AT SPECIAL PRIMARY ON OTHER DAY. In all cases other than those provided in subdivisions 1 and 2 a special primary for the nomination of candidates shall be held on a date specified in the governor's writ not later than the fourteenth day before the election at which the vacancy is to be filled.

Sec. 32. [202A.64] NOMINATIONS; VACANCY. Subdivision 1. NONPARTISAN OFFICE. In the case of nonpartisan offices, the two candidates receiving the highest number of votes at the primary election for each office to be filled shall be nominated.

Subd. 2. PARTISAN OFFICES. In the case of partisan offices, one candidate for each office to be filled may be nominated at the primary for each political party, and the candidate of each political party receiving the highest number of votes at the primary shall be nominated without any reference to the number of votes cast by that party at the last general election.

Subd. 3. NO PRIMARY, WHEN. If not more than twice the number of persons to be elected to a nonpartisan office file for the nomination thereof, or if in the case of a partisan office only one person from each party files as a candidate for the nomination of his party, then the persons who have filed therefor shall be nominated, and no primary may be held to make the nominations.

Sec. 33. [202A.65] NOMINATIONS BY PETITION. Subdivision 1. CONDITIONS AND MANNER. Candidates also may be nominated by petition under the conditions and in the manner provided by law relating to nominating petitions so far as applicable.

Subd. 2. NOMINATING PETITIONS, TIME FOR FILING. When the vacancy is to be filled at the general election and, (a) candidates for nomination to fill the vacancy are to be nominated at the regular primary election, or, (b) candidates for nomination to fill the vacancy are to be nominated at a special primary held at least seven days before the expiration of the time prescribed for filing petitions for candidates for like offices at the general elections, the nominating petitions shall be filed within the time prescribed for filing petitions for candidates for like offices at the general election.

Subd. 3. NOMINATING PETITIONS, TIME FOR FILING. In all cases other than those provided in subdivision 2, nominating petitions shall be filed not later than the seventh day preceding the election at which the vacancy is to be filled.

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Sec. 34. [202A.66] WRIT OF ELECTION. Subdivision 1. FILING, TRANSMITTAL. Every writ issued by the governor under sections 29 to 39 shall be filed immediately with the secretary of state, who shall transmit immediately a certified copy thereof by registered mail to the auditor of each county in which candidates for the vacancy are to be voted upon.

Subd. 2. WRIT, POSTING. At least five days before the expiration of the time for filing affidavits of candidates specified in the writ, the auditor of each county concerned shall post a copy of the writ at his office.

Subd. 3. NOTICE OF ELECTION, POSTING. The auditor also shall direct posted notice of the primary and of the election to be given in the manner provided in section 65, subdivision 1 at least seven days before the primary and at least 14 days before the election; but in any case where the primary is to be held on the fourteenth day before the election both may be included in the same notice to be posted seven days before the primary.

Subd. 4. NOTICE OF ELECTION, INCLUDED IN OTHER NOTICE. When either the primary or the election is to be held on the same day as any other election, notice of the primary or election to be held to fill a vacancy may be included in the notice of other election, if practicable.

Subd. 5. FAILURE OF NOTICE. No omission of or defect in any notice required to be given by this section shall invalidate any primary or election held to fill a vacancy.

Sec. 35. [202A.67] AFFIDAVITS OF CANDIDACY. Subdivision 1. FILING. Candidates at the primary for nomination to fill a vacancy shall file their affidavits within the time prescribed in this section with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at the regular primary election.

Subd. 2. AFFIDAVITS, FILED AT REGULAR TIME. When the nominations are to be made on the regular primary election day, the writ shall be issued and shall state that the affidavits may be filed within the time prescribed by law for the regular primary election, and all the affidavits shall be so filed.

Subd. 3. AFFIDAVITS, FILED AT OTHER TIMES. In all cases other than those provided in subdivision 2 the writ shall state that the affidavits may be filed not later than the seventh day before the primary, and all the affidavits shall be so filed.

Subd. 4. AFFIDAVITS FILED WITH THE SECRETARY, DISPOSITION, FEES. If the affidavits are filed with the secretary of state, he shall certify the names of the candidates to the auditors of all counties

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in which they are to be voted upon within 24 hours after the close of the time for filing, and all filing fees received by the secretary of state shall be paid to the state treasurer.

Sec. 36. [202A.68] SPECIAL ELECTION, PRECINCTS, JUDGES, VOTERS. The election precincts and officials for any special election or primary held under sections 29 to 39 shall be the same as the last preceding general election unless changed according to law. In any municipality having a permanent registration system under the Minnesota election law no person may vote at any special election or special primary unless he is registered under the system.

Sec. 37. [202A.69] SPECIAL ELECTION RETURNS. **Subdivision 1. CANVASS.** The returns of any special election or primary held under sections 29 to 39 shall be transmitted forthwith, when completed, to the auditor of the county wherein the special election or primary is held, and the returns shall be canvassed and certified to the secretary of state on the next day other than a Sunday or a legal holiday following the special election or primary by the county canvassing board, except as provided in subdivisions 2, 3, and 4.

Subd. 2. CANVASS, SPECIAL ELECTION, HELD ON REGULAR DAYS. When the special primary is held on the regular primary election day and the special election is to be held on the next general election day, the returns of the special primary shall be canvassed by the county canvassing board at their regular meeting.

Subd. 3. CANVASS, SPECIAL PRIMARY ON REGULAR DAY, SPECIAL ELECTION ON OTHER DAY. When the special primary is held on the regular primary election day and the special election will be more than 13 days after the regular primary, the returns of the special primary shall be canvassed by the county canvassing board at their regular meeting.

Subd. 4. CANVASS, VACANCY FILLED AT GENERAL ELECTION. When the special election is held on the general election day and the governor's writ has not required that the special election be held as a separate election on that day, the returns of the special election shall be canvassed and the results thereof declared and certified by the county and state canvassing boards together with, and in the same manner as, the returns of the general election for officers of the same kind as those to be filled at the special election.

Subd. 5. CANVASS, SPECIAL PRIMARY, STATE CANVASSING BOARD. The state canvassing board shall complete its canvass of the special primary, and not later than four days after the returns of the county canvassing boards are certified to the secretary of state he shall certify to the county auditors the name of the nominated persons and notify each nominee.

Subd. 6. CANVASS, SPECIAL CONGRESSIONAL ELECTION,

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STATE CANVASSING BOARD. Except as provided in subdivision 4 the state canvassing board shall complete its canvass of a special congressional election and declare the results within seven days after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 7. SPECIAL CONGRESSIONAL ELECTION CONTEST, CONDUCT. In case of a contest of a congressional election held under sections 29 to 39 the notice of contest shall be filed within five days after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 8. CERTIFICATE OF CONGRESSIONAL ELECTION. No certificate of election in a congressional election held under sections 29 to 39 may be issued by the auditor of any county or by the secretary of state to any person declared elected by the canvassing board of the county or by the state canvassing board until seven days after the canvassing board has canvassed the returns and declared the results of the election. In case of a contest the certificate may not be issued until the district court has determined the contest.

Subd. 9. CANVASS, SPECIAL LEGISLATIVE ELECTION, STATE CANVASSING BOARD. Except as provided in subdivision 4 the state canvassing board shall complete its canvass of a special legislative election and declare the results within two days, excluding Sundays and legal holidays, after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 10. SPECIAL LEGISLATIVE ELECTION CONTEST, CONDUCT. In case of a contest of a legislative election held under sections 29 to 39, the notice of contest shall be filed within two days, excluding Sundays and legal holidays, after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 11. CERTIFICATE OF LEGISLATIVE ELECTION. A certificate of election in a legislative election held under sections 29 to 39 shall be issued by the auditor of a county or by the secretary of state to the person declared elected by the canvassing board of the county or by the state canvassing board two days, excluding Sundays and legal holidays, after the county canvassing boards have canvassed the returns.

In case of a contest the certificate shall not be issued until the district court has determined the contest.

Sec. 38. [202A.70] CONGRESSIONAL OR LEGISLATIVE DISTRICT, CHANGE IN BOUNDARIES. No change in the boundaries of any congressional or legislative district is effective as to any election to fill a vacancy in the representation therefrom when the term of the office which has become vacant commenced before the change was

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made.

Sec. 39. [202A.71] **GENERAL ELECTION LAWS, APPLICATIONS.** Except as provided in sections 29 to 39 all of the provisions of the Minnesota election law are applicable to election held to fill vacancies, so far as practicable.

Sec. 40. [202A.72] **UNITED STATES SENATOR, VACANCY.** Upon failure to choose a senator in congress or upon a vacancy in the office the vacancy shall be filled for the unexpired term at the following biennial state election, provided said vacancy occurs not less than 60 days prior to the date of the primaries for nominating candidates to be voted for at such election, otherwise at the biennial state election next following. Pending such election the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy; provided, that there may not be an election to fill the unexpired term at any biennial election occurring in a year immediately preceding the expiration of such term and in that event the person appointed by the governor to fill the vacancy shall serve until the expiration of such term.

Sec. 41. [203A.01] **DEFINITION.** The words in this chapter have the meanings prescribed to them in Minnesota Statutes, Chapter 200.

Sec. 42. [203A.11] **BALLOTS. Subdivision 1. PREPARATION.** Except where voting machines are used and except as otherwise provided by law, all ballots for every election held in this state shall be prepared in the manner provided in this chapter.

Subd. 2. NUMBER. At least 100 ballots of each kind to be voted at the ensuing election shall be provided by the clerk for each precinct for every 85 votes cast and counted therein at the last election for the same offices or on similar questions.

Sec. 43. [203A.12] **BALLOTS, FORM. Subdivision 1. TYPE.** All ballots shall be printed with black ink on paper of sufficient thickness to prevent the printing thereon from being discernible from the back. All ballots of the same color shall be substantially uniform as to style of printing, size, thickness, and shade of color, and whenever the same kind of ballots are printed on paper of the same general tint, but varying in shade, those used in any one precinct shall be of the same shade. All ballots shall be printed in type of such form, width, weight, and size as to be easily legible, with suitable lines for divisions between candidates, offices, instructions, and other matter proper to be printed on ballots. The same type shall be used for the names of all candidates on the same ballot, and the name of each candidate shall be printed in capital letters. The name of a candidate may not appear on a ballot in any way which gives that candidate an advantage over his opponent except as otherwise provided by law. The officer in charge of preparing the ballots shall do so in such a manner as to enable the voter to

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understand which questions are to be voted upon and what and how many candidates are to be voted for in each office, and to designate his choice easily and accurately.

Subd. 2. CANDIDATES AND OFFICES. On all ballots the name of each candidate shall be printed at right angles with the length of the ballot. In the general election, except in the case of presidential electors, each name shall be followed on the same line in upper and lower case letters, by the political party designation of the candidate, or in the case of nonpartisan offices, each name shall be followed by the words, "Nominated without party designation." At the general election, below the name of the last candidate for each office shall be placed as many blank lines as there are offices of that kind to be filled, and on the blank lines the voter may write the names of persons not printed on the ballot for whom he desires to vote, and when no person has filed for an office to be filled, the title of the office shall be printed on the ballot with as many blank lines below the title as there are offices to be filled, on which the voter's choice may be written. On the left side of the ballot and on a line with the names of the candidates and the blank lines, there shall be placed a square, each square to be of the same size, in which the voter may designate his choice by a mark (X). Above the first name on each ballot shall be printed the words, "Put an (X) opposite the name of each candidate you wish to vote for, in the square indicated by the arrow," and on a line with the words and directly above the squares shall be printed a small arrow, or point, pointing downward. Directly underneath the official title of each office shall be printed the words, "Vote for one," or more, according to the number to be elected.

Subd. 3. QUESTION, FORM OF BALLOT. When a proposition or question is to be submitted to a vote, a concise statement of the nature thereof shall be printed on the ballot, and to the left of the statement shall appear the words, "YES" and "NO." To the left of and on the same line with each of the words shall be printed a square so that the voter may indicate by a mark (X) either a negative or affirmative vote. Suitable instructions also shall appear on the ballot directing the voter to put an (X) in the square before the word "YES" if the voter desires to vote for the proposition or question, or to put an (X) before the word "NO" if the voter desires to vote against the proposition or question.

Subd. 4. QUESTIONS, REMINDER ON MECHANICAL VOTING MACHINES. When a proposition or question is to be voted upon, each mechanical voting machine shall have a prominent notice following the last office title, if adequate space is available thereon. If adequate space is not available following the last office title, the officer preparing the ballot shall provide for placement in the next available column. Such notice shall contain one or more arrows pointing toward the question or proposition and shall also contain whichever of the following language is appropriate in type of the same size as the office titles used on the ballot:

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“See constitutional amendment or referendum on row above.” Or “See constitutional amendment or referendum in upper right hand corner.”

