

CHAPTER 206

VOTING MACHINES

Sec.		Sec.	
206.01	Definitions	206.13	Not to affect laws applicable
206.02	Authorization for use	206.14	Wilful injury or destruction of machine to be felony
206.025	Electronic voting systems; authorization, purchase, experimentation, and payment	206.15	May be used at all elections
206.026	Methods of using electronic voting systems	206.16	Custodian of machines
206.03	May use experimental machines	206.17	Officials to prepare machines for use
206.04	Bond for upkeep of machines	206.18	Canvassing board to inspect machines
206.05	Judges	206.185	Canvass of electronic voting system results
206.06	May use machines in one or all precincts	206.19	Instructions to judges
206.07	Candidates, arrangement of names	206.195	Instructions to judges and voters; electronic voting systems
206.08	Minnesota voting machine commission created	206.20	Accessibility; instructions; assistance to voters
206.09	Ballot labels; diagrams for voting machines	206.21	Machines; locking, opening, custody and care
206.095	Ballots used upon adoption or rejection of an ordinance	206.211	Certification of use of voting machines
206.10	May purchase voting machines	206.212	Use of electronic voting systems; time
206.11	Precincts may be changed	206.23	Violations; penalties
206.12	Payment for machines		

206.01 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.01 DEFINITIONS. Subdivision 1. The words used in this chapter have the meanings prescribed to them in chapter 200.

Subd. 2. The term "ballot labels," means, as used in this chapter, that portion of the cardboard, paper or other material, within the ballot frames, the cards, papers, booklet, pages, or other material containing the names of the candidate, the official title, party designation, or a statement of a proposed constitutional amendment or other question or proposition, with the word "Yes" for voting for any question or the word "No" for voting against any question.

Subd. 3. The term "ballot" may include ballot labels, ballot cards, and paper ballots.

Subd. 4. The term "ballot card" means a ballot which is voted by the process of punching.

Subd. 5. The term "question" means a statement of any constitutional amendment, proposition, or other question appearing on the machine and to be submitted to the voters at any election.

Subd. 6. The term "protective counter" means the separate counter built into the voting machine which cannot be reset, and which records the total number of movements of the operating mechanism.

Subd. 7. The term "public counter" means the counter which shows during any period of voting the total number of voters who have operated the machine during the period of voting.

Subd. 8. The term "primary lever" means the lever which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in the primary of which the voter wishes to vote.

Subd. 9. The term "voting lever" means the lever which the voter must turn down over the name of the candidate and leave there in order to cast a vote for the candidate.

Subd. 10. The term "operating lever" means the lever which the voter must move to the right to close the curtains of the machine and to unlock the machine to permit voting thereon, and which the voter must move to the left to open the curtains of the machine and to record his vote.

Subd. 11. The term "electronic voting system" means a system in which the voter records his votes by means of marking or punching a ballot or one or more ballot cards, which are so designed that votes may be counted by automatic tabulating equipment at a counting location.

Subd. 12. The term "automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots, and data processing machines which can be used for counting ballots and tabulating results.

Subd. 13. The term "counting location" means a location selected by the governing body of a municipality where an electronic voting system is used for the automatic processing and counting of ballots.

Subd. 14. The term "marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. The mark made by such marking device may be in the form of a round dot, or square, or any other shape that will clearly indicate the intent of the voter.

[1959 c 675 art 7 s 1; 1961 c 606 s 4; 1965 c 619 s 1-13]

206.02 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.02 AUTHORIZATION FOR USE. Subdivision 1. **Municipalities.** The governing body of any municipality, at any regular meeting thereof, or at any special meeting called for that purpose, may provide for the use of voting machines in any one or more precincts thereof, at all elections to be held therein. No such machine shall be adopted or used unless it be so constructed and operated as to insure the secrecy of each vote, and to automatically register and count all votes given, and to conceal the number of votes for each candidate and upon each proposition from the opening of the polls to the closing thereof.

Subd. 2. **Counties.** The governing body of any county containing a city of the first class, at any regular meeting thereof, or at any special meeting called for that purpose, may provide for the use of voting machines in any one or more municipalities thereof, at all elections to be held therein. The governing body of the municipality shall give approval before such voting machine or machines may be adopted or used in the municipality under the authority of this section. No such machine shall be adopted or used unless it be so constructed and operated as to insure the secrecy of each vote, and to automatically register and count all votes given, and to conceal the number of votes for each candidate and upon each proposition from the opening of the polls to the closing thereof.

Subd. 3. **Lease by counties.** The governing body of any county containing a city of the first class may lease any voting machine owned by the county to any municipality therein upon such terms and conditions as the county may prescribe which shall apply uniformly to all municipalities therein.

[1959 c 675 art 7 s 2; 1963 c 652 s 1]

206.025 ELECTRONIC VOTING SYSTEMS; AUTHORIZATION, PURCHASE, EXPERIMENTATION, AND PAYMENT. Electronic voting systems may be authorized, purchased, experimented with, and paid for in the same manner provided for voting machines in Minnesota Statutes, Sections 206.02, 206.03, 206.06, 206.08, 206.10, and 206.12. The provisions in Minnesota Statutes, Sections 206.05, 206.095, 206.11, 206.13, 206.14, 206.15, and 206.23 shall also apply.

