

**CHAPTER 201—H.F.No. 3108**

*An act relating to elections; changing and clarifying certain provisions; amending Minnesota Statutes 2008, sections 201.016, subdivision 1a; 201.061, subdivision 1; 201.11; 201.12; 201.121, subdivision 3; 201.13; 201.14; 201.15, subdivisions 1, 2; 201.155; 201.171; 203B.02, subdivision 3; 203B.04, subdivision 1; 203B.06, subdivisions 1, as amended, 5; 203B.081, as amended; 203B.16, subdivision 2; 203B.19; 203B.227; 204B.04, subdivision 2; 204B.135, subdivision 4; 204B.14, by adding a subdivision; 204B.18, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, by adding a subdivision; 204B.38; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.08; 204C.09, subdivision 1; 204C.12, subdivision 2; 204C.13, subdivision 2; 204C.24, subdivision 1; 204C.28, subdivisions 1, 2; 204C.33, subdivision 1; 204C.35, subdivisions 2, 3; 204C.36, subdivisions 3, 4; 204C.37; 204D.04, subdivision 2; 204D.09, subdivision 2; 204D.10, subdivision 1; 204D.17; 204D.19; 204D.20, subdivision 1; 205.065, subdivision 1, as amended; 205.07, subdivision 1, by adding a subdivision; 205.13, subdivisions 1, 2; 205.16, subdivisions 2, 3, 4, as amended, 5, as amended; 205A.03, subdivision 2, as amended; 205A.04, subdivision 1; 205A.05, subdivision 1; 205A.07, subdivisions 3, as amended, 3a, as amended, 3b, as amended; 205A.11, subdivision 3; 206.57, subdivision 6; 208.03; 365.51, subdivision 1; 375.101, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 201; 204D; 205; 205A; 373; repealing Minnesota Statutes 2008, sections 3.22; 204B.22, subdivision 3; 204D.10, subdivision 2; 206.57, subdivision 7; 206.805, subdivision 2; 206.91.*

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

Section 1. Minnesota Statutes 2008, section 201.016, subdivision 1a, is amended to read:

Subd. 1a. **Violations; penalty.** (a) The county auditor shall mail a ~~violation~~ notice to any voter who the county auditor can determine has ~~voted~~: (1) provided the address at which the voter maintains residence, but was allowed to vote in a precinct other than the precinct in which the voter maintains residence; and (2) not voted in the wrong precinct previously. The notice must be in the form provided by the secretary of state.

(b) The county auditor shall mail a violation notice to any voter who otherwise voted in a precinct in which the voter did not maintain residence on election day. The county auditor shall also change the status of the voter in the statewide registration system to "challenged" and the voter shall be required to provide proof of residence to either the county auditor or to the election judges in the voter's precinct before voting in the next election. Any of the forms authorized by section 201.061 for registration at the polling place may be used for this purpose.

~~(b)~~ (c) A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice as provided in this subdivision is guilty of a petty misdemeanor.

~~(c)~~ (d) A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor under paragraph (b) is guilty of a misdemeanor.

~~(d)~~ (e) Reliance by the voter on inaccurate information regarding the location of the voter's polling place provided by the state, county, or municipality is an affirmative defense to a prosecution under this subdivision.

Sec. 2. Minnesota Statutes 2008, section 201.061, subdivision 1, is amended to read:

Subdivision 1. **Prior to election day.** At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071, subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten calendar days after the applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Sec. 3. Minnesota Statutes 2008, section 201.11, is amended to read:

**201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES.**

Subdivision 1. Precinct boundaries changed. When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. House number or street address changed. If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction which includes the affected residence.

Sec. 4. Minnesota Statutes 2008, section 201.12, is amended to read:

**201.12 PROPER REGISTRATION; VERIFICATION BY MAIL; CHALLENGES.**

Subdivision 1. **Notice of registration.** To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

Subd. 2. **Moved within state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address in this state, the county auditor may change the voter's status to "inactive" in the statewide registration system and shall ~~notify~~ transmit a copy of the mailing to the auditor of the county in which the new address is located. ~~Upon receipt of the notice, If an election is scheduled to occur in the precinct in which the voter resides in the next 47 days,~~ the county auditor shall promptly update the voter's address in the statewide voter registration system ~~and~~. If there is not an election scheduled, the auditor may wait to update the voter's address until after the next list of address changes is received from the secretary of state. Once updated, the county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

Subd. 3. **Moved out of state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address outside this state, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Challenges.** If any nonforwardable mailing from an election official is returned as undeliverable but with no forwarding address, the county auditor shall change the registrant's status to "challenged" in the statewide voter registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote. If a notice mailed at least 60 days after the return of the first nonforwardable mailing is also returned by the postal service, the county auditor shall change the registrant's status to "inactive" in the statewide voter registration system.

**EFFECTIVE DATE.** This section is effective June 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 201.121, subdivision 3, is amended to read:

Subd. 3. **Postelection sampling.** Within ten days after an election, the county auditor shall send the notice required by subdivision 2 to a random sampling of the individuals registered on election day. The random sampling shall be determined in accordance with the rules of the secretary of state. As soon as practicable after the election, the county auditor shall mail the notice required by subdivision 2 to all other individuals registered on election day. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not

receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the county attorney of all of the relevant information and the secretary of state of the numbers by precinct. By March 1 of every odd-numbered year, the secretary of state shall report to the chair and ranking minority members of the legislative committees with jurisdiction over elections the number of notices reported under this subdivision to the secretary of state for the previous state general election by county and precinct.

Sec. 6. Minnesota Statutes 2008, section 201.13, is amended to read:

**201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.**

Subdivision 1. **Commissioner of health; reports of deceased residents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 1a. **Social Security Administration; reports of deceased residents.** The secretary of state shall determine if any of the persons listed on the Social Security Death Index are registered to vote and prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 2. **Deceased nonresidents.** After receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased." Notice must be in the form of a printed obituary or a written statement signed by a registered Minnesota voter of the county.

Subd. 3. **Use of change of address system.** (a) At least once each month the secretary of state shall obtain a list of individuals registered to vote in this state who have filed with the United States Postal Service a change of their permanent address. However, the secretary of state shall not load data derived from this list into the statewide voter registration system within the 47 days before the state primary or 47 days before a November general election.