Subd. 5. BALLOT, FORM. The official ballot shall contain the names of all candidates for each judicial office, and it shall state the number of candidates for whom an elector may vote. The official ballot shall designate each office as:

“For the office of associate (or chief justice) of the supreme court to which (name of justice)..... was elected for the regular term,” or “to which (name of justice)..... was appointed.”

or in the case of the district court:

“for the office of judge of the district court of (number)..... judicial district to which (name of judge)..... was elected for the regular term,” or “to which (name of judge)..... was appointed,”

or in the case of the county court:

“for the office of judge of the county court of the county or counties of to which (name of judge)..... was elected for the regular term,” or:

“for the office of judge of the county court of the county or counties of to which (name of judge)..... was appointed.”

as the case may be. The ballots for both the primary and general elections shall show the names of the justice or judge whose successor is to be elected at the general election, and in the case of a district court judge, the number of the judicial district, in the spaces provided for that purpose. Where voting machines are used and the statements provided in this section cannot be inserted because of length, the designation shall be:

“Successor to (name)..... elected (or appointed).”

The office of judge of the district court of Hennepin county, Juvenile Court Division, shall also be designated on the ballot in conformity with Minnesota Statutes, Section 260.021.

Subd. 6. INCUMBENT, DESIGNATION. In any case when the chief justice, associate justice, or judge is a candidate to succeed himself, the word, “incumbent” shall be printed after his name where it appears among the names of the candidates for the office.

Sec. 44. [203A.13] BACK OF BALLOT. On the back of all ballots shall be printed the words, “Official Ballot,” the date of the election, a facsimile of the official signature of the officer under whose direction the ballot is printed, and lines for the initials of two judges. The print-

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ing shall be so placed as to be visible when the ballot is properly folded for deposit.

Sec. 45. [203A.14] **NAMES ON BALLOTS, IDENTICAL DESCRIPTIVE WORDS.** When the similarity of surnames of two or more candidates for the same office at an election may cause confusion to voters, the candidates with such names may have added to each of their surnames on the ballot no more than three words to indicate the occupation or office of the candidate, or his residence, or any combination thereof if they can be stated in no more than three words. If the candidate furnishes the identifying words on or before the time limit set by statute for withdrawal of candidacies, to the filing officer, the officer shall have the identifying words printed on the ballot immediately after the candidate's name; otherwise the words may not be printed on the ballot.

Sec. 46. [203A.15] **SUBSTITUTE BALLOTS.** If the ballots are not delivered, or are stolen or destroyed and sufficient regular ballots cannot be seasonably had, the county auditor or other proper official shall cause other ballots to be immediately prepared as nearly in the form prescribed as practicable, with the word, "Substitute" printed in brackets immediately over the word "Official Ballot," as endorsed on regular ballots, and, when practicable, with the facsimile signature of the officer preparing the same, accompanied by his affidavit that the same have been so prepared and furnished by him, and that the original ballots have not been received, or have been destroyed or stolen, as the case may be. The judges shall cause the substituted ballots to be used at the election.

Sec. 47. [203A.16] **UNITED STATES SENATOR, CANDIDATES, DESIGNATION OF TERM.** When two persons are to be elected United States Senator in Congress from this state at the same general election, designation of the expiration date for each term shall be printed opposite the name of the candidate on the primary ballot and opposite the name of the successful candidates upon the general election ballot.

Sec. 48. [203A.17] **BALLOTS, RECORDS, DISPOSITION.** The auditor of any county and the clerk of any municipality may destroy all ballots, voters' certificates, and election returns, except the abstract of the canvassing board, at any time after one year from the date of the election wherein the ballots and election returns were used, except that all election returns involved in a contested election may not be destroyed until the contest has been finally determined.

Sec. 49. [203A.18] **ERRORS AND OMISSIONS, REMEDY.** Subdivision 1. When it shall appear by affidavit to any judge of the supreme court in the case of a state election, or of the district court of the proper county in the case of a county election:

(a) That an error or omission in the placing or printing of the name or description of any candidate on official primary or general

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election ballots has occurred or is about to occur; or

(b) That any other error in preparing or printing the ballots has occurred or is about to occur; or

(c) That any officer of a political party or political party committee has failed to properly make or file a certificate of nomination; or

(d) That any wrongful act, neglect, or error by any election judge, county auditor, canvassing board or member thereof, secretary of state, or other person charged with any duty concerning an election, has been or is about to be done, then the judge immediately shall order the officer, person, or board charged with the error, wrong, neglect, or failure to correct the same or perform the duty forthwith or show why he should not do so. Failure to obey the order is contempt of court.

Subd. 2. If in conducting the canvass of votes at any election as provided by law the majority of the county canvassing board believes that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precinct, then the county canvassing board shall forthwith notify the candidates for such particular office of their belief. They shall at the same time notify the candidates in writing what is the obvious error they believe has been made. Such candidates may without unreasonable delay apply to the district court of the county within which the precinct is located for an order determining whether or not an obvious error has been made. Such application shall set forth the facts and such evidence may be submitted as the court may direct. If the court finds that an obvious error appears to exist it shall specify the error and direct the board to make an inspection of the ballots and the returns of the precinct for the purpose of correcting the obvious error and to further proceed in accordance with section 113 or as it may otherwise direct.

If any candidate believes that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precinct, then such candidate may without unreasonable delay apply to the district court of the county within which the precinct is located for an order determining whether or not an obvious error has been made. If such application is made by a candidate the procedures otherwise provided for in this subdivision shall be applicable.

Whenever a proceeding is commenced in the district court pursuant to the provisions of this subdivision the county canvassing board and all candidates for the office affected shall be given notice thereof as the court may direct.

Subd. 3. (1) When all the candidates for a particular office concur in writing that an obvious error in the counting or recording of the vote for such office has been made by the judges in any precinct then the county canvassing board shall correct the obvious error as con-

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curred in by the candidates.

(2) When all of the candidates for a particular office concur in writing that an obvious error in the counting and recording of the vote for such office has been made by the county canvassing board they shall jointly notify the county auditor thereof who shall reconvene the county canvassing board. The county canvassing board shall forthwith correct such obvious error as concurred in by the candidates and file an amended report in connection therewith with the county auditor. The county auditor shall forthwith certify the amended result to the secretary of state. When an obvious error is corrected in conformity with this paragraph the county canvassing board and the county auditor shall also perform such other duties in connection therewith in order to conform with the requirements of section 112.

(3) When all of the candidates for a particular office concur in writing that an obvious error in the counting and recording of the vote for such office has been made by the state canvassing board, they shall jointly notify the secretary of state, and if a certificate of election has not been issued, he shall reconvene the state canvassing board. The state canvassing board shall forthwith correct such obvious error as concurred in by the candidates and file an amended statement and certification in connection therewith. When an obvious error is corrected in conformity with this paragraph the state canvassing board and the secretary of state shall also perform such other duties in connection therewith to conform with the requirements of section 111.

Sec. 50. [203A.21] NONPARTISAN NOMINATION. Subdivision 1. OFFICES, BALLOT. The chief justice and the associate justices of the supreme court, judges of the district, probate and county courts, and all elective county officers shall be nominated upon separate nonpartisan ballots, as hereinafter provided. The ballot shall be designated "ballot of candidates to be nominated without party designation."

Subd. 2. NONPARTISAN PRIMARY BALLOT. No party or other designation, except as stated in subdivision 1, shall be placed on the ballot, nor shall any candidate filing for nomination on said ballot be permitted or required to state his party affiliation on his filing affidavit. All provisions of law relating to the nomination of party candidates as to the form of ballot, including rotation of names, the endorsement thereon, voting, marking ballots, counting, returning and canvassing results, shall apply to nomination of these officers. Each voter is entitled to vote a nonpartisan primary ballot without reference to his party affiliation.

Subd. 3. CANDIDATES TO BE NOMINATED, NUMBER. When only two persons file for the nomination for any nonpartisan office, or when not more than twice the number of persons to be elected to a nonpartisan office file for the nomination thereof, their names may not be placed upon the nonpartisan primary ballot, but these persons shall be considered and shall be the nominees for the office, and their names

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shall be placed upon the general election ballot as the nonpartisan nominees.

Subd. 4. NOMINATING PETITIONS. Nothing herein shall prevent the nomination of candidates by groups, individuals, or so-called political parties that cannot be recognized as such, by nominating petitions to the number hereafter specified. The names of candidates nominated by nominating petitions for offices herein designated as nonpartisan shall have no party or other designation on the petition or on the election ballot.

Sec. 51. [203A.22] BALLOTS. Subdivision 1. PARTISAN AND NONPARTISAN CANDIDATES. All voting at the primary election shall be by ballot. There shall be one ballot for all partisan candidates, grouped by parties, and a separate ballot for all candidates to be nominated without party designation.

Subd. 2. PLACING OF NAME ON BALLOT. Except as provided in section 50, subdivision 3, upon proper filing of affidavit and payment of filing fee, the county auditor shall place the name of the candidate upon the primary election ballot in the ticket of the political party designated or on the nonpartisan ballot as the case may be.

Subd. 3. PARTISAN PRIMARY BALLOT, ONE CANDIDATE. If only one person files as a candidate for any one office in any one political party the auditor shall place the name of the candidate upon the primary election ballot in the ticket of the political party designated.

Subd. 4. SECRETARY OF STATE, CANDIDATES NAMES CERTIFIED BY. At least 32 days before a primary election, the secretary of state shall certify to the auditors of the several counties the names of all nominees to be voted for within such counties whose certificates have been properly filed with him, and direct the auditors to place upon the primary election ballots of their respective counties the names so certified.

Sec. 52. [203A.23] PRIMARY BALLOTS, PREPARATION. Subdivision 1. FORM. Except as provided in this section, the primary election ballots shall be printed in the same general manner as is provided for the general election ballots, so far as practicable. The auditor of each county shall have printed a sufficient number of separate primary election ballots, varied as may be necessary for the several precincts and wards. The consolidated primary election ballot shall be on white paper, the nonpartisan primary ballot shall be on canary paper, and any municipal primary ballot shall be on light green paper.

Subd. 2. PARTISAN AND NONPARTISAN, SAMPLE. At least two weeks before the primary election each auditor shall group all the nonpartisan candidates and the candidates of each political party by themselves and prepare for public inspection a sample party ballot and a separate nonpartisan ballot. On the sample ballots only, the names of

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the candidates shall be arranged alphabetically according to the sur-name. Only one sample party ballot and one sample nonpartisan ballot shall be printed for any county, and the names of all candidates to be voted upon in the county shall be placed thereon. Each county auditor shall post the sample ballots in a conspicuous place in his office and give one week's published notice thereof in the official newspaper of his county.

Subd. 3. NONPARTISAN OFFICES, NO CONTEST. All nonpartisan offices for which no candidate is to be voted at the primary election shall be omitted from the ballot.

Subd. 4. WRITE-INS. No blank spaces may be provided for writing in the names of candidates on primary election ballots whether or not any candidate has filed for the office.

Subd. 5. ROTATION OF NAMES. On the primary election ballots for partisan and nonpartisan offices the name of each candidate for office shall be rotated with the names of the other candidates for the same office so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in the group of candidates for that office.

Subd. 6. ROTATION, PRINTING. The official charged with the preparation and distribution of the primary election ballots shall prepare instructions to the printer for rotating, laying, and tabbing the ballots, which instructions first shall be approved by the legal advisor of the official before delivery to the printer. Before any printer is awarded any contract for printing ballots, he shall furnish a good and sufficient bond in such sum as the official awarding the contract shall designate which shall not be less than \$1000 nor more than \$5000, conditioned that he will print the ballots in conformity with the law and the instructions to him.

Subd. 7. PRIMARY PARTY BALLOT. The party ballot shall be headed by the words, "Consolidated Primary Election Ballot." Each political party shall have a separate ticket on the consolidated ballot, under which the names of all the candidates of the political party shall be grouped. Each political party ticket shall be headed by the words, "....., Party Ticket," giving the party name. Below the party name shall be printed the words, "You cannot split your ballot. If you vote for candidates of more than one party, your ballot will be rejected." Each party ticket shall be separated by a 12-point solid rule line. On the consolidated ballot the candidates for senator in congress shall be first, candidates for representative in congress shall be second, candidates for senator in the legislature shall be third, and candidates for representative in the legislature shall be fourth. The candidates for state office shall follow the candidates for representative in the legislature.

Subd. 8. PRIMARY PARTY BALLOT, PLACE OF TICKET. The

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party tickets shall be arranged in columns, and each column shall be substantially the same in width, type and appearance. In the first column on the left shall be placed the names of the candidates of the political party which polled the highest average vote at the last general election in the county, and the second column the names of the candidates of the political party which polled the next highest average vote at that election in the county, and so on. For the purpose of this subdivision, the average vote of the party shall be computed by determining the total number of votes counted in the county for all of the party's candidates on the general election ballot, and dividing that sum by the number of the party's candidates appearing on the general election ballot.

Subd. 9. PRIMARY NONPARTISAN BALLOT, FORM. The non-partisan ballot shall be headed, "Primary Election Ballot Candidates to be Nominated Without Party Designation," and otherwise the same as the party ballot.

Sec. 53. [203A.31] WHITE AND PINK BALLOTS. Subdivision 1. STATE WHITE BALLOT. There shall be one ballot upon plain white paper, hereinafter called the "white ballot," upon which shall be printed names of all candidates for offices to be voted for throughout the state, including, but not to be restricted to, candidates for senator and representative in congress and candidates for senator and representative in the legislature. The candidates for senator in congress shall be first on the white ballot, the candidates for representative in congress shall be second, candidates for senator in the legislature shall be third, and candidates for representative in the legislature shall be fourth. The candidates for state offices shall follow the candidates for representative in the legislature. Candidates for governor and lieutenant governor shall appear so that a single vote will apply to both offices.