[1965 c 619 s 19]

206.026 METHODS OF USING ELECTRONIC VOTING SYSTEMS. Subdivision 1. In precincts where an electronic voting system is used, a sufficient number of voting booths shall be provided for the use of such a system, and the booths shall be arranged in the same manner as provided for use with paper ballots.

Subd. 2. The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or in a number of separate pages. Ballots for all questions must be provided in the same manner and where ballots are placed in a marking device, they shall be arranged on or in the marking device in the places provided for such purpose. Ballots may contain special printed marks and holes as required for proper positioning and reading of the ballots by electronic vote counting equipment. Any voter who spoils his ballot or ballot cards or makes an error may return it to the election board and secure another.

Subd. 3. Where write-in space is not provided on the ballot, a separate write-in ballot, which may be in the form of a paper ballot, card, or envelope in which the elector places his ballot card after voting, shall be provided where write-in voting is authorized to permit electors to write in the names of persons whose names are not on the ballot.

Subd. 4. The proper authority having responsibility for elections in each municipal corporation where an electronic voting system is used shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the judges shall compare the ballots or ballot labels used with the sample ballots furnished, and see that the names, numbers, and letters thereon agree and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

Subd. 5. Except as otherwise provided by Laws 1965, Chapter 619, the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in Minnesota Statutes, Chapter 204.

[1965 c 619 s 20]

206.03 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.03 MAY USE EXPERIMENTAL MACHINES. The governing body of any municipality may provide for the experimental use of voting machines in one or more precincts without formal adoption thereof; and the use of voting machines at such election shall be as valid for all purposes as if the machines had been permanently adopted.

When the governing body of any municipality shall determine to use such machines, it shall, at a regular or special meeting held not less than 30 days before the election, prescribe suitable rules and instructions, not inconsistent with the provisions of this chapter, for using the same, submit the same to the attorney general for his approval, and, when approved by him, a printed copy of such rules and instructions shall be posted in a prominent place in the polling place and remain open to inspection by the voters throughout the election days.

[1959 c 675 art 7 s 3]

206.04 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.04 BOND FOR UPKEEP OF MACHINES. No payment shall be made upon the purchase price of any such machine until the vendor thereof shall have filed with the secretary of state a bond with sufficient sureties, specifying such machine by its number, and conditioned to keep the same in good working order, at his own expense, for five years. The penalty of such bond shall be at least \$200, and upon a breach thereof the amount of such penalty shall be the measure of damages recoverable by the purchaser.

[1959 c 675 art 7 s 4]

206.05 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.05 JUDGES. The judges shall enforce the rules prescribed for the use of such voting machines, and carry out all of the provisions of this chapter relating to the elections, except such as are rendered inapplicable by the use of such machines.

[1959 c 675 art 7 s 5]

206.06 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.06 MAY USE MACHINES IN ONE OR ALL PRECINCTS. The governing body of any municipality or county in this state may provide for the use of voting machines in all or one or more precincts thereof at all elections to be held therein; and at such elections, the vote or ballot may be had and taken, and the votes cast thereat registered or recorded and counted and the results of such election or elections ascertained by the use of voting machines instead of in the mode and manner now established by law; provided, that the adoption, examination, purchase and use of such machines and their use at such elections, shall be subject to the provisions herein contained.

[1959 c 675 art 7 s 6; 1963 c 652 s 2]

206.07 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.07 CANDIDATES, ARRANGEMENT OF NAMES. Subdivision 1. **Placement.** Where voting machines are authorized and employed, the titles of offices may be arranged horizontally with the names of the candidates arranged vertically under the title of the office, or the titles of the offices may be arranged vertically with the names of the candidates arranged horizontally opposite the respective titles. On the non-partisan ballot prepared for primary elections, and on the county and district ballot prepared for the general election, the names of nominees; or names of candidates for election, as the case may be, for state senate or state house of representatives, shall be placed first on said voting machine ballots.

More than one column or row may be used for the same office or party. Questions, constitutional amendments or other propositions shall be placed on the machines in the space provided for that purpose and shall be arranged in the manner which the construction of the machine requires.

Subd. 2. Alternation. The provisions of the election laws requiring the alternation of the names of candidates shall be observed so far as practicable by changing the order of the names on the voting machines in the various precincts so that each name shall appear upon the several machines used in a given municipality substantially an equal number of times at the top, at the bottom, and in each intermediate place, of any of the list or group in which they belong; provided, however, that the arrangement of the names shall be the same on each voting machine used in the same precinct.

Subd. 3. Presidential electors. For presidential electors one device may be provided for voting for all the candidates of one political party or those nominated by one petition at one time by the use of such device, under or adjacent to which shall be a ballot on the machine containing only the names of the candidates for president and vice president of that party or other political group, preceded by the party's or group's name, and a vote registered or recorded by the use of such device shall be counted for each of the candidates for presidential electors of such party or group.