(b) If the address is changed to another address in this state, the secretary of state shall locate the precinct in which the voter resides, if possible. If the secretary of state is able to locate the precinct in which the voter resides, the secretary must transmit the information about the changed address by electronic means to the county auditor of the county in which the new address is located. If the voter has not voted or submitted a voter registration application since the address change, upon receipt of the information, the county auditor shall update the voter's address in the statewide voter registration system and. The county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, unless the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, in which case the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not

the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

~~(b)~~ (c) If the change of permanent address is to an address outside this state, the secretary of state shall notify by electronic means the auditor of the county where the voter formerly resided that the voter has moved to another state. If the voter has not voted or submitted a voter registration application since the address change, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Request for removal of voter record.** If a voter makes a written request for removal of the voter's record, the county auditor shall remove the record of the voter from the statewide voter registration system.

**EFFECTIVE DATE.** Subdivision 1a is effective the day following final enactment. Subdivision 3 is effective June 1, 2011. The remainder of this section is effective August 1, 2010.

Sec. 7. Minnesota Statutes 2008, section 201.14, is amended to read:

**201.14 COURT ADMINISTRATOR OF DISTRICT COURT; REPORT CHANGES OF NAMES.**

The state court administrator of district court in each county shall regularly report ~~monthly~~ by electronic means to the county auditor secretary of state the name ~~and~~ address, and, if available, driver's license or state identification card number of each individual, 18 years of age or over, ~~who maintains residence in that county and~~ whose name was changed during the month preceding the date of the since the last report, by marriage, divorce or any order or decree of the court. The secretary of state shall determine if any of the persons in the report are registered to vote under their previous name and shall prepare a list of those registrants for each county auditor. Upon receipt of the report list, the county auditor shall ~~notify by mail each registered voter whose name was changed that it will be necessary to reregister under the changed name in order to vote~~ make the change in the voter's record and mail to the voter the notice of registration required by section 201.121, subdivision 2.

**EFFECTIVE DATE.** This section is effective June 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 201.15, subdivision 1, is amended to read:

Subdivision 1. **Guardianships and incompetents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report ~~monthly~~ regularly by electronic means to the secretary of state the name, address, ~~and~~ date of birth, and, if available, driver's license or state identification card number of each individual 18 years of age or over, who ~~during the month preceding the date of the~~ since the last report:

~~(a)~~ (1) was placed under a guardianship in which the court order revokes the ward's right to vote; or

~~(b)~~ (2) was adjudged legally incompetent.

The court administrator shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause ~~(a)~~ (1) or ~~(b)~~ (2). The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Sec. 9. Minnesota Statutes 2008, section 201.15, subdivision 2, is amended to read:

Subd. 2. **Guardianship termination or modification.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report ~~monthly~~ regularly by electronic means to the secretary of state the name, address, ~~and~~ date of birth, and, if available, driver's license or state identification card number of each individual whose guardianship was modified to restore the ward's right to vote or whose guardianship was terminated by order of the court under section 524.5-317 after being ineligible to vote for any of the reasons specified in subdivision 1. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the voter's record in the statewide registration system to "active."

Sec. 10. Minnesota Statutes 2008, section 201.155, is amended to read:

#### **201.155 REPORT ON FELONY CONVICTIONS.**

Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report ~~monthly~~ regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been convicted of a felony. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.

Sec. 11. **[201.157] USE OF DEPARTMENT OF CORRECTIONS DATA.**

As required by the Help America Vote Act of 2002, Public Law 107-252, the commissioner of corrections shall make electronic data available to the secretary of state on individuals 18 years of age or older who are currently serving felony sentences under the commissioner's jurisdiction. The data must include the name, date of birth, corrections' state identification number, and if available, the driver's license or state identification card number, and, if an individual has completed the sentence, the date of discharge.

The secretary of state must determine if any data newly indicates that:

(1) an individual with an active voter registration in the statewide voter registration system is currently serving a felony sentence under the commissioner's jurisdiction and the individual's voter record does not already have a challenged status due to a felony conviction;

(2) an individual with an active voter registration in the statewide voter registration system who is currently serving a felony sentence under the commissioner's jurisdiction appears to have registered to vote or to have voted during a period when the individual's civil rights were revoked; and

(3) an individual with a voter record that has a challenged status due to a felony conviction who was serving a felony sentence under the commissioner's jurisdiction has been discharged from a sentence.

The secretary of state shall prepare a list of the registrants included under clause (1), (2), or (3) for each county auditor. For individuals under clause (1), the county auditor shall challenge the individual's record in the statewide voter registration system. The county auditor must provide information to the county attorney about individuals under clause (2) for the county attorney's investigation. For individuals under clause (3), the county auditor must determine if the challenge status should be removed from the voter record for the individual, and if so, must remove the challenge.

The secretary of state must make the required determinations and provide the required lists to the county auditors at least monthly.

For each state general election that occurs prior to the statewide voter registration system being programmed to generate lists as required by this section, the secretary of state must make the determination and provide lists to the county auditors between 30 and 60 days before the election and again between six and ten weeks after the election. In the year following that state election, the secretary of state must make this determination and provide lists to the county auditors again as part of the annual list maintenance.

**EFFECTIVE DATE.** This section is effective August 1, 2010.

**Sec. 12. [201.158] USE OF DEPARTMENT OF PUBLIC SAFETY DATA.**

As required by the Help America Vote Act of 2002, Public Law 107-252, the commissioner of public safety shall make electronic data on citizenship available to the secretary of state. The secretary of state must determine whether the data newly indicates that any individuals who have active records in the statewide voter registration system are not citizens. The secretary of state shall prepare a list of those voters for each county auditor. The county auditor shall change the status of those registrants in the statewide voter registration system to reflect that they are challenged based upon their citizenship and must notify the county attorney.

In 2010, the secretary of state must make the determination and provide lists to the county auditors between 30 and 60 days before the general election and again between six and ten weeks after the election. In 2011, the secretary of state must make this determination again as part of the annual list maintenance. By August 1, 2012, the secretary of state must provide electronic lists to the counties at least monthly.

Sec. 13. Minnesota Statutes 2008, section 201.171, is amended to read:

**201.171 POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED.**

Within six weeks after every election, the county auditor shall post the voting history for every person who voted in the election. After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding

four years. The secretary of state shall perform list maintenance by changing the status of those registrants to "inactive" in the statewide registration system. The list maintenance performed must be conducted in a manner that ensures that the name of each registered voter appears in the official list of eligible voters in the statewide registration system. A voter must not be removed from the official list of eligible voters unless the voter is not eligible or is not registered to vote. List maintenance must include procedures for eliminating duplicate names from the official list of eligible voters.

The secretary of state shall also prepare a report to the county auditor containing the names of all registrants whose status was changed to "inactive."