Subd. 2. STATE PINK BALLOT. There shall be one ballot on pink paper, hereinafter called the "pink ballot," upon which all propositions and questions to be voted upon throughout the state shall be printed so that the voters may indicate by a mark (X) either a negative or affirmative vote. In preparing the pink ballot the secretary of state shall apply an appropriate title to each proposition and question, which title shall be approved by the attorney general, and shall consist of not more than one printed line above the proposition or question to which it refers. At the head of the ballot or in some other prominent place on the ballot there shall be printed conspicuously a notice stating in substance that a voter's failure to vote on a constitutional amendment has the effect of a negative vote. The pink ballots shall be deposited in a separate pink ballot box. They shall be counted, canvassed and returned as in the case of white ballots, and the tally books and return blanks shall provide suitable columns and spaces therefor. The total of the "yes" votes, the total of the "no" votes, and the total number of votes cast shall be reported in the returns.

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Subd. 3. PREPARATION; PINK BALLOT. The pink ballot shall be prepared under the direction of the secretary of state and bound in blocks of 50, and a sufficient number thereof to enable the clerks to comply with the provisions of section 42, subdivision 2 shall be forwarded by him by express to the auditor of each county at least 15 days before the general election, and receipts taken therefor, stating the number and date when received. Four weeks before the general election the secretary of state shall file sample copies of the pink ballots in his office for public inspection, and three weeks before the election the secretary shall mail to the auditor of each county sample copies of the pink ballots.

Subd. 3a. PREPARATION; WHITE BALLOT. The white ballot shall be prepared under the direction of the county auditors, subject to the rules of the secretary of state and a sufficient number thereof shall be forwarded by the auditors to enable the clerks to comply with the provisions of section 42, subdivision 2. The secretary of state shall provide by rule for the preparation and time of delivery of the white ballot and reimbursement of the counties' costs. The state shall reimburse the counties for the cost of the preparation of the white ballot.

Subd. 4. FORM. The white ballot, the special white ballot and the pink ballot shall be headed by the words, "State Ballot." The white ballot and special white ballot shall contain the official title of all offices proper to be placed thereon in such order of precedence as the secretary of state shall direct, in conformity with the laws relating to ballots. Directly underneath the title of the office shall be printed the words, "Vote for One," or more, according to the number to be elected, followed by the names of the candidates for each office.

Sec. 54. [203A.32] COUNTY AND DISTRICT CANARY BALLOT. Subdivision 1. CANARY BALLOT. There shall be one ballot on canary paper, hereinafter called the "canary ballot," upon which shall be printed the names of all candidates for office and all questions and propositions to be submitted that are not required by law to be placed on other ballots, including but not to be restricted to, the candidates for all county elective offices, and the candidates for the district and probate court offices.

Subd. 2. FORM OF CANARY BALLOT. The canary ballot shall be prepared under the direction of the county auditor, and the ballot shall be headed, "County and District Ballot."

Subd. 3. SAMPLE BALLOTS, NOTICE. Two weeks before the general election the auditor shall file a sample of the white ballot and the canary ballot in his office for public inspection, and two weeks before the general election the auditor shall give one week's published notice of the contents of the official state ballot and the county and district ballot.

Sec. 55. [203A.33] BALLOTS, NAMES ON. Subdivision 1. CAN-
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DIDATES. Only the names of duly nominated candidates may be placed upon the ballots, and no ballot shall be furnished to the judge of any precinct which contains the name of a candidate who cannot properly be voted upon therein.

Subd. 2. BALLOTS, CANDIDATES NOMINATED BY PETITION. At the general election, and in the case of partisan offices only, the names of candidates nominated by petition shall follow those of candidates nominated at primaries in the order in which the petitions are filed.

Subd. 3. CANDIDATES NOMINATED AT PRIMARY. Every candidate for public office who has been duly nominated at any primary election or by petition and who has paid the filing fee required by law is entitled to have his name placed on the general election ballot for the general election after the primary, as a nominee, without payment of an additional fee.

Subd. 4. BALLOT, PARTY POSITION. At the general election, and in the case of partisan offices only, the first name printed for each office, or group of names if more than one is to be voted for, for the same office, shall be that of the candidate of the political party which at the last preceding general election polled the largest number of votes, the same to be determined by the average vote cast for that party's candidates for partisan offices except representatives in congress. In like manner the second and succeeding lines shall be filled with the names of the candidates of the other political parties receiving the next highest number of votes respectively. For the purposes of this subdivision, the average vote of the party shall be computed by determining the total number of votes counted in the state for all of the party's candidates on the general election ballot except representatives in congress, and dividing that sum by the number of the party's candidates, except representatives in congress, appearing on the general election ballot.

Sec. 56. [203A.34] CANDIDATES NOMINATED BY PETITION, DESIGNATION. After the name of each candidate nominated by petition shall be placed the words "nominated by petition," and any other designation as may be permitted by law, except that the word "non-partisan" may not be placed after or to designate any candidate not duly nominated at a primary election on the nonpartisan ballot.

Sec. 57. [203A.35] GENERAL ELECTION BALLOT, NONPARTISAN OFFICES, ROTATION OF NAMES. Subdivision 1. At the general election, and in the case of nonpartisan offices only, the names of all candidates for the same office shall be rotated on the ballots in the manner provided for primary election ballots by subdivision 5 of section 52, and all the provisions of subdivisions 5 and 6 of section 52 are applicable to general election ballots, so far as practicable.

Subd. 2. In both the general election and the primary election,

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there may not be any rotation of offices on the ballots.

Sec. 58. [203A.36] **VACANCY IN NOMINATION, CHANGING BALLOTS.** If the ballots have been printed, the officer whose duty it is to have the ballots prepared and printed shall cause to be printed and distributed to the judges to whom the ballots will be distributed a sufficient number of separate paper ballots on which shall be printed the title of the office in which the vacancy in a nomination has occurred and the names of all the candidates for that office. The separate paper ballot shall be designated as, "OFFICIAL SPECIAL BALLOT," and otherwise it shall conform to the provisions governing the printing of ballots, so far as practicable. The office and candidates for the office appearing on the previously printed regular ballots shall be blotted out or stricken by the judges, and the separate paper ballot shall be given to each voter at the time he is given the previously printed regular ballot or is admitted to the voting machine. Nominating petitions to fill a vacancy shall be filed with the proper officer within one week after the day the vacancy in a nomination occurred, except that no nominating petition may be filed during the three calendar days preceding an election, and the ballots may not be changed as provided in this section during the three calendar days preceding an election. Absentee ballots that have been mailed prior to the vacancy shall be counted in the same manner as if the vacancy had not occurred, and the separate ballots provided for in this section may not be mailed to absent voters to whom ballots already have been mailed prior to the vacancy.

Sec. 59. [203A.41] **BALLOTS, NAMES ON. Subdivision 1. NAMES.** Only the names of candidates who have duly filed shall be placed upon the ballots for any primary held under sections 29 to 39, and only names of candidates who have been duly nominated shall be placed upon the ballots for any final election held under sections 29 to 39. Blank spaces for writing in names shall be provided upon the final election ballots as upon general election ballots, but not upon the primary ballots.

Subd. 2. SPECIAL ELECTION BALLOTS, FORM. Except as provided in subdivision 3 the auditor of each county concerned shall prepare special ballots for every election and primary held under sections 29 to 39. The ballots shall be headed, "Special Election Ballot" or, "Special Primary Ballot," as the case may be; followed by the date of the election or primary. Immediately below the title of each office to be filled there shall be printed the words, "To fill vacancy in term expiring" with the date of expiration of the term and such other information as may be necessary to distinguish the office from any other office to be voted upon at the same election or primary. Otherwise the ballots shall conform, as far as practicable, with the laws relating to ballots for general elections and regular primary elections. The county auditor shall post a sample of each ballot in his office as soon as prepared and not later than four days before the election or primary, as the case may be, but he need not publish any sample ballot.

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Subd. 3. BALLOTS, USE OF REGULAR BALLOTS. In any case where candidates are to be voted for under sections 29 to 39 on the general election day or are to be nominated on the regular primary election day, as the case may be, and where the canvass of the returns is to be made by the regular county canvassing board, as provided in section 37, and where the ballots for the general election or primary have not been printed when the names of the candidates under sections 29 to 39 have been finally determined, the county auditor shall place the names of the candidates upon the regular ballots used for like offices at the general election or primary, designating the office to be filled in the same manner as provided in subdivision 2 for special ballots.

Sec. 60. [203A.42] FAILURE TO DELIVER CERTIFICATE OF NOMINATION. Every secretary of a delegate convention who fails or neglects to immediately deliver to the officer charged with the printing of the ballots upon which the name of a candidate of such convention is to be placed, the certificate of nomination of such candidate, shall be guilty of a misdemeanor.

Sec. 61. [203A.43] NEGLIGENTLY PRINTING BALLOTS. Every person authorized to print, or employed in printing, official ballots, who knowingly gives or delivers any of such ballots to, or knowingly permits any of the same to be taken by, any person other than the official under whose direction they are being printed, or knowingly prints or causes or permits to be printed any ballot in a form other than that prescribed by law, or with any other names thereon, or with the names spelled or the names of officers arranged thereon in any way other than that authorized and directed by said official, shall be guilty of a felony.

Sec. 62. [204A.01] DEFINITIONS. The words used in this chapter have the meanings prescribed to them in Minnesota Statutes, Chapter 200.

Sec. 63. [204A.02] APPLICATION. The provisions of sections 62 to 115 are applicable to all elections held in this state except as otherwise provided by law.

Sec. 64. [204A.03] NOTICE OF ELECTION, TIME. Between June 1 and July 1 in each election year the secretary of state shall cause a notice to be delivered to the auditor of each county, specifying all the officers whose certificates of nomination are issued by the secretary to be voted for in the county at the next general election; and each auditor, within ten days after receipt thereof, shall cause a notice to be delivered to each town and city clerk in his county of all officers to be voted for in the county at the election.

Sec. 65. [204A.04] NOTICE OF ELECTION. Subdivision 1. POSTING. At least 15 days before the time of holding any general or primary election a notice stating the officers to be nominated or elected,

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inct, and the voting shall otherwise be conducted in the same manner as though the voting places were located in the respective precincts. The council of any municipality may, by ordinance or resolution, designate a polling place for holding of elections for a specific precinct in a building outside the precinct, provided that the building must be located within 1500 feet of the precinct.

Subd. 2. BAR ROOM. No election shall be held or appointed to be held in any place where intoxicating liquors or non-intoxicating malt beverages are served, or in any room used or occupied as a place of resort for idlers or disreputable persons, or in any room adjoining either. Nor shall any election be held in any room wherein the requirements of this chapter cannot be substantially complied with.

Sec. 71. [204A.10] ILLEGAL POLLING PLACES. Subdivision 1. CHANGE OF PLACE. When any place designated for holding an election does not comply with the provisions of this chapter the judges, on or before the opening of the polls on election day, shall procure a suitable place, subject to the approval of the municipal clerk, as near the designated place as may be, which is not subject to the objection, and shall notify the municipal clerk at once of the change.

Subd. 2. POLLING PLACE CHANGED. When a change of the place of election has been determined, the judges shall meet at the place first designated and, after filling any vacancies in their number, adjourn to the new place selected, first publicly announcing the change to the electors present and posting in a conspicuous place at the first designated place a notice of the change made by them. They also shall post a similar notice at the new voting place. They shall certify to the proper authorities the expenses attending the change, which shall be allowed and paid as part of the election expenses.

Sec. 72. [204A.11] POLLING PLACE, REQUIREMENTS. Subdivision 1. NATIONAL FLAG DISPLAYED. The council of every municipality shall cause the national flag to be displayed on a suitable staff at the entrance to each polling place therein during all the hours of voting. The cost thereof shall be included in the general election expenses. The judges shall see that the flag is so placed and displayed, and willful failure on their part to do so shall cause a forfeiture of their compensation for the time of the failure. They shall make a statement of the number of hours the flag was so placed and maintained, and include the same with the payroll statement.

Subd. 2. BOOTHS, EQUIPMENT. Each polling place shall consist of a single room, containing a number of booths or compartments in proportion to the number of voters in the precinct. Each booth shall be six feet high, three feet deep, and at least two feet wide, with a shelf, at least one foot wide, extending from side to side at a convenient height for writing, to be provided with a door or curtain so that the voter may be free from observation while marking his ballot. Each compartment shall be constructed so that the voter may be free from

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observation while marking his ballot. At all times when in use the booths and compartments shall be provided with instructions, an indelible pencil, and other supplies needful in marking the ballots. The boxes, booths, compartments, and judges shall be in open public view.

Subd. 3. BALLOT BOXES. Each polling place shall be provided with one white, one pink, one canary, and one light green ballot box. As many of these ballot boxes shall be used at any election as there are kinds of ballots to be voted. Each box shall be of sufficient size, and with a sufficient opening, to receive and contain all the ballots likely to be placed therein.

Subd. 4. ACCESSIBILITY. Whenever practicable the place of holding the election for each precinct shall be made accessible to physically disabled persons.