Subd. 4. Voting machines. The machine adopted or employed must be so constructed as to insure to every elector an opportunity to vote in secret; to permit him to vote once and only once for all the candidates and upon all the propositions for whom or upon which he is legally entitled to vote; to permit him to vote by means of some devices connected with the mechanism of the machine, for any person for any office elective by the voters of his precinct at such election, although such person has not been regularly nominated for such office by any political party, and his name does not appear upon the ballot form on or in such machines as a candidate for such office; to prevent the elector from voting for more than one person for the same office, unless he is lawfully entitled to vote for more than one person therefor, and in that event to limit him to the number to be elected to that office; to prevent him at a primary election, from voting for the nomination of candidates of more than one party, or for any person whose name is not on the official ballot at such election; to prevent him from voting for any candidate or upon any proposed amendment, question or proposition, for whom or upon which he is not lawfully entitled to vote; to permit him to change or retract any vote he has attempted to cast for any candidate for any office or upon any proposition up to the time his vote has been completed, and his vote in favor of such person or proposition has been registered thereon. No machine which does not comply with these requirements shall be approved, authorized or employed; except that machines may be used which are not so constructed as to permit a voter to change from one party to another in a party primary or to retract a vote cast on the irregular ballot device. In such cases the voter shall be required to first return all voting levers to the unvoted position and remove, cross out or erase any vote recorded on the irregular ballot device, as the case may be, and shall then call upon the election officials to witness that it has been done, and they shall then cause the voting machine to be returned to the original unvoted position and shall permit the voter to begin from the beginning once more. Such operation of the voting machine under such conditions as in this paragraph mentioned shall be designated as a spoiled voting machine ballot and the election officials present shall make out and sign a certificate stating the facts for each such case which shall be returned with the official returns of the election.

Subd. 5. Electronic voting systems. No electronic voting system may be employed unless it fulfills the following requirements:

- (1) Permits every elector to vote in secret;
- (2) Permits every elector to vote at any election for all candidates and propositions for whom or upon which he is legally entitled to vote;
- (3) Provides for write-in voting when authorized;
- (4) Rejects, by means of the automatic tabulating equipment, all votes for any office or measure when the number of votes cast therefor exceeds the number which the voter is entitled to cast;
- (5) Permits the voter at a primary election to select secretly the party for which he wishes to vote; and

MINNESOTA STATUTES 1965

2195

VOTING MACHINES 206.09

(6) Rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when he votes for candidates of more than one party.

[1959 c 675 art 7 s 7; 1961 c 606 s 5; 1965 c 619 s 14]

206.08 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.08 MINNESOTA VOTING MACHINE COMMISSION CREATED. There is hereby created a body to be known as The Minnesota Voting Machine Commission, consisting of three members, including the attorney general, who shall be chairman.

There shall be appointed as members of the commission, two competent and responsible persons, who shall be master mechanics or graduates of a school of mechanical engineering.

The governor shall appoint one of the members and the attorney general the other.

None of the members of the commission shall, directly or indirectly, have any pecuniary interest in any voting machine. The appointees shall serve for a term of four years from the date of appointment and until their successors are in like manner appointed. The appointing power may fill vacancies in the commission. The members of the commissions so appointed shall qualify without delay by taking and filing with the secretary of state an oath of office in writing in the usual form, and shall elect one of their members to be secretary and one to be treasurer.

Any person, company, or corporation, owning or being interested in any voting machine may apply to the commission to examine such machine and to report as to its compliance with the requirements of the law and on its accuracy, durability, efficiency and capacity to register the will of the electors. The commission shall thereupon examine the machine so submitted, and make and file its report thereon. The examination shall not be required as to each individual machine, but only as to each particular kind or type of machine, before its adoption, use or purchase as provided herein.

The report of the commission shall be signed by the attorney general and at least one other member, and shall be filed with the secretary of state within ten days after the close of said examination.

If, from the report, it shall appear that, in the opinion of the commission, the kind of machine so examined complies with the requirements of this chapter and can be used safely at elections in this state, under the conditions prescribed by this chapter, and by the laws of the state where the same do not conflict herewith, then the said machine shall be deemed approved by the said commission, and machines of its kind may be adopted and purchased for use, and may be used at elections in this state as herein provided. No form of voting machine not so approved may be used at any election in this state.

As the examination fee herein, the application shall be accompanied by the sum of \$150 which shall be deposited in the state treasury to be expended in conformity with this paragraph. There shall be deducted from the amount of such deposit all expenses incurred by the commission in the discharge of its duties. The remainder of such deposit shall be paid in equal parts to the members of the commission other than the attorney general as full compensation for their services and expense herein. Such moneys as are necessary to carry out the terms and provisions of this paragraph are hereby appropriated annually to the commission from the general revenue fund in the state treasury.

[1959 c 675 art 7 s 8; 1965 c 170 s 1]

206.09 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.09 BALLOT LABELS; DIAGRAMS FOR VOTING MACHINES. The same authorities as are charged with providing paper ballots when such are used shall be required to provide all ballots, ballot labels and ballot cards, diagrams, sample ballots, return sheets and all other necessary supplies needed for the voting machines or electronic voting systems.

In state and county general elections the county auditor of each county in which voting machines or electronic voting systems are used shall provide all ballots, ballot labels, ballot cards, and other necessary printed forms and supplies needed for the voting machines, including all such forms needed for placing on such voting machines, all officers, candidates and constitutional amendments and other questions and propositions, the ballots for which are required by the election

laws to be provided by the state when paper ballots are used. The total cost of printing and providing all such forms shall be prorated by each county auditor so that the state and county will pay each its proportionate share based on the total number of candidates and questions under the jurisdiction of each. The state shall pay to the county its proportionate share of such cost as herein provided, all provisions of the statutes of this state notwithstanding.