Registrants whose status was changed to "inactive" must register in the manner specified in section 201.054 before voting in any primary, special primary, general, school district, or special election, as required by section 201.018.

Although not counted in an election, a late or rejected absentee or mail ballot must be considered a vote for the purpose of continuing registration under this section, but is not considered voting history for the purpose of public information lists available under section 201.091, subdivision 4.

Sec. 14. Minnesota Statutes 2008, section 203B.02, subdivision 3, is amended to read:

Subd. 3. **Permanent Indefinite residence abroad.** A United States citizen living permanently indefinitely outside the United States who is eligible under federal law to vote in federal elections in Minnesota may vote by absentee ballot only as provided in sections 203B.16 to 203B.27.

Sec. 15. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state, ~~notwithstanding rules on absentee ballot forms,~~ and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

- (a) (1) the county auditor of the county where the applicant maintains residence; or
- (b) (2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. The application may contain a request for the voter's date of birth, which must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of

persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

Sec. 16. Minnesota Statutes 2008, section 203B.06, subdivision 1, as amended by Laws 2010, chapter 184, section 5, is amended to read:

Subdivision 1. **Printing and delivery of forms.** Each county auditor and municipal clerk shall prepare and print a sufficient number of blank application forms for absentee ballots. The county auditor or municipal clerk shall deliver a blank application form to any voter who requests one pursuant to section 203B.04. Blank application forms must be mailed to eligible voters who have requested an application pursuant to section 203B.04, subdivision 5 or 6, at least 60 days before:

(1) each regularly scheduled primary for federal, state, county, city, or school board office;

(2) each regularly scheduled general election for city or school board office for which a primary is not held; and

(3) a special primary to fill a federal or county office vacancy or special election to fill a federal or county office vacancy, ~~if no major party has more than one candidate after the time for withdrawal has expired a primary is not required to be held pursuant to section 204D.03, subdivision 3, or 204D.07, subdivision 3; and~~

(4) any election held in conjunction with an election described in clauses (1) to (3);

or at least 45 days before any other primary or other election for which a primary is not held.

Sec. 17. Minnesota Statutes 2008, section 203B.06, subdivision 5, is amended to read:

Subd. 5. **Preservation of records.** An application for absentee ballots shall be dated by the county auditor or municipal clerk when it is received and shall be initialed when absentee ballots are mailed or delivered to the applicant. All applications shall be preserved by the county auditor or municipal clerk ~~and arranged according to precincts and the initial letter of the applicant's surname~~ for 22 months.

Sec. 18. Minnesota Statutes 2008, section 203B.081, as amended by Laws 2010, chapter 184, section 6, is amended to read:

**203B.081 LOCATIONS FOR ABSENTEE VOTING IN PERSON.**

An eligible voter may vote by absentee ballot in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before:

(1) a regularly scheduled election for federal, state, county, city, or school board office ~~or;~~

(2) a special election for a federal or county office; and

(3) an election held in conjunction with an election described in clauses (1) and (2),

and during the 30 days before any other election. The county auditor shall make such designations at least 14 weeks before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county

auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Sec. 19. Minnesota Statutes 2008, section 203B.16, subdivision 2, is amended to read:

Subd. 2. **Permanent Indefinite residence outside United States.** Sections 203B.16 to 203B.27 provide the exclusive voting procedure for United States citizens who are living ~~permanently~~ indefinitely outside the territorial limits of the United States who meet all the qualifications of an eligible voter except residence in Minnesota, but who are authorized by federal law to vote in Minnesota because they maintained residence in Minnesota for at least 20 days immediately prior to their departure from the United States. Individuals described in this subdivision shall be permitted to vote only for the offices of president, vice-president, senator in Congress, and representative in Congress.

Sec. 20. Minnesota Statutes 2008, section 203B.19, is amended to read:

#### **203B.19 RECORDING APPLICATIONS.**

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, passport number, Minnesota driver's license number or state identification card number, or the last four digits of the voter's Social Security number, and whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to ~~absent voters described in section 203B.16.~~ ~~No later than 60 days after the general election, the county auditor shall report to the secretary of state~~ and the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

Sec. 21. Minnesota Statutes 2008, section 203B.227, is amended to read:

#### **203B.227 WRITE-IN ABSENTEE BALLOT.**

(a) A voter described in section 203B.16, subdivision 1, may use a state write-in absentee ballot or the federal write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.

(b) If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application was not received, the Federal Write-in Absentee Ballot serves as a voter

registration, for voters who are eligible to register, in lieu of the voter's Federal Post Card Application. If the voter has not already voted and the accompanying certificate is properly completed, the absentee ballot board must accept the Federal Write-in Absentee Ballot.

Sec. 22. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, except as otherwise provided for ~~partisan offices in section 204D.10, subdivision 2, and for nonpartisan offices in section 204B.13, subdivision 4.~~

Sec. 23. Minnesota Statutes 2008, section 204B.135, subdivision 4, is amended to read:

Subd. 4. **Special elections; limitations.** No municipality or school district may conduct a special election during the 19 weeks before the state primary election in the year ending in two, ~~except for special elections conducted on the date of the school district general election.~~ A school district special election required by any other law may be deferred until the date of the next school district general election, the state primary election, or the state general election.

Sec. 24. Minnesota Statutes 2008, section 204B.14, is amended by adding a subdivision to read:

Subd. 4a. **Municipal boundary adjustment procedure.** A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective more than 21 days before a regularly scheduled election takes effect at the scheduled election.

A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective less than 21 days before a regularly scheduled election takes effect the day after the scheduled election.

Sec. 25. Minnesota Statutes 2008, section 204B.18, subdivision 1, is amended to read:

Subdivision 1. **Booths; voting stations.** (a) Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall permit the voter to vote privately and independently.

(b) Each polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252.

(c) Local jurisdictions must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. The jurisdiction providing the equipment may require the jurisdiction using the equipment to reimburse any direct actual costs incurred as a result of the equipment's use and any prorated indirect costs of maintaining and storing the equipment. A rental or other similar use fee may not be charged.

Any funds received under this clause for expenses incurred by that local jurisdiction as a direct result of making the equipment available that were not paid for in whole or in part with funds from the Help America Vote Act account are not program income under the Help America Vote Act, Public Law 107-252.

Any funds received by a local jurisdiction making the equipment available as reimbursement for expenses as defined as "operating costs" under Laws 2005, chapter 162, section 34, subdivision 1, paragraph (b), and paid for in whole or in part with funds from the Help America Vote Act account must be treated as program income and deposited into the jurisdiction's Help America Vote Act account in the direct proportion that funds from the Help America Vote Act account were used to pay for those "operating costs."