Sec. 73. [204A.12] CONDUCT IN POLLING PLACE. Subdivision 1. PEACE OFFICERS. During the voting hours no person other than those receiving, marking, and depositing ballots shall be permitted to approach within six feet of the booths, unless by consent of the judges, given by authority of law. Any person guilty of riotous or disorderly conduct shall be arrested upon refusal to desist when warned. The judges may appoint a special peace officer when necessary. No peace officer may remain in the polling place unless so ordered by the judges, nor may a peace officer interfere in any manner with the voters.

Subd. 2. USE OF INTOXICATING LIQUOR. It is a misdemeanor to bring any malt or spiritous liquors into a place where an election is being held, or to drink any malt or spiritous liquors or to be intoxicated in a place where an election is being held.

Subd. 3. LINGERING NEAR POLLING PLACE. All voters shall be allowed to go to the polling place for the purpose of voting, and to return therefrom, without molestation, but neither voters nor others shall be allowed to congregate in any number within 100 feet of any polling place. Only election officers and voters who are waiting to vote shall be permitted to stand within 50 feet of the entrance to a polling place.

Sec. 74. [204A.13] SECRETARY OF STATE, ELECTION SUPPLIES, DUTIES. Subdivision 1. BLANK FORMS. At least 15 days before every state election the secretary of state shall transmit to each county auditor a sufficient number of suitable blank forms for lists, registers and affidavits, and such other blanks as are required in preparation for the conduct of the election.

Subd. 2. ELECTION LAW. On or before July 1 of every even-numbered year the secretary of state shall furnish to the county auditors sufficient copies of the Minnesota election law. The secretary of state also may prepare and transmit to the county auditors guides for

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election officers in pamphlet form, for the conduct of their duties as prescribed by law.

Subd. 3. CARDS. Except where voting machines are used, the secretary of state shall furnish to each county auditor uniform instructions to voters, printed in large type upon cards or heavy paper and containing such information as will enable the voters quickly and correctly to designate their choice. The cards shall be sufficient in number to allow two for each precinct. The clerk of each municipality in the county shall secure from the county auditor the printed instruction cards supplied by the secretary of state under this section.

Subd. 4. PAMPHLETS. The secretary of state also may prepare and distribute to election officials printed instructions to voters in pamphlet form, containing material of impartial nature relating to registration and election procedure.

Sec. 75. [204A.14] CLERKS, ELECTION SUPPLIES, DUTIES. Subdivision 1. INSTRUCTION MEETINGS FOR ELECTION OFFICIALS. Before each state primary election, the auditor of each county shall require the clerks of the municipalities and the chairmen of the several election boards within the county to meet with him at the time the clerks are required to secure the election supplies from him; and the auditor shall conduct the meeting in such manner as he deems proper to instruct the clerks and chairmen of the several election boards as to election procedures including, but not to be restricted to, duties of municipal clerks and election judges. The expenses incidental to attending the meeting with the county auditor shall be borne by the municipalities.

Subd. 2. ELECTION SUPPLIES, DUTY OF CLERKS. At least one week before every state election, the clerk of each city and town and each statutory city that is separated from the town for election purposes, shall secure from the county auditor the necessary copies of each of the blanks and forms as are required in preparation for the conduct of the election, printed instruction cards, two copies of the Minnesota election law and any other instructions for election officers, for each precinct, and sufficient quantities of the necessary official ballots, ballot boxes, registers, and other supplies and materials so that the judges of the election precincts may comply with the provisions of the Minnesota election law. The clerk of each municipality in the county shall post in a conspicuous manner in the polling place the printed instruction cards secured from the county auditor. If it is more convenient, and in lieu of complying with the foregoing provisions of this subdivision, the auditor may furnish such election supplies to the person entitled thereto in the same manner as such supplies are furnished in unorganized territory. If there are election precincts in unorganized territory, the county auditor shall send by registered or certified mail, insured parcel post, express, or deliver to the judges in these precincts the supplies that are enumerated in this subdivision.

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Sec. 76. [204A.15] JUDGES, ELECTION SUPPLIES, DUTIES. Before 9:00 P.M. on the day preceding an election, at least one judge shall procure the election registers and other supplies provided for in this chapter from their legal custodian. The custodian of the ballot boxes and ballots shall deliver the same to the judges of the respective precincts together with their keys, stationery and materials required at the election. The judges shall be responsible for the safekeeping of the election registers and ballots unaltered, and shall have all such ballots, ballot boxes, election registers, printed instructions to voters, and materials at the polling places in their respective precincts at the opening of the polls on the day of election.

Sec. 77. [204A.16] FAILURE OF JUDGES TO SECURE SUPPLIES. Subdivision 1. BALLOT DELIVERY. In case none of the judges appears at the office of the custodian of the ballots, as provided in the previous section, the custodian shall send forthwith to the proper precinct the ballots therefor, securely wrapped, tied, and sealed, by special messenger, who shall deliver the same forthwith to the judges, or one of them; or if unable to do so, he shall deliver them at the polling place at the hour for opening the polls. He shall take a receipt for the ballots and promptly file the same with the custodian together with his affidavit stating when, where, and to whom he made the delivery. The judges, and each of them, shall be chargeable with all expense incident to the delivery and report, together with mileage, the same as allowed to sheriffs for service of process, but nothing herein shall relieve any judge from the penalty provided by law for neglect of duty.

Subd. 2. UNOFFICIAL BALLOTS. When no official or substitute ballots are ready for distribution at any polling place, or if the supply is exhausted before the polls are closed, unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, or of any ticket or tickets forming a part or parts thereof, may be used until substitutes prepared by the proper official can be printed and delivered; and the fact shall be certified and accompany the returns of election.

Sec. 78. [204A.17] JUDGES OF ELECTION. Subdivision 1. APPOINTMENT, QUALIFICATION. Except in cities of the first class the council of each municipality and the county board in unorganized territory shall appoint, in the manner provided for in this section, qualified voters in each precinct therein to be judges of election. The appointments shall be made at least 25 days before any election. The appointments shall be made from a list of qualified voters provided for in this section subject to the limitations of section 79, subdivision 1. The council or county board may make such rules as it deems necessary including the examination of applicants, to determine the qualification of judges.

At least 65 days before any election for a partisan political office, the county chairman of each of the two political parties as defined in Minnesota Statutes, Section 200.02, Subdivision 7, shall furnish to the

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county auditor of his county of residence, a list of qualified voters for the various election precincts in municipalities in which 1000 or more votes were cast in the last general state election to act as election judges. At least 55 days before the date of the election, the county auditor shall furnish to each of the several appointing authorities of judges for the various election precincts, a list of the appropriate names for each election precinct. Separate lists shall be so submitted by the county auditor for each of the two leading political parties. If any county chairman of a political party shall fail to submit a list to the county auditor as hereinbefore provided, the appointing authorities shall select and appoint qualified electors as herein or otherwise provided by law.

Subd. 2. APPOINTMENT, FIRST CLASS CITIES. In cities of the first class judges shall be appointed by the city clerk at least 25 days before an election from a list of qualified voters in each precinct certified by the civil service commission of the municipality. At least 60 days before an election, the civil service commissioner shall receive applications on verified forms prepared by the commission from persons qualified to act as judges, in which application the applicant shall state his party affiliation; and the commission shall conduct such inquiry, investigation and examination as it deems necessary to establish the qualifications of the applicants. The commission shall set up such rules and regulations as it deems necessary for carrying out the provisions of this section. At least 30 days before the first election in any calendar year wherein elections are held the civil service commission shall certify to the city clerk a list of persons in each precinct who have satisfied the commission of their qualifications to act as judges. The commission shall certify the names of persons having the highest rating from each political party for each precinct. From the certified list the city clerk shall appoint judges for each precinct. If there are not enough persons from each political party for each precinct, he may appoint judges for the proper party from the list of civil service judges certified for other precincts within the city; or he may appoint for the proper party a sufficient number of qualified voters of the precinct to act as judges. Vacancies in the office of judges shall be filled by the city clerk from the list certified by the civil service commission. The commission shall certify additional names to the city clerk when the eligible list for any precinct is exhausted.

Subd. 3. NUMBER OF JUDGES. Except as provided in subdivision 4, the council of each municipality and the county board in unorganized territory shall provide that there is one judge for every 150 voters in each precinct therein, provided that there shall be at least three judges in each precinct for every election. Before any election the council of each municipality and the county board in unorganized territory shall determine how many judges there shall be for each precinct therein, considering the number of votes expected to be cast in each precinct at the next election, so that the provisions of this section shall be complied with. The council of each municipality and the county board in unorganized territory may provide for additional judges in

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any precinct in excess of one judge for every 150 voters who voted in the last general election, and they also may provide for additional judges to count the votes after the polls close. At general elections and state primary elections the council, or county board in unorganized territory, shall provide, in precincts having over 300 voters at the last such election, additional qualified judges to count the votes after the polls close, the new judges to replace the previously acting judges. The additional judges provided for in this subdivision are not required in precincts where voting machines are used.

Subd. 4. NUMBER OF JUDGES, NUMBER OF VOTING MACHINES. In precincts where one voting machine is used three judges shall be appointed, and in precincts where more than one voting machine is used one or more additional judges may be appointed.

Subd. 5. ELECTION JUDGES, CERTAIN CASES, TOWNS AND STATUTORY CITIES. In towns the members of the town board and the town clerk, and in the statutory cities the members of the city council and the city clerk, may be judges of election if the municipality has only one election precinct.

Sec. 79. [204A.18] ELECTION JUDGES, ELIGIBILITY. Subdivision 1. PARTY BALANCE. No more than half of the number of judges in any precinct may be members of the same political party, except where the election board consists of an odd number of judges in a precinct, the number of judges belonging to one political party may be one more than the number of judges belonging to the other political party.

Subd. 2. ELIGIBILITY OF JUDGES, RELATIONSHIP. No judge may bear the relationship of husband, wife, parent, child, brother, or sister to any other judge in the same precinct, a candidate, or any member of the council of the municipality in which he is a judge or of the county board if he is a judge in an unorganized territory.

Subd. 3. ELIGIBILITY OF JUDGES, OTHER EMPLOYMENT. No person may be a judge while he is receiving compensation as an employee or officer of the United States, the state, or any municipality or county within the state, except as provided in subdivision 5 of section 78; nor may any person be a judge at any election at which he is a candidate for elective public office.

Subd. 4. ELIGIBILITY OF JUDGES, LITERACY. No person may be a judge unless he can read, write, and speak the English language understandingly.

Sec. 80. [204A.19] ELECTION BOARD, CHAIRMAN. At the time the judges are appointed, the city clerk in cities of the first class, the council of all other municipalities, and the county board in unorganized territory shall designate one of the appointed judges in each precinct as chairman of the election board. The chairman shall distribute the duties of election judges among the several judges, including him-

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self, and he shall be responsible for the completion of forms, obtaining signatures, and the performance of all duties required of the election judges.

Sec. 81. [204A.20] **VACANCIES IN JUDGES.** When any judge fails to attend at the time and place appointed for holding an election, within 30 minutes after the opening of the polls, or after entering upon the discharge of his duties, becomes unable, or for any reason fails or refuses, to complete the performance of his duties, the remaining judges of the precinct shall elect a qualified person from the precinct to fill the vacancy.

Sec. 82. [204A.21] **JUDGES, OATH.** Before any judge enters upon the discharge of his duties, he shall subscribe the following oath: "I judge of election, do solemnly swear that I will perform the duties of judge of election according to law and the best of my ability and will studiously endeavor to prevent fraud, deceit and abuse in conducting this election, so help me God." The oath shall be affixed to the election register or returned with the election returns. If there is no person present authorized to administer oaths, the judges may administer it to each other. The judges, subsequent to the opening of the polls, shall constitute the election board.

Sec. 83. [204A.22] **VIOLATIONS, PENALTIES.** Any person who serves as judge in violation of any of the provisions of sections 78 to 82 is guilty of a misdemeanor.

Sec. 84. [204A.23] **COMPENSATION.** The compensation for services performed under the Minnesota election law shall be as follows:

(a) To presidential electors, \$10 for each day's attendance at the capitol, and an amount for each mile necessarily traveled in going to and returning from St. Paul, equal to the amount allowed for state employees in accordance with regulation under Minnesota Statutes, Section 43.328, Subdivision 1;

(b) To persons carrying ballots from, and returns to, the county auditor's office, \$2 for each hour necessarily spent and an amount for each mile of necessary travel, equal to the amount allowed for state employees in accordance with regulation under Minnesota Statutes, Section 43.328, Subdivision 1;

(c) To members of county canvassing boards, \$5 for each eight hours of service as members of the canvassing board and seven and one half cents for each mile of necessary travel each day; provided that in counties now or hereafter having a population of 600,000 or more the members of the county canvassing boards in those counties shall be paid \$12 for each eight hours of service as members of the canvassing board, and mileage;

(d) The compensation for election judges shall be fixed by the

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governing body of the municipality and in the case of judges in unorganized territory, by the county board, except that the compensation for election judges in the case of townships shall be fixed at the annual town meeting.

(e) To special peace officers, an amount for each hour of service rendered by direction of the judges, to be fixed as in the case of judges of election.