Except as herein provided all ballots (or ballot labels) shall be printed in black ink on clear white material of such size as will fit the ballot frame of the voting machine or as will conform to the requirements of electronic voting systems where used, and in as plain clear type as the space will reasonably permit. Candidates' names may be set in as large type as the length of the majority of such names of all candidates on the ballot permits and the remaining candidates' names may be set in such smaller sizes or styles of type as the length of each such name requires based upon the available space in the frame of the voting machine or upon the space available on any card, paper, booklet, or pages. Ballots (or ballot labels) for constitutional amendments or that portion of the ballot containing constitutional amendments shall be printed on material tinted pink. In a prominent place on such ballots, there shall be conspicuously printed a notice stating in substance that if a voter fails to vote on a constitutional amendment he votes, in effect, in the negative. Ballots (or ballot labels) for other questions shall be printed on material so tinted as to conform with the laws relating to paper ballots.

The authorities charged with the duty of providing ballots for any polling place where voting machines are used shall provide therefor at least two sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election for voting for all candidates whose names are entitled to be placed on the ballot at such election and shall also show such part of the face of the voting machine as shall be in use for voting for all referendum questions, constitutional amendments, or other propositions; the proper authorities shall provide at least two sample ballots, ballot cards, or ballot labels which shall be arranged in the form of a diagram showing the ballot label containing the names of all candidates and propositions to be voted upon at that election in each polling place. Candidates' names shall not be rotated on such sample ballots but shall be arranged in alphabetical order for all offices where rotation of names on the official ballots on the voting machines is required by law. Such sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine, or for operating a marking device, or such illustrated instructions shall be provided on a separate poster, to be posted adjacent to each sample ballot. Not less than two such sample ballots shall be posted in a prominent place in the polling place and shall remain open to inspection by the voters throughout the election day.

The county auditor may use a one inch or more space between partisan and nonpartisan ballots, but in all cases a canary yellow color shall be used as background color on the nonpartisan ballots.

[1959 c 675 art 7 s 9; 1963 c 767 s 1; 1965 c 619 s 15]

206.095 BALLOTS USED UPON ADOPTION OR REJECTION OF AN ORDINANCE. In any city of the first class operating under a home rule charter, wherein voting machines are used in the elections, when the question at issue in an election is the adoption or rejection of an ordinance proposed by petition of the voters of said city, or where an ordinance passed by the council has been referred for submission to the voters of said city based on a petition of the voters for that purpose, or in any case when by voluntary reference the council submits an ordinance to the vote of the people, as provided in the home rule charter of any city, the ballots used in voting upon such measure shall state briefly the general nature thereof without the necessity of setting forth the full title of said ordinances.

[1959 c 675 art 7 s 10; 1961 c 606 s 6]

206.10 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.10 MAY PURCHASE VOTING MACHINES. Subdivision 1. The governing body of each municipality in this state is hereby authorized to purchase for the use of each precinct in which it has authorized the use of voting machines, one or more such machines in complete working order, and to make suitable provision for the adjustment, custody, and care thereof.

Subd. 2. The governing body of each county in this state is hereby authorized

to purchase for the use of each municipality in which it has authorized the use of voting machines, one or more such machines in complete working order, and to make suitable provision for the adjustment, custody, and care thereof.

Subd. 3. Any county may purchase voting machines from any municipality therein which owns such voting machines. The purchase may be made at such price and upon such terms and conditions as may be agreed upon by the county and the municipality.

[1959 c 675 art 7 s 11; 1963 c 652 s 3]

206.11 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

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

[1959 c 675 art 7 s 12]

206.12 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.12 PAYMENT FOR MACHINES. Payment of such machines may be provided for in such manner as is deemed for the best interests of the political division adopting and purchasing them, and each municipality and county is hereby authorized, for that purpose, to appropriate money from the general fund, to levy a tax in the same manner as other taxes are levied or to issue and sell bonds or other certificates of indebtedness, which shall be a charge upon such municipality or county so adopting and purchasing such voting machines, and to provide for the payment and redemption thereof, at maturity. Such bonds or other certificates of indebtedness may be issued by a majority vote of the governing body of the municipality or county adopting and purchasing such voting machines, notwithstanding any provision contained in any home rule charter or law of this state.

The bonds or certificates of indebtedness so issued may bear interest at a rate not exceeding six percent per annum and may be made payable at such time not exceeding 20 years from the date thereof, as may be determined by the resolution or ordinance authorizing the issue thereof, and may be issued exclusive of and in addition to any limit of indebtedness fixed by the charter of such municipality, or by the laws of this state for such municipality or county, but such bonds or certificates of indebtedness shall not be issued or sold at less than par and accrued interest thereon.

Each municipality or county may, by a majority vote of its governing body, enter into a contract for the purchase of voting machines on a rental-purchase or deferred payment plan. Such contract may provide for the annual rental of the voting machines at a definite amount with such annual rentals applied toward the purchase price of the voting machines.

[1959 c 675 art 7 s 13; 1963 c 652 s 4]

206.13 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.13 NOT TO AFFECT LAWS APPLICABLE. All laws and parts of laws now in force in this state relating to state, county, city, village and town elections so far as applicable to the use of voting machines, shall remain in full force and effect, and all laws and parts of laws inconsistent herewith shall be suspended in each election precinct wherein such voting machines are used, so long as the same shall be used therein.