(d) All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms.

(e) All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 26. Minnesota Statutes 2008, section 204B.22, subdivision 1, is amended to read:

Subdivision 1. **Minimum number required.** (a) A minimum of ~~three~~ four election judges shall be appointed for each precinct, except as provided by subdivision 2. In a combined polling place under section 204B.14, subdivision 2, at least one judge must be appointed from each municipality in the combined polling place, provided that not less than three judges shall be appointed for each combined polling place. The appointing authorities may appoint election judges for any precinct in addition to the number required by this subdivision including additional election judges to count ballots after voting has ended.

(b) An election judge may serve for all or part of election day, at the discretion of the appointing authority, as long as the minimum number of judges required is always present. The head election judge designated under section 204B.20 must serve for all of election day and be present in the polling place unless another election judge has been designated by the head election judge to perform the functions of the head election judge during any absence.

Sec. 27. Minnesota Statutes 2008, section 204B.22, subdivision 2, is amended to read:

Subd. 2. **Additional election judges in paper ballot precincts Exception.** ~~in precincts using paper ballots, A minimum of three election judges shall be appointed in precincts not using electronic voting equipment. One additional election judge shall be appointed for each 150 votes cast in that precinct at the last similar election. At each state primary or state general election in precincts using paper ballots and in which more than 300 votes were cast at the last similar election, additional election judges shall be appointed to count the ballots and complete the returns in place of the election board that served while voting was taking place.~~

Sec. 28. Minnesota Statutes 2008, section 204B.24, is amended to read:

**204B.24 ELECTION JUDGES; OATH.**

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate."

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other.

Sec. 29. Minnesota Statutes 2008, section 204B.27, subdivision 2, is amended to read:

Subd. 2. **Election law and instructions.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before July August 1 of every ~~even-numbered~~ odd-numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. On or before July 1 of every even-numbered year, the secretary of state shall prepare and make an electronic copy available on the office's Web site. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2008, section 204B.27, subdivision 3, is amended to read:

Subd. 3. **Instruction posters.** At least 25 days before every state primary election the secretary of state shall prepare and furnish to the county auditor of each county ~~in which paper ballots are used~~, voter instruction posters printed in large type upon cards or heavy paper. The instruction posters must contain the information needed to enable the voters to cast their paper ballots quickly and correctly and indicate the types of assistance available for elderly and disabled voters. Two instruction posters shall be furnished for each precinct ~~in which paper ballots are used~~. Upon mutual agreement, the secretary of state may provide the posters in an electronic format.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 31. Minnesota Statutes 2008, section 204B.28, is amended by adding a subdivision to read:

Subd. 3. **Certification of number.** The county auditor or municipal clerk must certify the number of ballots being provided to each precinct and provide this number to the election judges for inclusion on the summary statement. The auditor or clerk must not open prepackaged ballots, but must count the ballots, presuming that the total count for each package is correct.

Sec. 32. Minnesota Statutes 2008, section 204B.38, is amended to read:

**204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.**

When the similarity of surnames both the first and last names of two or more candidates for the same office at the same election may cause confusion to voters, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 33. Minnesota Statutes 2008, section 204C.02, is amended to read:

**204C.02 APPLICATION.**

This chapter applies to all elections held in this state except as otherwise provided by law.

An individual who is unable to write the individual's name must sign election-related documents in the manner provided by section 645.44, subdivision 14. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 34. Minnesota Statutes 2008, section 204C.04, subdivision 1, is amended to read:

Subdivision 1. **Right to be absent.** Every employee who is eligible to vote in an election has the right to be absent from work ~~for the purpose of voting during the morning~~ or for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 35. Minnesota Statutes 2008, section 204C.06, subdivision 1, is amended to read:

Subdivision 1. **Lingering Persons allowed near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote or an individual who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. "Exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous, written questionnaire.

Sec. 36. Minnesota Statutes 2008, section 204C.08, is amended to read:

**204C.08 OPENING OF POLLING PLACES.**

Subdivision 1. **Arrival; ballots.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree

and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns.

Subd. 1a. Display of flag. Upon their arrival at the polling place on the day of election, the election judges shall cause the national flag to be displayed on a suitable staff at the entrance to the polling place. The flag shall be displayed continuously during the hours of voting and the election judges shall attest to that fact by signing the flag certification statement on the precinct summary statement. The election judges shall receive no compensation for any time during which they intentionally fail to display the flag as required by this subdivision.

Subd. 1b. Voter's Bill of Rights. The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

#### "VOTER'S BILL OF RIGHTS

For all persons residing in this state who meet federal voting eligibility requirements:

(1) You have the right to be absent from work for the purpose of voting ~~during the morning of~~ without reduction to your pay, personal leave, or vacation time on election day for the time necessary to appear at your polling place, cast a ballot, and return to work.

(2) If you are in line at your polling place any time ~~between 7:00 a.m. and~~ before 8:00 p.m., you have the right to vote.

(3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.

(4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.

(5) You have the right to request special assistance when voting.

(6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.

(7) You have the right to bring your minor children into the polling place and into the voting booth with you.

(8) If you have been convicted of a felony but your felony sentence has expired (been completed) or you have been discharged from your sentence, you have the right to vote.

(9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.

(10) You have the right to vote without anyone in the polling place trying to influence your vote.

(11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.

(12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.

(13) You have the right to take a sample ballot into the voting booth with you.

(14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Subd. 2. **Posting of voting instructions.** Before the hours for voting are scheduled to begin, the election judges shall post any official voter instruction posters furnished to them in a conspicuous location or locations in the polling place.

Subd. 2a. **Sample ballots.** ~~At least two~~ sample ballot ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout election day. The sample ballot ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.

Subd. 3. **Locking of ballot boxes box.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot ~~boxes box~~ in the presence of the individuals assembled at the polling place, ~~turn the boxes upside down to demonstrate that it is empty them,~~ lock them it, and deliver the key to another election judge. Except as provided by law or rule, the boxes box shall not be reopened except to count the ballots until after the hours for voting have ended and all voting has been concluded. The ~~boxes box~~ shall be kept in public view at all times during voting hours. After locking the ballot ~~boxes box~~, the election judges shall proclaim that voting may begin, and shall post outside the polling place conspicuous written or printed notices of the time when voting is scheduled to end.