Sec. 85. **[204A.24] EXPENSES.** The compensation prescribed in section 84, clause (a), the cost of printing the white and pink ballots, and all necessary expenses incurred by the secretary of state in connection with elections, shall be paid by the state out of moneys not otherwise appropriated. The compensation prescribed in section 84, clauses (b) and (c), the cost of printing the county and district canary ballots, all necessary expenses incurred by auditors in connection with elections, and the expenses of special county elections, shall be paid by the respective counties. The compensation prescribed in section 84, clauses (d) and (e), the cost of printing the municipal light green ballots, of providing ballot boxes and polling places, and equipping the same, and all necessary expenses of the clerks of municipalities on account of elections, except special county elections, shall be paid by the respective towns or cities where the elections are held. All disbursements hereunder shall be presented, audited, and paid as in the case of other public expenses.

Sec. 86. **[204A.25] OPENING OF POLLS, BALLOT BOXES.** Subdivision 1. LOCKING OF BALLOT BOXES. Immediately before opening the polls, one of the judges shall open the ballot boxes in the presence of the people there assembled, turn them upside down so as to empty them of everything that is in them, then lock them and deliver the key to another of the judges. Having locked the ballot boxes, the judges shall proclaim that the polls are open, and they shall cause written or printed notices of the hour of closing to be conspicuously posted outside the polling place. The boxes may not be reopened until opened for the purpose of counting the ballots therein at the close of the polls.

Subd. 2. BALLOT BOXES, BOX-CAR SEALS. The governing body of any municipality, by resolution, may direct the clerk to furnish each ballot box with two so-called "box-car seals" in lieu of a lock and key. Each seal shall consist of a metal strap with a number imprinted on the metal, no two straps bearing the same number, together with a self-locking device securely attached to one end of the strap, and so constructed that the other end may be inserted and securely locked in the seal. One of the seals shall be used in the same manner provided for locks in subdivision 1, and the other seal shall be attached after the ballots are counted as provided in section 106. Whenever seals are used in lieu of a lock and key, the number on the seal used to lock the ballot box shall be written in a suitable space provided therefor on the tally sheets used in canvassing and tallying the votes.

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Sec. 87. [204A.26] **BALLOTS, JUDGES' INITIALS.** Subdivision 1. Before the voting begins, or as soon thereafter as possible, two judges shall place their initials on the backs of all the ballots they have, directly under or opposite the facsimile of the official signature, and they may not otherwise mark the ballots.

Subd. 2. No official ballot may be distributed except in the voting room to voters about to vote, and no ballot which is not officially endorsed in the handwriting of the judges may be placed in the ballot box. The ballot boxes shall at all times be kept in public view.

Sec. 88. [204A.27] **MARKING AND RECEPTION OF BALLOTS.** Satisfied with the voter's qualifications, the election judge shall mark the duplicate registration card accordingly, and other judges shall have charge of and receive from each voter the ballots.

Sec. 89. [204A.28] **TOWN MEETINGS OR ELECTIONS ON CANDIDATES; LOCAL ISSUES; RESIDENCE OF VOTERS.** The voters at a town meeting or the voters at an election on candidates who will serve, or on issues which will relate to only one precinct may be limited to voters who have resided within the precinct for 30 days.

Sec. 90. [204A.29] **REGISTRATION, VOTER'S CERTIFICATE.** Subdivision 1. FORM OF CERTIFICATE. Wherever voters are registered under a permanent registration system before any person desiring to vote receives the ballots from the judges, a certificate containing the following information shall be signed by the applicant:

I hereby certify that I am permanently registered in accordance with the Minnesota Election Law and am voting only in this precinct.

(Signature of Voter)

.....

(Address)

.....

(Approved)

.....

Judge of Election

Subd. 2. VOTER'S CERTIFICATE, USE. The certificate shall be approved by a judge who shall compare the signature on the voter's certificate with the signature as it appears on the duplicate registration card, and the judge shall record the fact of voting on the back of the duplicate registration card. The certificate, having been approved, shall be handed to the voter who shall deliver it to the judge in charge of

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ballots as proof of his right to vote, and thereupon the judge shall hand to the voter the ballots.

Sec. 91. [204A.30] **BALLOTS, VOTING, REGISTRATION AND OTHERWISE.** Subdivision 1. REMOVAL OF BALLOT FROM PAD. When the judges are satisfied that the person applying for ballots is a qualified voter, the judge having charge of the ballots shall tear from the pad one ballot of each kind that is to be voted, having the proper initials thereon, and hand the same to the voter. Each ballot shall be removed from the pad separately as required by each voter.

Subd. 2. VOTERS, MARKING BALLOTS. One of the judges shall instruct the voter as to the proper method of marking and folding his ballots, and the voter shall then retire alone to an unoccupied booth, and without undue delay the voter shall mark the ballots as provided by law. The voter may take with him into the booth sample ballots to assist in marking the official ballots.

Sec. 92. [204A.31] **MARKING BALLOTS, INSTRUCTIONS.** The voter shall mark and prepare each ballot in the following manner:

(a) The voter shall place a mark (X) in the square opposite the printed name of each candidate for whom he desires to vote, and in the square before the "YES" or "NO" if he desires to vote for or against any proposition.

(b) If he so desires, he may write other names in the blank spaces provided therefor under the printed names of the candidates, except that no names may be written in on primary election ballots.

(c) If, at any primary election the voter votes for the candidates of more than one party on the party ballot, that ballot is void.

(d) When he has prepared his ballots, he shall fold each of them separately so as to conceal the face and all marks thereon, and so as to expose only the facsimile of the official signature and the initials of the judges on the back of the ballot.

(e) Having marked and folded his ballots in the manner provided in this section, the voter shall withdraw from the voting booth with his ballot.

Sec. 93. [204A.32] **BALLOTS, DEPOSITS.** Subdivision 1. DEPOSIT IN BOX. Having withdrawn from the voting booth with his ballots, the voter shall hand them to the judge in charge of the ballot boxes, and the judge immediately shall deposit each ballot in the proper box.

Subd. 2. BALLOTS, SECRECY. No entry or notation shall be made in the register or otherwise showing to which political party any voter belonged or which political party ballot he voted, nor shall the judges knowingly permit any other person within the polling place to

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make such an entry or notation.

Subd. 3. BALLOTS, IDENTIFYING MARKS. No voter, judge, or any other person may at any time place any mark as a means of identification upon any ballot handed to or cast by any voter or upon any spoiled or discarded ballots except the proper signature and initials provided by law to be placed upon ballots.

Subd. 4. BALLOTS, CHALLENGE OF. The voter and the ballots of any absent voter at any time before the ballots have been deposited in the ballot boxes are subject to a challenge by the judges or by any person who was not present at the time the voter procured the ballots, but not otherwise. The question shall be determined in the same manner as is provided for the challenge of voters, and if the voter or the ballots of any absent voter are found to be disqualified, the ballots so prepared shall be placed unopened among the spoiled ballots.

Subd. 5. VOTER TO RETIRE. Having cast his ballot, or his ballot having been refused, the voter shall leave the polling place and not return unless he is given permission to do so by all of the judges.

Subd. 6. ENFORCEMENT, VIOLATION, PENALTIES. The judges shall at all times observe and enforce the provisions of the Minnesota election law. Violation of subdivision 3 or subdivision 4 is a gross misdemeanor.

Sec. 94. [204A.33] SPOILED BALLOTS. When a voter spoils a ballot, he may return it to the judges and receive another. The judges shall preserve unused and spoiled ballots and return them to the officers from whom they were received, with a statement of the number spoiled and unused, and take a receipt therefor.

Sec. 95. [204A.34] ASSISTANCE TO VOTERS. Subdivision 1. DISABILITY. When any voter states under oath that he cannot read English, or that he is physically unable to mark his ballot, he may call to his aid two of the judges, of different political party affiliation, who shall mark his ballot as he desires and in as secret a manner as circumstances permit. When he also states that he cannot speak the English language or understand it when spoken, the judges may select two persons from different political parties to act as interpreters, who shall take an oath similar to that taken by the judges, and assist the person in marking his ballots. When the disabled voter prefers, he may call to his aid any voter of the same precinct who, unaccompanied by a judge, shall retire with him to one of the booths and mark the ballot for him, but no one who aids a voter shall mark the ballots of more than three voters at one election. Before his ballot is deposited, the voter may show it privately to one of the judges to ascertain that it is marked as directed. No judge or other person assisting a voter may in any manner request, persuade, induce, or attempt to persuade or induce, the voter to vote for any particular political party or candidate, but he shall mark the ballot as requested and may not reveal to any other per-

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son the name of any candidate for whom the voter has voted or anything that took place while so assisting him.

Subd. 2. DISABLED VOTER, ASSISTANCE. Two judges, who are not members of the same political party, shall likewise assist a voter who is at the entry of the polling place but who is unable to enter because of physical disability; provided, however, that for the purpose of this section, intoxication is not physical disability, and a person who is intoxicated may not vote.

Sec. 96. [204A.35] VOTING, SECRECY. A voter may not divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted, and he may not ask for or receive assistance in the preparation of his ballot from any one within the polling place except as provided by law. If any voter, after having marked his ballot, shows it to any one except as provided by law, the judges shall refuse to receive the ballot and shall place it among the spoiled ballots. When the showing clearly has been intentional, no other ballot may be delivered to the voter.

Sec. 97. [204A.36] EMPLOYEES, TIME OFF TO VOTE. Every employee who is entitled to vote at any state-wide general election or at any election to fill a vacancy in the office of representative in Congress is entitled to absent himself from his work for the purpose of voting during the forenoon of such election day without penalty or deduction from his salary or wages on account of such absence.

Sec. 98. [204A.37] PERSONS IN POLLING PLACE. Subdivision 1. CHALLENGERS. Except as provided in this subdivision and except when a voter is unable to read English or is physically disabled and a voter is called upon to assist him, no person may remain inside the polling place except members of the election board, peace officers, challengers, and voters who are about to vote. ,

Subd. 2. TIME TO VOTE. The judges may make such regulations as they deem proper as to the time in which a voter may remain in the polling place while receiving, preparing, and voting his ballots.

Sec. 99. [204A.38] CHALLENGERS. Subdivision 1. PARTISAN. At any election where partisan offices are to be filled the chairman of an authorized committee of each political party may appoint by written certificate and the judges shall permit one voter at any one time from each political party for each precinct to be in the polling place while the election is being held and to remain with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

Subd. 2. NONPARTISAN. At any election each nonpartisan candidate may appoint by written certificate, and the judges shall permit, one voter at a time for each nonpartisan candidate for each precinct to be in the polling place while the election is being held and to remain

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with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

Subd. 3. ON PROPOSITION. At any election where a proposition is to be voted upon, the mayor of the municipality, upon a written petition signed by at least 25 legal voters being presented to him, shall appoint by written certificate and the judges shall permit, one voter for each precinct to be in the polling place while the election is being held and to remain with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

Subd. 4. REGULATIONS GENERALLY. The challengers may not handle or inspect registration cards, files, or lists. Challengers shall not make or prepare in any manner any list of persons who have or have not voted. They may not attempt to converse with voters at any time except to establish whether the voter is qualified to vote in this precinct and then only with an election judge present at the conversation or to influence voting on election day in any manner. Representatives of the secretary of state's office and the county auditor's office may be present at the polling place during the hours of voting for the purpose of observing election procedure.

Sec. 100. [204A.39] CHALLENGES. Subdivision 1. MANNER. Each judge shall, and any authorized challenger or other voter may, challenge any person whom he knows or suspects not to be a qualified voter.

Subd. 2. GROUND, OATH. The challenger shall state the ground for the challenge, and a judge shall administer to the challenged person the following oath:

"Do you solemnly swear that you will fully and truly answer all such questions that shall be put to you touching your qualifications as a voter at this election?" The judge shall then ask the challenged person such questions as tend to test his residence and his right to vote.

Subd. 3. DETERMINATION OF RESIDENCE. The judges, in determining the legal residence of any challenged person, shall be governed by the rules provided in the Minnesota election law; and if the challenged person by his answers to the questions put to him reveals that he is not a qualified voter, he may not be allowed to vote. If, after all questions have been answered, the challenge is not withdrawn, the judge shall administer the following oath:

"Do you swear that you are a citizen of the United States; that you are 18 years of age; that you are an actual resident of this precinct; that you are a qualified voter in this precinct and that you have not voted at this election?" After taking this oath, the challenged person is entitled to vote.

Subd. 4. CHALLENGED PERSON MAY NOT VOTE, WHEN. If

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the challenged person refuses to answer the questions put to him or to take an oath, his name may not be placed upon the election registers, and he is not entitled to vote. The challenged person may not leave the polling place and return later willing to answer questions or take an oath.

Sec. 101. [204A.40] **CANVASS OF VOTES. Subdivision 1. PROCEDURE.** After the polls close the judges shall immediately proceed to canvass the votes cast at the election. The canvass shall be held at the polling place and be public, and it shall be continued without intermission until completed and the results declared, except that the judges may take a temporary recess for meals or other necessary purposes. During the canvass no person other than the judges may handle the ballots.

Subd. 2. BALLOTS, ORDER OF CANVASS. The ballot boxes shall be opened, the votes counted, and the results declared, one box at a time in the following order: the white box, the pink box, the canary box, the light green box, and other kinds of ballots voted at the election except that if sufficient judges are available to provide counting teams of four or more judges evenly divided between the political parties for each box, an additional box or boxes may be opened and counted. The returns may not be finally prepared until the votes in all the boxes have been counted so as to allow corrections in case any errors have occurred by reason of the deposit of ballots in the wrong boxes.