[1959 c 675 art 7 s 14]

206.14 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.14 WILFUL INJURY OR DESTRUCTION OF MACHINE TO BE FELONY. Any person who shall wilfully injure or attempt to injure, or render ineffectual, any voting machine provided in accordance with the provisions of this chapter, or who shall violate any of the provisions hereof, shall be guilty of a felony and punished accordingly.

[1959 c 675 art 7 s 15]

206.15 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.15 MAY BE USED AT ALL ELECTIONS. Where voting machines shall be provided in the manner permitted by law, such voting machines may be used at all elections, insofar as the use of the same is applicable, and not inconsistent with this chapter. If the mechanism of such machines will not permit the voter to record his vote in the manner provided by this chapter said machines may be used in the manner now provided by law so far as is applicable, and as to offices.

to which such voting machines will not apply, separate paper ballots conforming with the law shall be used. All votes on voting machines shall be recorded and counted and the results thereof ascertained, canvassed and returned as provided by this chapter.

[1959 c 675 art 7 s 16]

206.16 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.16 CUSTODIAN OF MACHINES. Immediately after the installation of voting machines in any municipality or county the governing body thereof shall appoint as many custodians as may be necessary for the proper preparation of the machines for an election and for their maintenance, storage and care. Such custodian or custodians, under the direction of the governing body of the municipality or county installing the voting machines, together with the proper officials of such municipality or county having charge of the conduct of elections therein, shall have charge of and represent these authorities during the preparation of the voting machines and shall serve at the pleasure of the governing body of the municipality or county. It shall be the duty of the custodian or custodians, after the machines have been prepared for the election, to cause the same to be delivered to each of the respective polling places in which they are to be used at least 12 hours before the time set for the opening of the polls and set them in proper manner for use at the election. The custodians of voting machines shall be paid for their services commensurate with the work required and their compensation shall be fixed by the governing body of the municipality or county appointing them.

[1959 c 675 art 7 s 17; 1963 c 652 s 5]

206.17 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.17 OFFICIALS TO PREPARE MACHINES FOR USE. It shall be the duty of the proper authority having direct charge of elections in each municipal corporation where voting machines or electronic voting systems which do not use paper ballots are to be used to cause the proper ballot labels to be placed on the voting machines or marking devices and to place the machines in proper order for voting. These ballot labels shall have printed on the face thereof the words "Official Ballot," the date of the election, a facsimile of the signature of the officer under whose direction the ballot is printed. The authorities shall examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, and to seal each voting machine with a numbered seal and to make a written record thereof.

Before preparing the voting machines for any election written notices shall be mailed to the chairman of the county committee of each political party, who have theretofore presented the name of the chairman to the county auditor, stating the times when and the place or places where the voting machines will be prepared, at which times and places one representative of each such political party designated by the respective chairman of such county committee of such party shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. In non-partisan primaries and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election it shall be the duty of the custodians and political party or candidate representatives to make a certificate in writing which shall be filed in the office of the proper authority having charge of the conduct of elections in such municipality, stating the serial number of each machine, whether or not all registering counters have been set at zero (000), the number registered on the protective counter and the number on the metal seal with which the machine is sealed.

Where electronic voting systems are used, within five days prior to the election day, the election officer in charge shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least two days prior thereto by publication once in official newspapers. The test shall be observed by at least two judges, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for

each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, in the same manner as set forth above. After the completion of the count, the programs used and ballots shall be sealed, retained, and disposed of as provided for paper ballots.

[1959 c 675 art 7 s 18; 1965 c 619 s 16]

206.18 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.18 CANVASSING BOARD TO INSPECT MACHINES. It shall be the duty of the canvassing board in any municipality of this state wherein voting machines shall be used in any election, at the time it convenes to canvass the election returns of any election wherein voting machines shall have been used within such municipality, or as soon thereafter as it conveniently can do so, and before it proceeds to canvass such returns, to inspect the registering counter, or other recording device on any such voting machine showing the number of votes cast for any candidate or proposition voted on at any such election and any irregular ballots recorded thereon or therein and to compare the number of votes so shown by such voting machines to have been cast for each candidate voted for on and by such voting machines and each proposition submitted to the voters voting thereon or thereby with the returns made by the election officers of the several precincts in which the voting machines were used at such election and in case there is a discrepancy between the returns so made by such election officers and the number of votes shown by such voting machines on such inspection then and in such case it shall be the duty of such canvassing board to correct such returns as to all candidates and propositions, the returns with reference to which are to be canvassed by it, so made by such precinct election officers, so as to make such election returns conform to the vote so shown by such machines on such inspection as aforesaid and such corrected returns shall thereupon and thereafter be regarded and deemed by such canvassing board as the true and correct return of the number of votes cast for each candidate voted for and each proposition voted on, in the precinct the returns from which shall have been so corrected by such canvassing board. After correcting such returns the canvassing board shall proceed to the performance of its duties as now provided by law.

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

Where electronic voting systems are used, the canvassing board shall follow the procedure prescribed for paper ballots in Minnesota Statutes, Sections 204.29 and 204.30.