Subd. 4. **Ballot boxes, box boxcar seals.** The governing body of a municipality or school district by resolution may direct the municipal or school district clerk to furnish a boxcar seal for each ballot box in place of a lock and key. Each seal shall consist of a numbered ~~metal~~ strap with a self-locking device securely attached to one end of the strap so that the other end may be inserted and securely locked in the seal. No two ~~metal~~ straps shall bear the same number.

Sec. 37. Minnesota Statutes 2008, section 204C.09, subdivision 1, is amended to read:

Subdivision 1. **Counting and initialing.** (a) Before the voting begins, at least two election judges must certify the number of ballots delivered to the precinct. Election judges may conduct this count, presuming that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure that the total count provided for the package is correct. Any discrepancy must be noted on the incident log.

(b) Before the voting begins, or as soon as possible after it begins, at least two election judges shall each initial the backs of all the ballots. The election judges shall not otherwise mark the ballots.

Sec. 38. Minnesota Statutes 2008, section 204C.12, subdivision 2, is amended to read:

Subd. 2. **Statement of grounds; oath.** A challenger must be a resident of this state. The secretary of state shall prepare a form that challengers must complete and sign when making a challenge. The form must include space to state the ground for the challenge, a statement that the challenge is based on the challenger's personal knowledge, and a statement that the challenge is made under oath. The form must include a space for the challenger's printed name, signature, telephone number, and address.

An election judge shall administer to the challenged individual the following oath:

"Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?"

The election judge shall then ask the challenged individual sufficient questions to test that individual's residence and right to vote.

Sec. 39. Minnesota Statutes 2008, section 204C.13, subdivision 2, is amended to read:

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking and folding the ballots and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth ~~and~~ or, at the voter's discretion, the voter may choose to use another writing surface. The voter shall mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

Sec. 40. Minnesota Statutes 2008, section 204C.24, subdivision 1, is amended to read:

Subdivision 1. **Information requirements.** Precinct summary statements shall be submitted by the election judges in every precinct. For all elections, the election judges shall complete three or more copies of the summary statements, and each copy shall contain the following information for each kind of ballot:

(a) the number of ballots delivered to the precinct as adjusted by the actual count made by the election judges, the number of unofficial ballots made, and the number of absentee ballots delivered to the precinct;

(b) the number of votes each candidate received or the number of yes and no votes on each question, the number of undervotes ~~or partially blank ballots, and,~~ the number of overvotes ~~or partially,~~ and the number of defective ballots with respect to each office or question;

~~(b) the number of totally blank ballots, the number of totally defective ballots, (c) the number of spoiled ballots, the number of duplicate ballots made, the number of absentee ballots rejected, and the number of unused ballots, presuming that the total count provided on each package of unopened prepackaged ballots is correct;~~

~~(d)~~ (d) the number of individuals who voted at the election in the precinct which must equal the total number of ballots cast in the precinct, as required by sections 204C.20 and 206.86, subdivision 1;

~~(d)~~ (e) the number of voters registering on election day in that precinct; and

~~(e)~~ (f) the signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections.

Sec. 41. Minnesota Statutes 2008, section 204C.28, subdivision 1, is amended to read:

Subdivision 1. **County auditor.** Every county auditor shall remain at the auditor's office to receive delivery of the returns, 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 end of the hours for voting, whichever occurs first. Every county auditor shall, in the presence of the municipal clerk or the election judges who deliver the returns, make a record of all materials delivered, the time of delivery, and the names of the municipal clerk or election judges who made delivery.

The record must include the number of ballots delivered to the precinct, as certified by section 204B.28, and the total number of ballots returned, as certified by the election judges under section 204C.24. A discrepancy between the number of ballots delivered to the precinct and the number of total ballots returned by election judges that cannot be reconciled by taking into account the adjustments made by the election judge counts and any unofficial ballots must be noted, but does not necessarily require disqualification of the votes from that precinct or invalidation of the election. The county auditor shall file the record and all envelopes containing ballots in a safe and secure place with envelope seals unbroken. Access to the record and ballots shall be strictly controlled. Accountability and a record of access shall be maintained by the county auditor during the period for contesting elections or, if a contest is filed, until the contest has been finally determined. Thereafter, the record shall be retained in the auditor's office for the same period as the ballots as provided in section 204B.40.

The county auditor shall file all envelopes containing ballots in a safe place with seals unbroken. If the envelopes were previously opened by proper authority for examination or recount, the county auditor shall have the envelopes sealed again and signed by the individuals who made the inspection or recount. The envelopes may be opened by the county canvassing board if necessary to procure election returns that the election judges inadvertently may have sealed in the envelopes with the ballots. In that case, the envelopes shall be sealed again and signed in the same manner as otherwise provided in this subdivision.

Sec. 42. Minnesota Statutes 2008, section 204C.28, subdivision 2, is amended to read:

Subd. 2. **Clerks.** The clerk of every first, second, and third class city shall remain at the clerk's office to receive delivery of returns, or until 24 hours have elapsed since the end of the hours for voting, whichever occurs first. The clerk of every first class city shall keep a book in which, in the presence of the election judges or other individuals who deliver the returns, the clerk shall make a record of all materials delivered, the time of delivery, and the names of the election judges or other individuals who made delivery. The record must include the number of ballots delivered to the precinct, as certified by section 204B.28, and the total number of ballots returned, as certified by the election judges under section 204C.24. A discrepancy between the number of ballots delivered to the precinct and the number of total ballots returned by election judges that cannot be reconciled by taking into account the adjustments made by the election judge counts and any unofficial ballots must be noted, but does not necessarily require disqualification of the votes from that precinct or invalidation of the election. The book shall be retained in the clerk's office for the same period as the ballots as provided in section 204B.40.

Sec. 43. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on or before the seventh day following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general

election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) the number of individuals voting at the election in the county and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, ~~including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;~~
- (d) the number of votes counted for and against a proposed change of county lines or county seat; and
- (e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or federal county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit ~~one of the~~ a certified ~~copies~~ copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Sec. 44. Minnesota Statutes 2008, section 204C.35, subdivision 2, is amended to read:

Subd. 2. **Discretionary candidate recount.** (a) A losing candidate whose name was on the ballot for nomination or election to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office may request a recount in a manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by this section. The votes shall be manually recounted as provided in this section if the candidate files a request during the time for filing notice of contest of the primary or election for which a recount is sought.

(b) The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. The requesting candidate is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; ~~the costs of computer~~

~~operation, preparation of ballot counting equipment, necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.~~

(c) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list, the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).

(d) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.