Subd. 3. PRIMARY BALLOTS, MANNER OF CANVASS. Primary election ballots shall be canvassed in the same manner as general election ballots, except that the judges shall take the ballots from the boxes and count those cast for each political party and the non-partisan candidates separately.

Sec. 102. [204A.41] **BALLOTS, PROPER NUMBER. Subdivision 1. COUNTING.** The judges shall remove all the ballots from the box, and without considering how the ballots are marked they shall ascertain that each ballot is single, and count them to determine whether the number of ballots corresponds with the number that the election register or registration file shows were cast.

Subd. 2. BALLOTS, EXCESS NUMBER. If two or more ballots are found so folded together as to appear like a single ballot, the judges shall lay them aside until all of the ballots in the box have been counted; and if it is evident from the number that the election register or registration file shows were cast that the ballots folded together were cast by one voter, the judges shall preserve but not count them. If there is an excess of ballots in one box, the judges shall examine all the ballots in the box to ascertain that all are properly marked with the initials of the judges, and if any are not so marked, they shall preserve but not count them. If there is still an excess of properly marked ballots, the judges shall replace them in the box, and one judge, without looking, shall withdraw from the box a number of ballots equal to

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the excessive number, and the withdrawn ballots shall be preserved but not counted.

Subd. 3. BALLOTS IN WRONG BOX. If the judges find ballots in a ballot box that are different from the kind properly belonging therein, they shall lay the different ballots aside. If the number of ballots in any box equals or exceeds the number that the election register or registration file shows were cast, then ballots proper to have been placed therein, but found in another box, may not be counted. But if the number is less than that shown by the election registers or registration file, and ballots properly belonging in that box are found in another box, they shall be counted the same as those in the proper box, but only to the extent of the deficiency and selected by lot when necessary.

Subd. 4. BALLOTS NOT COUNTED, DISPOSITION. When the number of ballots as finally counted agrees with the number that the election register or registration file shows were cast, those ballots not counted shall be attached to a certificate made by the judges, stating why the ballots were not counted, and the certificate and uncounted ballots shall be sealed in a separate envelope and returned with the other returns to the officer from whom they were received.

Sec. 103. [204A.42] COUNTING BALLOTS. Subdivision 1. METHOD. The judges shall take all the ballots of the same kind and count the votes cast for the first office or proposition on the ballot by separating the ballots into piles, one pile for each candidate who received votes for that office, or one pile for the "Yes" votes and one pile for the "No" votes if it is a proposition. The judges also shall pile the ballots that are blank or defective as to that office separately. After the separation into piles, the judges shall examine each pile and remove therefrom and place in the proper pile any ballots that are found to be in the wrong pile. After the examination, the judges shall count the ballots in each pile, and when their counts agree, they shall announce the number of ballots in each pile, and the number shall be written in the proper place on the tally books. The judges may also pile ballots crosswise in groups of 25 in the same pile so as to facilitate counting.

Subd. 2. PILING SYSTEM. Each office and proposition on the ballot should be counted and canvassed in the manner provided in subdivision 1.

Subd. 3. MORE THAN ONE TO BE ELECTED, PILING. Where more than one person is to be elected to an office, the votes for that office shall be counted and canvassed in the manner provided in subdivision 1 so far as practicable.

Sec. 104. [204A.43] RULES FOR COUNTING BALLOTS. In counting ballots a ballot may not be rejected for any technical error that does not make it impossible to determine the voter's choice even though the ballot may be slightly soiled or defaced. All ballots shall be

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counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves; and in determining the intent the following rules are applicable and shall be observed:

(a) When a voter has placed a mark (X) against two or more names for the same office, where only one is to be elected, his vote may not be counted for either candidate, but the rest of his ballot shall be counted;

(b) When a voter has written the name of a person in the proper place, his vote shall be counted for that person whether he makes a mark (X) in the square opposite the blank line or not;

(c) When a voter has written the name of a person on a primary election ballot, the vote may not be counted for that office;

(d) When a mark (X) is made out of its proper place, but on or so near a name or space as to indicate clearly that the voter intended to mark the name, the vote shall be counted as so intended;

(e) When a number of persons are to be elected to the same office, all cross marks in squares opposite names, not exceeding the whole number to be elected, including written names thereon, shall be counted. When less than the number to be elected are marked, only those so marked shall be counted;

(f) The judges shall disregard misspelling or abbreviations of the names of candidates, if it can be clearly ascertained from the ballot for whom it was intended;

(g) When the judges can determine from a ballot the voter's choice for only a part of the offices, the ballot shall be counted for that part only;

(h) When a voter uniformly uses a mark other than (X) in marking his ballot, clearly indicating his intent to mark against a name, and does not use (X) anywhere else on the ballot his vote shall be counted for each candidate so marked; when a voter uses two or more distinct marks in expressing his vote on a ballot such as (X) and some other mark, the vote shall be counted for each candidate so marked, nonetheless, unless it is so marked by distinguishing characteristics so as to make the entire ballot defective as provided in (k);

(i) When a ballot shows that marks have been made against the names of two candidates, and an attempt made to erase or obliterate one of the marks, it shall be counted for the candidate for whom it was evidently intended;

(j) All ballots marked as hereinbefore provided shall be counted for the candidates or proposition therein shown to be voted for;

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(k) When a ballot is so marked by distinguishing characteristics that it is evident that the voter intended to identify his ballot, the entire ballot is defective;

(l) When the number of candidates is equal to the number to be elected to an office, and the voter has not marked against any name, no vote may be counted for that office.

Sec. 105. [204A.44] **DEFECTIVE BALLOTS.** Subdivision 1. MARKING; MEMORANDUM. A ballot so defective in whole or in part that it cannot be counted by reason of inability of the judges to determine the intent of the voter shall be marked on the back "Defective" or "Defective as to" naming the office as to which it is defective. A memorandum of the number of defective ballots, and if defective in part only, of the defective parts not counted, shall be made, certified, and returned by the judges as part of the returns.

Subd. 2. DEFECTIVE BALLOTS, DISPOSITION. The defective ballots shall be placed with those not defective, and all the ballots shall be placed in the order they are read and canvassed, and they shall be disposed of in the manner provided in section 106 for the disposition of ballots.

Sec. 106. [204A.45] **BALLOTS, DISPOSITION.** Subdivision 1. ENVELOPES. Except in cities of the first class and in counties having a population of 200,000 or more, after the canvass has been completed and in the presence of all the judges, the ballots cast shall be removed from the ballot boxes and placed in envelopes and sealed. Each judge shall write his name upon the envelope over the sealed part in such a way that the envelope cannot be opened without disturbing the continuity of the lines in the writing. The envelopes shall be of a heavy paper, of the same color as the ballots to be placed therein, and of a size suitable to hold all the ballots without folding. The official charged with printing the ballots shall furnish the envelopes required in this section; provided, however, that the official charged with printing the state pink ballot shall furnish the envelopes for the state pink ballot and the state white ballot. The number of ballots in each envelope, the kind thereof, the name of the town or city, and the number of the precinct shall be plainly written upon the envelopes. The unused and spoiled ballots or returns may not be placed in the envelopes.

Subd. 2. BALLOTS, DISPOSITION, CERTAIN CITIES AND COUNTIES. In all first class cities and in counties having a population of 200,000 or more, after the canvass has been completed and in the presence of all the judges, all the ballots of the same kind shall be strung and fastened together into a single package by passing a substantial twine string through and around the ballots, tying the ends of the string and sealing the same with wax over the knots with a seal provided by the county auditor or the city clerk, as the case may be. After the ballots have been so strung, fastened and sealed, they shall be replaced in the proper ballot boxes in the presence of all the judges,

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and each ballot box shall be locked and then sealed by pasting a firm paper across the lid and body thereof in such manner that the box cannot be opened without breaking the seal. Each judge shall write his name upon the paper so that the signatures shall cross the opening between the lid and the body of the box. Wherever box-car seals are used in lieu of a lock and key the remaining seal provided for in section 86 shall be secured to the box in such a manner that the box cannot be opened without breaking the seal. The unused and spoiled ballots and the returns may not be placed in the ballot boxes.

Sec. 107. [204A.46] RETURNS OF ELECTION, TALLY BOOKS. Subdivision 1. TALLY BOOKS. Except where voting machines are used, the official charged with printing the ballots shall furnish two tally books with returns for each precinct at the same time and in the same manner as the ballots are furnished; provided, however, that the official charged with printing the state white ballot shall furnish the tally book with returns for the state pink ballot.

Subd. 2. TALLY BOOK, INFORMATION REQUIRED. The judges shall fill out the tally book and returns in duplicate, and in suitable spaces provided therefor they shall disclose the following information:

(a) State of Minnesota, Tally Book and Returns for (Color) Ballots, (number) Precinct, (number) Ward, of the (City) (Town) of (Name) and the date and kind of election;

(b) The office, name of candidates, the number of votes each candidate received, and the number of blank and defective ballots for each office;

(c) The number of persons who voted at the election in the precinct, where there is permanent registration the number of registered voters in the precinct, the total number of ballots actually counted, the number of totally defective ballots, and the number of persons who returned spoiled ballots and received other ballots;

(d) A certificate in substantially the following form: "We, the undersigned judges of the (number) Precinct, (number) Ward, of the (City) (Town) of (Name), Minnesota, do hereby certify that all of the ballots cast at the (date and kind of election) Election, were carefully and properly piled, checked, and counted, and that the number of votes marked opposite the respective names of the candidates, correctly shows the number of votes so cast. The national flag was displayed on a suitable staff during all the hours of voting." The certificate shall be signed by all members of the election board.

Subd. 3. TALLY BOOK AND RETURNS, PRIMARY ELECTION. The tally book and returns for the primary election shall be in the same form as the tally book and returns for the general election except that a separate tally book and returns shall be provided for each political party ballot and for the ballot of candidates to be nominated with-

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out party designation. The primary tally book and returns shall be headed substantially as follows: "Tally Book and Returns for (Name) Party, (number) Precinct, (number) Ward, of the (City) (Town) of (Name), Primary Election held (Date)."

Subd. 4. TALLY BOOK AND RETURNS, FORM. The secretary of state shall prescribe the form for the tally book and returns, and he may place thereon instructions for their use and such other matter that is authorized by law to be printed on tally books and returns. Any other official charged with furnishing tally books and returns shall prepare them in the manner prescribed by the secretary of state, so far as practicable.

Sec. 108. [204A.47] TALLY BOOK AND RETURNS, DISPOSITION. Subdivision 1. ENVELOPE. The judges in each precinct shall include one set of the tally book and returns in each of two envelopes, and each envelope shall then be sewed by drawing twice through it and the tally book and returns therein a substantial twine string and by tying the ends of the string together and then sealing the envelope in three places with wax and stamp furnished by the county auditor, one of the places to be over the knot in the string. The judges shall then endorse the envelope in substantially the following form: "Tally book and returns of the election precinct, (Town) or (City) of, in the County of, State of Minnesota."

Subd. 2. RETURNS AND MATERIALS, DELIVERY. Except in first class cities one of the judges in each precinct shall deliver one set of the tally book and returns, all unused and spoiled white, pink, and canary ballots, one summary statement, two election registers, and the envelopes containing the white, pink, and canary ballots to the county auditor at his office within 24 hours after the closing of the polls. Another judge shall deliver the remaining set of the tally book and returns, all unused and spoiled municipal ballots, the remaining summary statement, the remaining election register, the envelopes containing municipal ballots and all other things furnished by the municipal clerk, to the municipal clerk at his office within 24 hours after the closing of the polls.

Subd. 3. RETURNS AND MATERIALS, DISPOSITION, FIRST CLASS CITIES. In all first class cities, two of the judges in each precinct shall deliver tally books and returns, the unused and spoiled ballots, the summary statements, and the box containing the ballots to the city clerk at his office within 24 hours after closing of the polls.

Sec. 109. [204A.48] SUMMARY STATEMENTS. After the canvass has been completed the judges in each precinct, in addition to the other forms required, shall make a summary statement and two additional copies thereof of the total numbers and kinds of each ballots counted, the total votes counted for each person, and the total number of blank or defective ballots for any office and for and against any proposition voted upon. The summary statement shall be divided into

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two parts, the first part dealing with the state, congressional, and presidential elections, and the second part dealing with county and local elections. The secretary of state shall prescribe the form for summary statements. The official charged with printing the tally book and returns shall furnish the summary statements for each precinct at the same time and in the same manner as the tally book and returns are furnished. The judges shall file one copy of the summary statement with the clerk of the municipality, and the other two copies with the county auditor. The county auditor shall deliver to the secretary of state one copy of all the summary statements received in the office of the county auditor.