[1959 c 675 art 7 s 19; 1963 c 380 s 1; 1965 c 619 s 17]

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

be returned to the counting location in an envelope marked "defective ballots" and valid votes on such ballots containing invalid votes shall be counted as provided in subdivision 4. If paper ballots are used, the judges shall, before counting the write-in votes, compare the write-in votes with the votes cast elsewhere on the ballot, and if the total number of votes for any office involving a write-in vote exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot. Valid votes on the rest of such a ballot shall be tallied by the judges at the precinct, on a form provided for the purpose, and shall then be placed in an envelope marked "defective ballots." Such ballots shall be returned to the counting location, and the totals for all such ballots shall be added to the totals for the respective precincts. So far as applicable, provisions relating to defective paper ballots shall apply.

Subd. 2. The judges shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered forthwith by two judges, who shall not be of the same political party, to the counting location, together with the unused, void, and defective ballots and returns.

Subd. 3. All proceedings at the counting location shall be under the direction of the proper authority having direct charge of elections in each municipal corporation where an electronic voting system is used, under the observation of at least two judges who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container, or return.

Subd. 4. If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot card in the presence of two judges not of the same political party and substituted for the damaged ballot card. Likewise, a duplicate ballot card shall be made of a defective ballot card which shall not include the invalid votes. All duplicate ballot cards shall be clearly labeled "duplicate," shall bear a serial number which shall be recorded on the damaged or defective ballot card and shall be counted in lieu of the damaged or defective ballot card. If any paper ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, such ballot shall be tallied by the two judges not of the same political party at the counting location and the totals for all such ballots shall be added to the totals for the respective precincts.

Subd. 5. The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct. Upon completion of the count the returns shall be open to the public.

[1965 c 619 s 21]

206.19 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.19 INSTRUCTIONS TO JUDGES. Not more than 21 days before each election and primary at which a voting machine is to be used, there shall be held under the direction of the proper authority having charge of the conduct of the elections, a meeting or meetings for the purpose of instructing the judges about the operation of the voting machine and the duties of election officials when voting machines are used. Each judge serving in a precinct where voting machines are used, shall attend one such meeting preceding each election at which such judge is to serve, and shall receive a certificate showing that he has attended such instruction meeting and has been found qualified to serve. Each judge, who shall attend such instruction meeting and shall qualify and serve at an election, shall receive the sum of \$1 for the time spent in receiving such instruction, in addition to car or railroad fare in going to or returning from such meeting, which shall be paid at the same time and in the same manner as the payment for serving on election day. Such certificate shall not be issued to any person unless he has attended an instruction meeting and been found qualified and no person shall be eligible to serve as judge unless he has first received a certificate as herein provided. In case of emergency, when an insufficient number of certified judges is available for the proper conduct of the election, there shall be appointed a sufficient number of judges to conduct such election, although such judges have not received the required certificate; provided that no person shall be appointed a judge who is not a qualified voter in the precinct to which he is appointed as such judge, except as otherwise provided by law.

The authorities in charge of elections shall provide adequate facilities for the

instruction of voters prior to an election and cause to be placed in one or more convenient locations a voting machine with sample ballot labels affixed for the purpose of instructing voters in the operation of the machine. If the ballot labels that are used for this purpose are the same that will be used for the succeeding election the counting mechanism of the machine shall be concealed from view until the machine is prepared for the election and if the machine or machines are not used at the election the counting mechanism shall remain concealed from view until after the election.

The judges of each precinct shall meet at the polling place at least one hour before the time for opening the polls. The keys to the voting machines shall be delivered to one of the judges at least one hour before the time set for opening the polls in a sealed envelope on which shall be recorded the location and number of the voting machine, the number of the seal, and the number registered on the protective counter as reported by the custodian. The envelope containing the keys shall not be opened until the election officers of the precinct have examined the same to see that it has not been opened and shall have ascertained that the number registered on the protective counter and the numbers on the seals with which the machine is sealed correspond with the numbers recorded on the envelope containing the keys. If the envelope appears to have been opened, or if the numbers do not agree, or if the numbered metal seal is broken or has been tampered with, or if any other discrepancy is found, the judges shall immediately notify the custodian or other authorized person who shall present himself at the polling place and reexamine such machine and if found to be properly arranged and in order to so certify. If the numbers on the seals and on the protective counter are found to agree with the numbers on the envelope, the judges shall then open the door concealing the registering counters, and carefully examine every counter to see that it registers zero (000) and shall also allow the watchers to examine them, provided that if the machine is equipped with a device for printing, embossing, or photographing the registering counters, in lieu of opening the machine, the judges shall operate the machine to produce a printed, embossed, or photographed record to see that every counter registers zero (000) and shall allow the watchers to examine such record. The judges shall then compare the ballot labels on the voting machine with the statements of canvass furnished, and see that the names and numbers, and letters, if any, thereon agree. The judges shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal or seals, the number registered on the protective counter, that all the registering counters are set at zero (000), and that the ballot labels are properly placed in the machine.

[1959 c 675 art 7 s 20; 1963 c 380 s 2]

206.195 INSTRUCTIONS TO JUDGES AND VOTERS; ELECTRONIC VOTING SYSTEMS. The authorities in charge of elections shall determine procedures for the instruction of judges and voters in the use of marking devices used in an electronic voting system.