(e) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

Sec. 45. Minnesota Statutes 2008, section 204C.35, subdivision 3, is amended to read:

Subd. 3. **Scope of recount.** A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process. Original ballots that have been duplicated under section 206.86, subdivision 5, are not within the scope of a recount and must not be examined except as provided by a court in an election contest under chapter 209.

Sec. 46. Minnesota Statutes 2008, section 204C.36, subdivision 3, is amended to read:

Subd. 3. **Discretionary ballot question recounts.** A recount may be conducted for a ballot question when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1. A recount may be requested by any person eligible to vote on the ballot question. A written request for a recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. Upon receipt of a written request when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1, the county auditor shall recount the votes for a county question at the expense of the county, the governing body of the municipality shall recount the votes for a municipal question at the expense of the municipality, and the school board of the school district shall recount the votes for a school district question at the expense of the school district. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, petition, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested.

Sec. 47. Minnesota Statutes 2008, section 204C.36, subdivision 4, is amended to read:

Subd. 4. **Expenses.** In the case of a question, a person, or a candidate requesting a discretionary recount, is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; ~~the costs of computer operation, preparation of ballot counting equipment,~~ necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

Sec. 48. Minnesota Statutes 2008, section 204C.37, is amended to read:

**204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.**

~~Two copies~~ A copy of the ~~reports~~ report required by sections 204C.32, subdivision 1, and 204C.33, subdivision 1, shall be certified under the official seal of the county auditor. ~~Each~~ The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words "Election Returns" endorsed on the envelope. The copy of the canvassing board report ~~not sent by express mail~~ and the precinct summary statements must be ~~mailed~~ sent by express mail or delivered to the secretary of state. If ~~neither~~ the copy is not received by the secretary of state within ten days following the applicable election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

Sec. 49. Minnesota Statutes 2008, section 204D.04, subdivision 2, is amended to read:

Subd. 2. **Instructions to printer; printer's bond.** (a) The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding \$1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 50. Minnesota Statutes 2008, section 204D.09, subdivision 2, is amended to read:

Subd. 2. **Sample ballot.** At least two weeks before the state primary the county auditor shall prepare a sample state partisan primary ballot and a sample state and county nonpartisan primary ballot for public inspection. The names of all of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged ~~alphabetically according to the surname~~ in the base rotation as determined by section 206.61, subdivision 5. Only one sample state partisan

primary ballot and one sample state and county nonpartisan ballot shall be prepared for any county. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 51. Minnesota Statutes 2008, section 204D.10, subdivision 1, is amended to read:

Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a major political party for a partisan office on the state partisan primary ballot who receives the highest number of votes shall be the nominee of that political party for that office; ~~except as otherwise provided in subdivision 2.~~

Sec. 52. Minnesota Statutes 2008, section 204D.17, is amended to read:

**204D.17 REPRESENTATIVE — IN — CONGRESS; STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION.**

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of ~~representative in Congress~~ or state senator or state representative shall be filled for the unexpired term by special election upon the writ of the governor as provided in sections 204D.17 to 204D.27; except that if ~~Congress~~ or the legislature will not be in session before the expiration of the vacant term no special election is required.

Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same special election and the candidates may be nominated at the same special primary. Any special primary or special election held pursuant to sections 204D.17 to 204D.27 may be held on the same day as any other election.

Sec. 53. Minnesota Statutes 2008, section 204D.19, is amended to read:

**204D.19 SPECIAL ELECTIONS; WHEN HELD.**

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs more than 150 days before the next state general election, and the ~~Congress or the~~ legislature will not be in session before the final canvass of the state general election returns, the vacancy shall be filled at the next state general election.

Subd. 2. **Special election when ~~Congress or~~ legislature will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the ~~Congress or~~ legislature will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in no event more than 35 days after the issuance of the writ.

Subd. 3. **Special election at other times.** When a vacancy occurs at a time other than those described in subdivisions 1 and 2 the governor shall issue a writ, calling for a special election to be held so that the individual 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.

Subd. 4. **Writ when vacancy results from election contest.** If a vacancy results from a successful election contest, the governor shall issue 22 days after the first day of the legislative session a writ calling for a special election unless the house in which the contest may be tried has passed a resolution which states that it will or will not review the court's determination of the contest. If the resolution states that the house will not review the court's determination, the writ shall be issued within five days of the passage of the resolution.

Sec. 54. **[204D.195] DATE OF SPECIAL ELECTION; CERTAIN TIMES PROHIBITED.**

Notwithstanding any other provision of law, a special primary and special general election may not be held for a period beginning the day following the date of the state primary election, and ending the day prior to the date of the state general election.

Sec. 55. Minnesota Statutes 2008, section 204D.20, subdivision 1, is amended to read:

Subdivision 1. **Special primary.** Except as provided in subdivision 2, the candidates of the major political parties to fill a vacancy shall be nominated at a special primary. The candidate of each party who receives the highest number of votes at the special primary shall be nominated ~~without reference to the ten percent requirement of section 204D.10, subdivision 2.~~

Sec. 56. **[204D.29] REPRESENTATIVE IN CONGRESS VACANCY.**

Subdivision 1. **Scope; definition.** (a) A vacancy in the office of representative in Congress must be filled as specified in this section.

(b) "Vacancy," as used in this section, means a vacancy in the office of representative in Congress.

Subd. 2. **Vacancy 27 weeks or more before state primary.** (a) If a vacancy occurs 27 weeks or more before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held between 20 and 24 weeks of the vacancy, but not fewer than 47 days before a state primary. A special primary must be held 11 weeks before the special election or on the second Tuesday in August if the general election is held on the first Tuesday after the first Monday in November if any major party has more than one candidate after the time for withdrawal has expired.

(b) The filing period for a special election under this subdivision must end on or before the 131st day before the special election. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing.

Subd. 3. **Vacancy more than 22 weeks but fewer than 27 weeks before state primary.** (a) If a vacancy occurs more than 22 weeks but fewer than 27 weeks before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held on the day of the state primary with a special primary held 11 weeks before the state primary, if any major party has more than one candidate after the time for withdrawal has expired. The regularly scheduled election to fill the next full term shall proceed pursuant to law.

(b) The filing period for a special election under this subdivision must end on or before the 147th day before the state primary. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing. Candidates for a special election under this subdivision are not subject to the prohibition in section 204B.06 against having more than one affidavit of candidacy on file for the same election.

(c) The winner of a special election on the day of the state primary under this subdivision shall serve the remainder of the vacant term and is eligible to be seated in Congress upon issuance of the certificate of election. The winner of the regularly scheduled term for that office at the general election shall take office on the day new members of Congress take office.