Sec. 110. [204A.49] **BALLOTS, RETURNS, DUTIES.** Subdivision 1. COUNTY AUDITOR. The auditor of every county shall remain in his office to receive delivery of the things required to be delivered to him, and to permit public inspection of the summary statements, and to tabulate the votes until all have been tabulated and the results made known, or until 24 hours have elapsed since the closing of the polls, whichever occurs first. The county auditor shall file all envelopes containing ballots delivered to him in his office and shall keep them in a safe place with seals unbroken unless previously opened by proper authority for examination or recount, and in that event, the auditor shall cause the envelopes to be sealed again with the names of the persons making the inspection or recount endorsed thereon. The envelopes may be opened by the county canvassing board, if necessary to procure any election returns that may inadvertently have been sealed up with the ballots by the judges; and the envelopes shall be sealed again and endorsed in the manner provided in this subdivision. Where ballots are strung and replaced in the boxes, and the boxes are locked and sealed with the ballots within, the ballots shall be stored in such manner as to admit at all times of actual, visual inspection of the exterior of the boxes, except that if the boxes are needed for use in another election, the ballots may be withdrawn from the boxes and wrapped and tied securely, and sealed and endorsed in the manner provided in this subdivision.

Subd. 2. CLERK. The clerk of every first, second, and third class city shall remain in his office to receive delivery of the things required to be delivered to him, or until 24 hours have elapsed since the closing of the polls, whichever occurs first. The clerk of every first class city shall keep a book in which, in the presence of the delivery judges, he shall make a record of all things delivered to him, and the time of delivery, and the names of the judges so delivering them. The book shall be preserved in his office for the same period as the ballots.

Sec. 111. [204A.50] **NONCOMPLIANCE WITH LAW.** Subdivision 1. FAILURE OF JUDGES TO MAKE DELIVERY. Whenever the judges fail to make and deliver returns as provided by law, the auditor or municipal clerk to whom the returns should have been made shall dispatch a special messenger to obtain them, and the messenger is entitled to the same compensation as a judge for like service, and he is

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subject to the same penalties.

Subd. 2. IRREGULARITIES, NOT FATAL. An officer to whom election returns are required to be made may not refuse to receive them because they are returned or delivered to him in any manner other than that prescribed by law, except that the returns must be sealed. A canvassing board may not refuse to include any returns in its canvass of votes on account of any informality in holding the election or making returns thereof. All returns shall be received and the votes canvassed by the canvassing board and included in its statements where there is a substantial compliance with the provisions of the Minnesota election law.

Sec. 112. [204A.51] COUNTY CANVASSING BOARD. Subdivision 1. MEMBERSHIP. The county canvassing board shall consist of the county auditor, the clerk of the district court, two members of the county board to be selected by the board from among its members who are not candidates for nomination or election to any office, and the mayor or president of the most populous municipality in the county. If any of these persons fail or refuse to serve on the canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint a qualified voter of the county who may not hold or be a candidate for any public office, to take the place of the person on the canvassing board. Three members shall constitute a quorum and when sworn shall have the power to act.

Subd. 2. COUNTY CANVASS, PRIMARY ELECTION INFORMATION REQUIRED. The board shall meet at the auditor's office at 10:00 A.M. on or before the third day after the primary election, take the oath of office, and publicly canvass the returns of the election made to the county auditor. The board shall complete the canvass by the evening of the sixth day following the election, and it shall forthwith make the following report and file the same with the county auditor:

(a) A statement for each political party showing the names of all candidates thereof voted for at the primary election, the number of votes received by each, in each precinct and in the county, and for what office;

(b) A statement showing the names of candidates of each political party who are nominated;

(c) A statement of the total number of persons who voted at the election in the county, and in each precinct, and the number of ballots counted in each precinct, and in the county; and

(d) A statement of the votes received by each of the nonpartisan candidates in each precinct in the county and the names of the nonpartisan candidates nominated. If any candidates receive an equal number of votes for the same nomination, the canvassing board shall deter-

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mine the tie by lot. Upon completion of the canvass, the county auditor shall forthwith certify to the secretary of state the vote, as shown by the report of the county canvassing board, for all candidates to be voted for in more than one county, and he shall mail or deliver to each nominee who is to be voted for in his county only, a notice of his nomination and that his name will be placed upon the general election ballot.

If the difference between the votes of two or more candidates for legislative office which lies within a single county is 100 or less and the difference determines one or more nominations, the canvassing board shall recount the votes. A recount shall not delay any other part of the report of the board and shall be reported and certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

Subd. 3. COUNTY CANVASS, GENERAL ELECTION, INFORMATION REQUIRED. The canvassing board shall meet at the auditor's office on or before the third day after the general election, take the oath of office, and publicly canvass the returns of the general election made to the county auditor. The board shall complete the canvass without unnecessary delay, and it shall forthwith make the following report and file the same with the county auditor:

(a) A statement of the number of persons who voted at the election in each precinct in the county and the total number of persons who voted at the election in the county; and the number of white, pink, and canary ballots counted in each precinct in the county, and the total number of white, pink, and canary ballots counted in the county;

(b) A statement of the names of all candidates for state offices, representatives and senators in the legislature, representatives and senators in congress, judges of the district court, and county offices; and the number of votes received by each in each precinct and in the whole county;

(c) A statement of the total number of votes counted for and against any proposed change of county lines or county seat; and

(d) A statement of the number of votes counted for and against any constitutional amendment or other proposition in any precinct, and the total number of votes counted therefor in the county.

If the difference between the votes of the candidates for legislative office which lies within a single county is 100 votes or less the canvassing board shall recount the votes. A recount shall not delay any other part of the report of the board and shall be reported and certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

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In case of a tie, the canvassing board shall determine the results by lot. Upon completion of the canvass, the board shall declare the person receiving the highest number of votes for each county office duly elected thereto; and when the county constitutes or contains a senatorial or representative district in the legislature, it shall declare the person receiving the highest number of votes for each office in the legislature duly elected.

Subd. 4. COUNTY CANVASS, RETURNS, TO SECRETARY. Two copies of each of the statements required in this section shall be made and certified under the official seal of the auditor; each enclosed in an envelope directed to the secretary of state, with the auditor's name and official address and the words, "Election Returns," endorsed thereon, and forwarded by different mails within five days of each other. If neither copy is received by the secretary of state within 20 days after the election, he shall immediately notify the auditor of that fact, and the auditor shall transmit another copy thereof to the secretary by special messenger deputed by him.

Sec. 113. [204A.52] ERRORS IN COUNTING, CORRECTION. Subdivision 1. MANNER OF CORRECTION. If in conducting the canvass of votes at any election it appears to a majority of the canvassing board or to any candidate that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precincts such obvious errors may be corrected in accordance with the provisions of section 49, subdivision 2.

Subd. 2. BALLOTS, INSPECTION. The inspection shall be made by the canvassing board in the presence of all the candidates for the office or their representatives.

Subd. 3. INSPECTION, TIME, PLACE. The inspection shall be conducted as soon as practicable at the office of the county auditor, and the auditor shall set the time of meeting, and give notice to the candidates a sufficient time before the meeting.

Subd. 4. CANVASS, NOT DELAYED. The report of the canvassing board as to other offices on the ballot may not be delayed because of the inspection provided for in this section. Appropriate notation and report of the action taken with reference to the office in regard to which inspection has been ordered shall be made on the regular report of the canvassing board.

Subd. 5. CANVASSING BOARD, REPORT. As soon as practicable after the board has reexamined the ballots and returns, it shall report to the county auditor. The report shall be signed by all the members of the canvassing board, and it shall contain the following information:

(a) A copy of the order of the court, if any;

(b) A statement of the minutes of the meeting of the board for the

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purposes of correcting the errors, showing the time, date, and place of the meetings, and appearances entered by or on behalf of the candidates;

(c) A copy of the notice of the meeting given to each candidate with proof of service;

(d) A statement showing action of the board with reference to the conduct of the inspection and reexamination; and

(e) A statement showing results of the action of the canvassing board.

Subd. 6. CANVASSING BOARD, DECLARATION, NOTIFICATION. The canvassing board shall make its declaration of election with reference to the office in question. The report and declaration of election shall be filed by the auditor, and he shall mail a certified copy thereof to each candidate. The auditor immediately shall notify the secretary of state by registered or certified mail of the action of the county canvassing board.

Sec. 114. [204A.53] STATE CANVASSING BOARD. Subdivision 1. MEMBERSHIP. The secretary of state shall call to his assistance two judges of the supreme court and two judges of the district court none of whom may be candidates at the election, and the judges together with the secretary of state shall constitute the state canvassing board. The board shall meet at the office of the secretary of state on the second Tuesday after the primary and general election, except as otherwise provided for special elections. When a vacancy in the membership of the state canvassing board occurs by reason of the failure of any judge to attend the meeting of the board on the day appointed, the secretary of state shall fill the vacancy by selecting another disinterested judge from either court, but not more than two judges of the supreme court shall serve upon the canvassing board at any one time.

Subd. 2. STATE CANVASS, PRIMARY ELECTION. After the primary election the canvassing board shall canvass the returns of the election that were made to the secretary of state; and upon the completion of the canvass, the secretary of state shall forthwith certify to the several county auditors the names of the persons found to be nominated and mail to each nominee a notice of his nomination.

If the difference between the votes of two or more candidates for legislative office to be certified by the secretary of state is 100 or less and the difference determines one or more nominations, the canvassing board shall recount the votes. A recount shall not delay any other part of the canvass and the nominees shall be certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

Subd. 3. STATE CANVASS, GENERAL ELECTION. After the
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general election, the canvassing board shall canvass the certified copies of the statements made by the county canvassing boards, and they shall prepare therefrom a statement of the following information:

(a) A statement of the whole number of votes counted for candidates for state offices, congressional offices, and such other candidates as shall be voted for in more than one county, specifying the several counties in which they were cast;

(b) The names of the persons receiving the votes and the number received by each, specifying the several counties in which they were cast; and

(c) The number of votes counted for and against each constitutional amendment, specifying the several counties in which they were cast.

If the difference between the votes of the candidates for a legislative office to be certified by the state canvassing board is 100 or less the board shall recount the votes. A recount shall not delay any other part of the canvass and the results shall be certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

In case of a tie vote for any office, the result of which is to be certified by the state canvassing board, the board shall determine the tie by lot.

Subd. 4. STATE CANVASSING BOARD, CERTIFICATION AND DECLARATION OF RESULTS. All members of the state canvassing board shall subscribe their names to the statement and certify to its correctness; and within three days after the completion of the canvass, the board shall declare the result.

Sec. 115. [204A.54] CERTIFICATES OF ELECTION; PREPARATION, DELIVERY. Subdivision 1. PREPARATION, DELIVERY. The auditor of each county, and the secretary of state where the candidates for office are voted for in more than one county, shall make for every person declared elected by the canvassing board of the county or the state canvassing board a certificate of his election and deliver the certificate to the person entitled thereto upon demand, and without fee. No certificate of election shall be made or delivered while a recount is being done by a canvassing board because the difference between votes is 100 or less. The auditor of any county also shall make for any candidate or voter of his county, a certified copy of any statement of votes made by the county canvassing board upon payment or tender of one dollar therefor. In case of a contest, the court may invalidate and revoke the certificate, pursuant to Minnesota Statutes, Chapter 209.

Subd. 2. CERTIFICATES OF ELECTION, ISSUANCE, CONTEST.

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The auditor of any county and the secretary of state may not issue a certificate of election to any person declared elected by the canvassing board of the county or the state canvassing board until 12 days after the canvassing board has canvassed the returns and declared the result of the election. In case of a contest, the certificate may not be issued until the proper court has determined the contest. This subdivision shall not apply to candidates elected to the office of state senator or representative.

Sec. 116. [204A.55] **FALSE REGISTRATION.** Every person who causes or attempts to cause his name to be registered in more than one precinct, or in any precinct, knowing that he is not a qualified voter thereof, or who falsely represents himself to be a person other than he is, when attempting to register for the purpose of voting at any election, or when applying for a ballot or offering his ballot to be deposited in a ballot box, or when offering to vote by means of a voting machine or otherwise, whether the person he represents himself to be is living or dead, or a fictitious person, and every person who aids, abets, counsels, or procures any other person to do any of the acts herein mentioned, shall be guilty of a felony.

Sec. 117. [204A.56] **REFUSING EMPLOYEE ELECTION PRIVILEGE.** Every person who as principal or as an official or agent of any other person, shall directly or indirectly refuse, abridge, or in any manner interfere with any of the election privileges or immunities of any employee of himself or his principal, shall be guilty of a misdemeanor.

Sec. 118. [204A.57] **DEFACING POLL LISTS OR REMOVING BALLOTS.** Every person who tears down, mutilates, defaces, or otherwise injures any file of names or card of instructions to voters posted or otherwise placed outside or inside of any polling place or booth by any board of registration or other official, or who, before the closing of the polls, removes from the polling place any ballots printed for use at such election, or any supplies or conveniences placed in or about any booth for the use of voters in preparing their ballots, shall be guilty of a gross misdemeanor.

Sec. 119. [204A.58] **DAMAGING ELECTION EQUIPMENT.** Every person who shall wilfully take or carry away from any polling place, or deface, mutilate, damage, or add to any ballot, file, or election register or any name or figure therein, shall be guilty of a felony.

Sec. 120. [204A.59] **OFFERING DUPLICATE BALLOTS.** Every person who wrongfully delivers to a judge, to be placed in a box, more than one ballot of the same kind and color, or who fraudulently puts a ballot into any box, or who, not being a qualified voter, votes at any election with unlawful intent, or who votes more than once at the same election, or who procures, aids, assists, or advises another to go into any county, town or precinct for the purpose of voting, knowing that such person is not qualified to vote therein, shall be guilty of a felony.