[1965 c 619 s 18]

206.20 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.20 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS. Subdivision 1. The voting machine or machines shall be so placed and protected that each machine shall be accessible to only one voter at a time and in full view of all of the election officers and watchers at the polling place. A judge shall inspect the face of each voting machine after each voter has voted to see that the ballot labels are in their proper places and that the machine has not been injured or tampered with. During elections the door or other compartment of the machine shall not be unlocked or opened or the counters exposed except by a custodian or other authorized person, a statement of which shall be made and signed by the custodian or authorized person and attached to the returns.

Subd. 2. For the instruction of the voters there shall be, so far as practicable in each polling place, at least one mechanical model being a mechanical reproduction of a portion of the face of the voting machine. Such model furnished shall be located during the election in some place which the voter must pass to reach the machine and every voter before entering the booth shall be instructed regarding its operation and such instruction illustrated on the model and the voter given the opportunity to personally operate the model. The voter's attention shall also be called to the diagram on the face of the machine so that the voter becomes familiar with the location of the questions and the names of the offices and can-

didates. At least one judge shall remain in constant attendance at the instruction model and diagram and occupy himself at all times with the duties of instructing the voters. If any voter after entering the voting machine booth shall ask for additional instruction in operating the machine such instruction shall be given him by two judges belonging to opposite political parties, if such there be. After giving such instruction such judges shall retire from the voting machine booth and such voter shall thereafter proceed to vote alone and in secrecy. If any voter at a primary election after entering the voting machine booth and setting the primary lever of a party so as to release the candidates of such party for voting, and turning down levers over the names of candidates, but before recording the votes for any candidates, shall state to the judges that he wishes to enter the primary of a different political party, the entire election board shall go to such machine and shall see that all voting levers have been returned to the unvoted position so that no votes may be cast for any candidates or for or against any questions or other propositions, and such voter shall then be permitted to return the operating lever to its original position and start from the beginning once more. In each such case the entire election board shall sign a certificate stating what was done and such certificate shall be returned with the official returns of the primary.

Subd. 3. When any voter states under oath that he cannot read English, or that he is physically unable to operate the voting machine in order to record his vote thereon, he may call to his aid two of the judges of different political party affiliation, who shall prepare his ballot on the machine as he may desire, and in as secret a manner as circumstances permit. When he also states that he cannot speak the English language or understand it when spoken, the judges may select two persons from different political parties to act as interpreters, who shall take an oath similar to that taken by the judges, and assist such person in voting. When the voter shall prefer, he may call to his aid any voter of the same precinct, who, unaccompanied by a judge, may retire with him to the voting machine booth and prepare such voter's ballot on such voting machine for him; but no such person shall prepare the ballot of more than three such voters at one election. Before registering his vote such voter may show his ballot, as prepared for recording, privately to a judge to ascertain that it is prepared as directed. No judge or other person so assisting a voter shall in any manner request, persuade, or induce, or attempt to persuade such voter to vote for or against any particular political party, candidate or question, but shall prepare the ballot as requested, and shall not reveal to any other person the name of any candidate for whom the voter has voted, or anything that took place while so assisting him.

Subd. 4. The judges shall admit but one voter to the voting machine at one time and only after it has been ascertained that he is entitled to vote. The voting on the voting machine shall be secret except as herein provided for voters needing assistance and no voter shall remain within the voting machine booth longer than three minutes and if he shall refuse to leave it after the lapse of three minutes he shall be removed by the judges.

Subd. 5. If the official ballots at a precinct at which a voting machine is to be used are not delivered at the time required, or if after delivery they shall become lost, destroyed or stolen the judges shall immediately notify the clerk or other authority under whose direction the ballots are printed who shall cause other ballots to be prepared, printed, or written as nearly in the form of the official ballot as practicable. The judges shall cause such substituted ballots to be used in the same manner as the official ballots.

Subd. 6. Ballots cast for persons not nominated by the use of the machine device provided for that purpose shall be designated irregular ballots.

Subd. 7. If any voting machine being used in any election shall become out of order during such election it shall be repaired if possible or another machine substituted as promptly as possible. In case such substitution or repair cannot be made, paper ballots printed or written, and of any suitable form may be used for the taking of votes and for such purpose voting machine sample ballots may be used.

[1959 c 675 art 7 s 21; 1961 c 606 s 7; 1965 c 380 s 3]

206.21 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.21 **MACHINES; LOCKING; OPENING; OPENING; CUSTODY AND CARE.** Subdivision 1. **Reading and recording results.** As soon as the polls of the election are