Subd. 4. **Vacancy 22 or fewer weeks before state primary but before general election day.** (a) If a vacancy occurs from 22 weeks before the state primary to the day before the general election, no special election will be held. The winner of the general election for the next full term for that office will serve the remainder of the unexpired term and is eligible to be seated in Congress immediately upon issuance of a certificate of election.

(b) If the incumbent filed an affidavit of candidacy for reelection as the candidate of a major political party and was nominated for the general election ballot by that party and a vacancy occurs from the day of the state primary until the date of the general election, there is a vacancy in nomination to be resolved pursuant to section 204B.13.

Subd. 5. **Vacancy on or after election day and before the day new members of Congress take office.** (a) If a vacancy occurs between the day of the general election and the day new members of Congress take office and the incumbent was not the winner of the general election, the winner of the general election for the next full term for that office is eligible to be seated in Congress immediately upon issuance of a certificate of election or the vacancy, whichever occurs last.

(b) If a vacancy occurs on or after election day but before the day new members of Congress take office and the incumbent was the winner of the general election, the vacancy must be filled pursuant to subdivision 2.

Sec. 57. Minnesota Statutes 2008, section 205.065, subdivision 1, as amended by Laws 2010, chapter 184, section 26, is amended to read:

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the second Tuesday in August of any year in which a municipal general election is to be held for the purpose of electing officers. The date of a municipal primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

Sec. 58. Minnesota Statutes 2008, section 205.07, subdivision 1, is amended to read:

Subdivision 1. **Date of election.** The municipal general election in each city shall be held on the first Tuesday after the first Monday in November in every even-numbered year. Notwithstanding any provision of law to the contrary and subject to the provisions of this section, the governing body of a city may, by ordinance passed at a regular meeting held before June 1 of any year, elect to hold the election on the first Tuesday after the first Monday in November in each odd-numbered year. A city may hold elections in either

the even-numbered year or the odd-numbered year, but not both. When a city changes its elections from one year to another, and does not provide for the expiration of terms by ordinance, the term of an incumbent expiring at a time when no municipal election is held in the months immediately prior to expiration is extended until the date for taking office following the next scheduled municipal election. If the change results in having three council members to be elected at a succeeding election, the two individuals receiving the highest vote shall serve for terms of four years and the individual receiving the third highest number of votes shall serve for a term of two years. To provide an orderly transition to the odd or even year election plan, the governing body of the city may adopt supplementary ordinances regulating initial elections and officers to be chosen at the elections and shortening or lengthening the terms of incumbents and those elected at the initial election. The term of office for the mayor may be either two or four years. The term of office of council members is four years. Whenever the time of the municipal election is changed, the city clerk immediately shall notify in writing the county auditor and secretary of state of the change of date. Thereafter the municipal general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered or even-numbered year until the ordinance is revoked and notification of the change is made. A municipal general election scheduled to be held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

Sec. 59. Minnesota Statutes 2008, section 205.07, is amended by adding a subdivision to read:

Subd. 1a. **City council members; expiration of terms.** The terms of all city council members of charter cities expire on the first Monday in January of the year in which they expire.

Sec. 60. **[205.105] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a city that is not held in conjunction with a state or federal election, and to town elections when postponement of the town election is not subject to section 365.51.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the municipal clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under

chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

Sec. 61. Minnesota Statutes 2008, section 205.13, subdivision 1, is amended to read:

Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 62. Minnesota Statutes 2008, section 205.13, subdivision 2, is amended to read:

Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must separately list any office for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 63. Minnesota Statutes 2008, section 205.16, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, publication.** For every municipal election, the municipal clerk shall, at least ~~one week~~ two weeks before the election, publish a sample ballot in the official newspaper of the municipality, except that the governing body of a fourth class city or a town not located within a metropolitan county as defined in section 473.121 may dispense with publication.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 64. Minnesota Statutes 2008, section 205.16, subdivision 3, is amended to read:

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least ~~four days~~ two weeks before the election ~~post~~ prepare a sample ballot ~~for the municipality, make them available for public inspection in the clerk's office for public inspection,~~ and post a sample ballot in each polling place on election day.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 65. Minnesota Statutes 2008, section 205.16, subdivision 4, as amended by Laws 2010, chapter 184, section 29, is amended to read:

Subd. 4. **Notice to auditor.** At least 67 days before every municipal election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every municipal election held in connection with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 53 days before any other municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. At least 67 days before every municipal election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 46 days before any other election, the municipal clerk must provide written notice to the county auditor of any special election canceled under section 205.10, subdivision 6.

Sec. 66. Minnesota Statutes 2008, section 205.16, subdivision 5, as amended by Laws 2010, chapter 184, section 30, is amended to read:

Subd. 5. **Notice to secretary of state.** At least 67 days before every municipal election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every municipal election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 46 days before any other municipal election for which a notice is provided to the county auditor under subdivision 4, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Sec. 67. Minnesota Statutes 2008, section 205A.03, subdivision 2, as amended by Laws 2010, chapter 184, section 32, is amended to read:

Subd. 2. **Date.** The school district primary must be held on the second Tuesday in August in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07. The date of a school district primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055.

Sec. 68. Minnesota Statutes 2008, section 205A.04, subdivision 1, is amended to read:

Subdivision 1. **School district general election.** The general election in each school district must be held on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year. A general election held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055.

Sec. 69. **[205A.046] SCHOOL BOARD MEMBER TERM EXPIRATION.**

The terms of all school board members expire on the first Monday in January of the year in which they expire.

Sec. 70. Minnesota Statutes 2008, section 205A.05, subdivision 1, is amended to read:

Subdivision 1. **Questions.** Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition filed with the school board of 50 or more voters of the school district or five percent of the number of voters voting at the preceding school district general election, whichever is greater, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the 30 days before and the 30 days after the state primary, during the 30 days before and the 40 days after the state general election. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Sec. 71. **[205A.055] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. Applicability. This section applies to a primary, special, or general election held in a school district that is not held in conjunction with a state or federal election.

Subd. 2. Postponement of election. (a) In the event of severe or inclement weather, the school district clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

Sec. 72. Minnesota Statutes 2008, section 205A.07, subdivision 3, as amended by Laws 2010, chapter 184, section 35, is amended to read:

Subd. 3. **Notice to auditor.** At least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every

school district election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 53 days before any other school district election, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor before receipt of a review and comment from the commissioner of education and before actual initiation of the election. ~~Not less than~~ At least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before an election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, ~~or~~ and at least 46 days before any other election, the school district clerk must provide written notice to the county auditor of any special election canceled under section 205A.05, subdivision 3.