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Sec. 121. [204A.60] **ONLY ELECTION OFFICIALS MAY HANDLE BALLOTS.** Every person, except a judge, who during any canvass of votes shall handle, touch, or interfere with any of the ballots being canvassed, and every judge permitting the same to be done shall be guilty of a misdemeanor.

Sec. 122. [204A.61] **NEGLECT OF OFFICIALS.** Every election officer or other person required by law to safely keep and produce on election day the ballots entrusted to him or to perform any other act, who wilfully fails or refuses to do the thing so required, or who is required by law to abstain from any act, and wilfully does such act, or who in either of such cases is guilty of any fraud, corruption, partiality or misbehavior in conducting or aiding in the conduct of any election, or in canvassing or making returns of votes, or who wrongfully refuses to make or deliver any certificate of election, or who falsely or corruptly performs any required act, the punishment whereof has not been otherwise expressly provided for by law, shall be guilty of a felony.

Sec. 123. [204A.62] **ELECTION MESSENGER'S FAILURE TO DELIVER RETURNS.** Every messenger appointed by authority of law to receive and carry a report, certificate, or certified copy of any statement relating to the result of any election, who shall wilfully mutilate, tear, deface, obliterate, or destroy the same, or do any other act which shall prevent the delivery of it as required by law, and every person who shall accept or take away from such messenger any such report, certificate, or copy, with intent to prevent its delivery, or who shall wilfully do any injury or act herein specified, shall be guilty of a felony.

Sec. 124. [210.22] **PAPER COLOR FOR SAMPLE BALLOTS.** Except that sample ballots may be printed in newspapers as news matter, it is a misdemeanor to print sample ballots on paper of the same color as any official ballots.

Sec. 125. [10A.44] **PUBLIC OFFICIAL, NAME.** Every person elected to public office may use the name given in his affidavit of candidacy or nominating petition in transacting official business in the ensuing term of office.

Sec. 126. Minnesota Statutes 1974, Section 40.05, Subdivision 3, is amended to read:

Subd. 3. After December 31, 1972, and for the elections required by subdivision 2, all elections except that provided for the organization of the district, in subdivision 1, shall be held at the time and place of holding the general election, as defined in section 200.02, subdivision 2. No primary election shall be held. Election of supervisors of the soil and water conservation district shall be by inclusion on the "canary ballot," as described in section ~~200.20-54~~ of this act. Nominating petitions conforming to the rules stated in subdivision 1 shall be filed with

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the secretary of the soil and water conservation district at least 60 days before the time of holding the general election. At least 45 days before the general election the district secretary shall submit the names of the candidates and the terms for which nominated to the appropriate county auditor. The ballots for use at the election shall be prepared by the county auditor. All laws relating to county elective office elections shall govern insofar as applicable. The county auditor shall certify the result to the state soil and water conservation commission, and if the soil and water conservation district embraces land in more than one county the county auditor shall forthwith certify to the state soil and water conservation commission the vote, as shown by the report of the county canvassing board, for all candidates voted for in more than one county. In the latter case the state soil and water conservation commission shall certify the results of the election and publish the result.

Sec. 127. Minnesota Statutes 1974, Section 123.31, Subdivision 2, is amended to read:

Subd. 2. The provisions of section ~~203.21-78~~, subdivision 4 of this act, sections 206.02 to 206.23, shall apply to the use of voting machines in school elections insofar as applicable.

Sec. 128. Minnesota Statutes 1974, Section 206.11, is amended to read:

206.11 PRECINCTS MAY BE CHANGED. The precincts in which voting machines are to be used may be enlarged, reduced or reformed, in the manner prescribed in ~~chapter 203~~ sections 67, 68, and 69 of this act, so that each precinct shall when so first formed, contain not to exceed 600 registered voters for each voting machine to be used therein. More than one voting machine may be used in any precinct.

Sec. 129. Minnesota Statutes 1974, Section 206.18, is amended to read:

206.18 CANVASSING BOARD TO INSPECT MACHINES. It shall be the duty of the canvassing board in any municipality of this state wherein voting machines shall be used in any election, at the time it convenes to canvass the election returns of any election wherein voting machines shall have been used within such municipality, or as soon thereafter as it conveniently can do so, and before it proceeds to canvass such returns, to inspect the registering counter, or other recording device on any such voting machine showing the number of votes cast for any candidate or proposition voted on at any such election and any irregular ballots recorded thereon or therein and to compare the number of votes so shown by such voting machines to have been cast for each candidate voted for on and by such voting machines and each proposition submitted to the voters voting thereon or thereby with the returns made by the election officers of the several precincts in which the voting machines were used at such election and in case there is a

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discrepancy between the returns so made by such election officers and the number of votes shown by such voting machines on such inspection then and in such case it shall be the duty of such canvassing board to correct such returns as to all candidates and propositions, the returns with reference to which are to be canvassed by it, so made by such precinct election officers, so as to make such election returns conform to the vote so shown by such machines on such inspection as aforesaid and such corrected returns shall thereupon and thereafter be regarded and deemed by such canvassing board as the true and correct return of the number of votes cast for each candidate voted for and each proposition voted on, in the precinct the returns from which shall have been so corrected by such canvassing board. After correcting such returns the canvassing board shall proceed to the performance of its duties as now provided by law.

In case of any election contest the returns of the election officers, as corrected by the canvassing board as aforesaid, shall be prima facie evidence of the vote cast for each candidate and on each proposition voted on at any election, to the same extent and in the same manner and not otherwise, as is the return of the election officers in precincts where voting machines are not used. For the purpose of inspecting such voting machines such canvassing board may adjourn its sessions from time to time as occasion may require and may hold its sessions at any place within the county where the voting machines are usually kept and stored.

Where electronic voting systems are used, the canvassing board shall follow the procedure prescribed for paper ballots in ~~Minnesota Statutes, Sections 204.20 and 204.30~~ sections 112 and 113 of this act .

Sec. 130. Minnesota Statutes 1974, Section 206.185, Subdivision 1, is amended to read:

206.185 CANVASS OF ELECTRONIC VOTING SYSTEM RESULTS. Subdivision 1. In precincts where an electronic voting system is used, as soon as the polls are closed, the judges shall secure the marking devices against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the election register or registration file. If there is an excess, the judges shall process the ballots in the same manner as paper ballots are processed in ~~section 204.20-102 of this act~~ . The total number of voters shall be entered on the tally sheets. The judges shall thereupon count the write-in votes and prepare a return of such votes on forms provided for this purpose. If ballot cards are used, all ballot envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be en-

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tered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and valid votes on such ballots containing invalid votes shall be counted as provided in subdivision 4. If paper ballots are used, the judges shall, before counting the write-in votes, compare the write-in votes with the votes cast elsewhere on the ballot, and if the total number of votes for any office involving a write-in vote exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot. Valid votes on the rest of such a ballot shall be tallied by the judges at the precinct, on a form provided for the purpose, and shall then be placed in an envelope marked "defective ballots." Such ballots shall be returned to the counting location, and the totals for all such ballots shall be added to the totals for the respective precincts. So far as applicable, provisions relating to defective paper ballots shall apply. The containers for transporting ballots to the counting center referred to in subdivision 2, shall be of sturdy material sufficient to protect the ballots during all reasonably foreseeable hazards, including auto collisions, during their transportation to the center.

Sec. 131. Minnesota Statutes 1974, Section 365.51, is amended to read:

365.51 ANNUAL TOWN MEETING; PRECINCTS; POLLING PLACES. There shall be an annual town meeting held in each town on the second Tuesday of March at the place of holding the last town meeting, or at such other place in the town, or county or in an adjoining town, ~~or~~ city in an adjoining county, designated by the annual town meeting, and if no designation is so made the same shall then be made by the town board. The clerk shall give ten days' published notice in a qualified newspaper having general circulation within the town, or by posted notice, or both, as the voters at the annual town meeting may direct, specifying the time and place, but if the town meeting shall fail to direct the manner of giving such notice, the town board shall direct the manner of giving notice. All town officers required by law to be elected shall be chosen thereat, and such other business done as is by law required or permitted. The town board may, with respect to an election by ballot at the annual town meeting for the purpose of selecting town officers or of determining any matter of town business, provide for the casting of ballots in precincts and at polling places. Such precincts and polling places shall be designated by the board in the manner prescribed by ~~Minnesota Statutes 1965, Sections 202.06 and 202.08~~ sections 67 and 70 of this act .

Sec. 132. Minnesota Statutes 1974, Section 365.52, is amended to read:

365.52 SPECIAL TOWN MEETINGS; PRECINCT; POLLING PLACES. A special town meeting may be held for the purpose of election to fill a vacancy when the town board has failed to fill the vacancy by appointment, or for transacting any other lawful business whenever the supervisors, town clerk, and justices of the peace, or any two of

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them, together with at least 12 other freeholders of the town, file in the office of the town clerk a written statement setting forth the reasons and necessity for such meeting and the particular business to be transacted thereat and that the interests of the town require that such meeting be held. A town meeting may also be called upon a petition of 20 percent of the qualified electors of the town, based upon the number of the electors as shown by the poll list of voters at the next preceding general election. The town board may, with respect to an election by ballot at a special town meeting for the purpose of selecting town officers or of determining any matter of town business, provide for the casting of ballots in precincts and at polling places. Such precincts and polling places shall be designated by the board in the manner prescribed by Minnesota Statutes 1965, Sections 203.06 and 203.08 sections 67 and 70 of this act.

Sec. 133. Minnesota Statutes 1974, Section 375.20, is amended to read:

375.20 QUESTIONS SUBMITTED TO VOTE; BALLOT. When the county board is authorized to do any act, incur any debt, appropriate money for any purpose, or exercise any other power or authority, only when authorized to do so by a vote of the people, the question to be voted upon may be submitted at a special or any general election, by a resolution specifying the matter or question to be voted upon; and, if it is to authorize the appropriation of money, creation of a debt, or levy of a tax, shall state the amount thereof. Notice of such election shall be given as in the case of special elections; and, if the question submitted be adopted, the board shall pass an appropriate resolution to carry the same into effect. In all such elections the form of the ballot shall be: "In favor of (here state the substance of the resolution to be submitted), Yes No," with a square opposite each of the words "yes" and "no," in one of which the voter shall make a cross to indicate his choice; provided that the county board may call a special county election upon any such question to be held within 60 days after a resolution to that effect shall be adopted by the county board. Upon the adoption of such a resolution the county auditor shall post and publish notices of such election, as required by section ~~203.40-34~~ of this act. The election shall be conducted and the returns canvassed in the manner prescribed by sections ~~203.44 to 203.55-29~~ to 39 of this act, so far as practicable.

Sec. 134. Minnesota Statutes 1974, Section 382.28, is amended to read:

382.28 JUSTICES AND CONSTABLES. In each election district established as provided by section ~~203.07-69~~ of this act there shall be elected at the general election two justices of the peace and two constables, whose term of office shall be two years. Any vacancy that may occur in either of such offices shall be filled by appointment by the county board.

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Sec. 135. Minnesota Statutes 1974, Chapters 202, 203 and 204 and Sections 210.02; 210.03; 210.07; 210.08; 210.09; 210.10; 210.12; 210.13; 210.15; and 210.16 are repealed.

Sec. 136. This act is effective on the date following its final enactment.

Approved February 28, 1975.

CHAPTER 6—H.F.No.145

An act relating to cooperative associations; authorizing an association's board of directors to set aside part of its net income for the purpose of creating a capital reserve; amending Minnesota Statutes 1974, Section 308.12, Subdivision 1.

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

Section 1. Minnesota Statutes 1974, Section 308.12, Subdivision 1, is amended to read:

308.12 COOPERATIVE ASSOCIATIONS; NET INCOME; CAPITAL RESERVE; DISTRIBUTION. Subdivision 1. An association organized under sections 308.05 to 308.18 may set aside such part of its net income ~~during its first two fiscal years~~ as its board of directors deems advisable, for the purpose of creating or maintaining a capital reserve ; ~~and annually thereafter its board of directors shall set aside for the purpose of such reserve at least ten percent of the annual net income until the capital reserve shall equal 50 percent of the paid-up capital stock; and thereafter the capital reserve may be increased from time to time by the board of directors of the association to such an amount as it deems advisable .~~ In addition to such capital reserve the directors of any such association may set aside a sum not to exceed five percent of the annual net income of the association, which shall be used for the purposes of promoting and encouraging cooperative organization, and may establish and accumulate reserves for new buildings, machinery and equipment, depreciation, losses, and other proper purposes. Net income in excess of dividends on capital stock and additions to reserves shall be distributed on the basis of patronage. The stockholders may provide in the bylaws of the association that non-member patrons shall participate in the distribution of net income upon equal terms with member patrons. If the patron is qualified and eligible for membership, the amount of patronage refund due him shall be credited to his individual account, and when such credits shall equal the value of a share of common stock which entitles the holder thereof to vote, or a membership, a share of such stock or a membership shall be issued to him. ~~If the patron is not qualified or eligible for membership, the refund due him may be credited to his individual account, and when such credits shall equal the value of a share of common stock which does~~

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