Sec. 73. Minnesota Statutes 2008, section 205A.07, subdivision 3a, as amended by Laws 2010, chapter 184, section 36, is amended to read:

Subd. 3a. **Notice to commissioner of education.** At least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every school district election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 49 days before any other school district election, under section 123B.62, 123B.63, 126C.17, 126C.69, or 475.58, the school district clerk shall provide a written notice to the commissioner of education. The notice must include the date of the election and the title and language for each ballot question to be voted on at the election. ~~Not less than~~ At least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every school district election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 46 days before any other school district election, the school district clerk must provide a written notice to the commissioner of education of any special election canceled under section 205A.05, subdivision 3. The certified vote totals for each ballot question shall be provided in a written notice to the commissioner in a timely manner.

Sec. 74. Minnesota Statutes 2008, section 205A.07, subdivision 3b, as amended by Laws 2010, chapter 184, section 37, is amended to read:

Subd. 3b. **Notice to secretary of state.** At least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before every school district election held in conjunction with a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 46 days before any other school district election for which a notice is provided to the county auditor under subdivision 3, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Sec. 75. Minnesota Statutes 2008, section 205A.11, subdivision 3, is amended to read:

Subd. 3. **Procedure.** The designation of a polling place pursuant to this section remains effective until a different polling place is designated. No designation of a new or different polling place becomes effective less than 90 days prior to an election, except that a new polling place may be designated to replace a polling place that has become unavailable for use. The school board must notify the county auditor within 30 days after the establishment of a polling place as provided in this section. The notice must include a list of the precincts that will be voting at each polling place. The school board must send the notice required by section 204B.16, subdivision 1a, after a polling place is established as provided in this section, but no additional notices of this kind are required for any subsequent similar elections until the location of the polling place or the combination of precincts voting at the polling place is changed. The secretary of state shall provide a single polling place roster for use in any polling place established as provided in this section. A single set of election judges must be appointed to serve in the polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all the precincts to be voting at the single polling place. A single ballot box may be provided for all the ballots.

Sec. 76. Minnesota Statutes 2008, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority ~~approved~~ accredited by the secretary of state and conform to current standards for voting equipment ~~Election Assistance Commission at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Federal Election Commission or its successor, the Election Assistance Commission.~~ The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 77. Minnesota Statutes 2008, section 208.03, is amended to read:

### **208.03 NOMINATION OF PRESIDENTIAL ELECTORS.**

Presidential electors for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. On or before primary election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of eight alternate presidential electors, and the names of the party candidates for president and vice president. The chair shall also

certify that the party candidates for president and vice president have no affidavit on file as a candidate for any office in this state at the ensuing general election.

Sec. 78. Minnesota Statutes 2008, section 365.51, subdivision 1, is amended to read:

Subdivision 1. **When; postponement for bad weather.** (a) A town's annual town meeting must be held on the second Tuesday of March at the place named by the last annual town meeting. If no place was named then, the meeting must be held at the place named by the town board. The place may be outside the town if the place is within five miles of a town boundary. If there is bad weather, on the day of the meeting and election in March, the town board shall set the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories such that the clerk determines travel to a polling place would be difficult or hazardous for voters and election judges, the clerk may postpone the election and meeting. If the meeting and election are postponed, the meeting and election for shall be held on the third Tuesday in March. If there is bad weather on the third Tuesday in March, Prior to providing notice of the election and meeting, the town board shall by resolution set another date for the meeting and election within 30 days of the third Tuesday in March on which the meeting and election shall be held if bad weather forces postponement of the meeting and election on the third Tuesday in March. The decision to postpone the meeting and election must be made no later than three hours before the opening of the polling place or the convening of the meeting, whichever comes first. The clerk shall notify the election judges and local media offices of the decision to postpone the meeting and election. If the meeting and election are postponed, the notice requirements in subdivision 2 shall apply to the postponed meeting and election.

The balloting of the town election must be concluded on the same day the election is commenced.

(b) If any other political subdivision is conducting an election in conjunction with the township election, postponement of the election shall be subject to section 205.105, 205A.055, or 373.50. If an election is postponed under section 205.105, 205A.055, or 373.50, the town meeting shall also be postponed as if postponed under this section.

Sec. 79. **[373.50] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. Applicability. This section applies to a primary, special, or general election held in a county that is not held in conjunction with a state or federal election.

Subd. 2. Postponement of election. (a) In the event of severe or inclement weather, the county auditor may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The auditor must contact the election judges and notify local media outlets of the postponement. The auditor must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

Sec. 80. Minnesota Statutes 2008, section 375.101, subdivision 1, is amended to read:

Subdivision 1. **Option for filling vacancies; ~~special election in 30 to 90 days.~~** (a) Except as provided in subdivision 3, a vacancy in the office of county commissioner may be filled as provided in this subdivision and subdivision 2, or as provided in subdivision 4. If the vacancy is to be filled under this subdivision and subdivision 2, it must be filled at a special election ~~not less than 30 nor more than 90 days after the vacancy occurs. The special primary or special election may be held on the same day as a regular primary or regular election but the special election shall be held not less than 14 days after the special primary.~~ The county board may by resolution call for a special election to be held according to the earliest of the following time schedules:

(1) not less than 120 days following the date the vacancy is declared, but no later than 12 weeks prior to the date of the next regularly scheduled primary election;

(2) concurrently with the next regularly scheduled primary election and general election; or

(3) no sooner than 120 days following the next regularly scheduled general election.

(b) The person elected at the special election shall take office immediately after receipt of the certificate of election and upon filing the bond and taking the oath of office and shall serve the remainder of the unexpired term. If the county has been reapportioned since the commencement of the term of the vacant office, the election shall be based on the district as reapportioned.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 81. Minnesota Statutes 2008, section 375.101, subdivision 2, is amended to read:

Subd. 2. **When victor seated immediately.** If a vacancy for which a special election is required occurs less than ~~60~~ 120 days before the general election preceding the end of the term, the vacancy shall be filled by the person elected at that election for the ensuing term who shall take office immediately after receiving the certificate of election, filing the bond and taking the oath of office.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 82. **REPEALER.**

Minnesota Statutes 2008, sections 3.22; 204B.22, subdivision 3; 204D.10, subdivision 2; 206.57, subdivision 7; 206.805, subdivision 2; and 206.91, are repealed.

Presented to the governor March 29, 2010

Signed by the governor April 1, 2010, 9:52 a.m.