closed, the judges shall immediately lock or lock and seal each voting machine against voting. The judges shall then sign a certificate stating that each machine has been locked against voting or locked and sealed; the number of voters as shown on the public counter; the number on the seal; the number registered on the protective counter. The judges shall then open the counter compartment in the presence of the watchers and any other persons who may lawfully be present in the polling place, giving full view of all the counter numbers, or if the machine is equipped with a device for printing, embossing, or photographing the registering counters, the judges shall operate the machine to produce a printed, embossed, or photographed record of said counters. One of the judges shall, under the scrutiny of the judge of a different political party, if such there be, if more than three judges be serving in such precinct, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter, if any, on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition, or other question. As each vote total is announced from the counter of the machine, or a printed, embossed, or photographed record thereof, it shall immediately be entered on the duplicate statements of canvass, in figures only, in ink, by two judges of different political parties, if such there be, in the same order on the space which has the same designating number and letter, if any, after which the figures shall be verified by being called off from the counters in the same manner as heretofore by a judge who recorded the totals on a statement of canvass during the original canvass of the results. If more than three judges are serving in such precinct, the other judge who recorded the totals on a statement of canvass during the original canvass shall act as watcher at the machine counters during the verification of the results. Each judge shall then sign a certificate which shall be a part of the statement of canvass stating that the results as shown on the statement of canvass are the true and correct results of the election, that the canvass has been completed in accordance with the law as herein provided. After the proclamation of the vote, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, or the printed, embossed, or photographed record thereof, and any necessary corrections shall then and there be made by the judges. If absent voters' ballots have been voted, such ballots shall be canvassed and counted, the vote thereon for each candidate announced and added to the vote as recorded on the statement of canvass of votes cast by machine. Absent voters' ballots and irregular ballots, enclosed in properly sealed packages respectively, and properly endorsed, shall be filed with the original statement of canvass. In precincts using only one voting machine, if such machine is equipped with a device for printing, embossing, or photographing the registering counters, two copies of the printed, embossed, or photographed record made by such machine of the voting counters, signed by the judges, together with a statement of votes cast for persons not nominated and absentee votes, if any, may constitute the statement of canvass of the precinct. The judge filing the returns shall deliver to the board or officer from whom they were received, the keys to each voting machine, enclosed in a sealed envelope having endorsed thereon a certificate, the judges stating the number of each machine, the district where it has been used, the number of the seal, if any, and the number of the protective counter.

Subd. 2. Statements of canvass. In each precinct where voting machines are used, statements of canvass shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The arrangement of the names on the statement of canvass for each precinct shall conform exactly with the arrangement of the names on the voting machines to be used in such precinct. Such statements of canvass shall provide for the entry of the number of votes for each candidate and the "yes" and "no" of each question as shown on each machine used in the precinct; also for the absent voters' ballots and total number of votes, by such ballots and by machine, for each candidate and upon each question. Upon completion of the canvass the election judges shall enclose the statements of canvass in sealed envelopes without sewing with twine or sealing with wax. Such official statements of canvass may be opened by the authorities in charge of elections before the official canvass for

the purpose of checking additions and compiling the unofficial returns and preparing the official records. Such official statements of canvass shall be used in lieu of the summary sheets which shall be dispensed with when voting machines are used.

Subd. 3. Opening of machines. The voting machines shall remain locked against use for a period of at least 30 days and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the election, except that at any time, upon the order of any judge of a court having jurisdiction any voting machine may be opened and all data and figures therein examined; provided, that any voting machines used at an election may be opened ten days following such election for an election which is to be held on a day which is within 50 days after the day upon which such election is held; provided, further, that any voting machine used at a primary election, or a general election, in a village may be opened ten days following such primary election and 20 days following such general election if such opening becomes necessary in order to prepare the voting machines so used at such primary election or general election for a village election which is to be held on a day which is within 30 days after the day upon which such primary or general election is held.

Subd. 4. Irregular ballots. Irregular ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents thereof examined only upon an order of a judge of a court having jurisdiction, and after the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

Subd. 5. Custody of machines, keys. The municipality adopting the machines shall have the custody thereof when not in use at an election and shall preserve and keep them in repair. All keys for voting machines shall be securely preserved under lock and key by the officer having them in charge. A public officer, who by any provision of law is entitled to the custody of the machine for any period of time, shall be entitled to the keys therefor of such machines in his charge. It shall be unlawful for an unauthorized person to have in his possession any keys of any voting machine; and all election officers or persons entrusted with such keys for election purposes or in preparation of the machine therefor shall not retain them longer than necessary to use them for such legal purpose.

[1959 c 675 art 7 s 22; 1961 c 606 s 8, 9; 1963 c 380 s 3]

206.211 CERTIFICATION OF USE OF VOTING MACHINES. Subdivision

1. It is the duty of the clerk of any city, village, borough, or town where voting machines are used to certify to the secretary of state of the state of Minnesota, on or before September 1, 1965, that voting machines are used in the municipality.

Subd. 2. It is the duty of a clerk referred to in subdivision 1 of this section when, after May 7, 1965, the use of voting machines is adopted in the municipality, to certify to the secretary of state within 30 days from the date of the adoption of the use of voting machines that voting machines will be used in the municipality, and the date when such use will commence.

[1965 c 340 s 2]

206.212 USE OF ELECTRONIC VOTING SYSTEMS; TIME. Notwithstanding any other provisions of Laws 1965, Chapter 619, the voting machine commission shall not, until after the state general election in 1966, approve for general use any machine, device or system which does not meet the requirements of Minnesota Statutes 1961, Chapter 206 as it read before the passage of Laws 1965, Chapter 619. The commission may license for experimental use at any election prior to and including the state general election in 1966, or thereafter if approval for general use has not been granted, any machine, device or system which meets the requirements of Laws 1965, Chapter 619. Such experimental use shall be limited to municipalities or polling places which in the aggregate cast less than two percent of the votes cast statewide for presidential electors at the 1964 general election. Such experimental use shall be observed by the voting machine commission or any person designated by them, and the results so observed shall be considered at any proceeding for approval thereafter.

[1965 c 619 s 22]

MINNESOTA STATUTES 1965

2205

VOTING MACHINES 206.23

206.22 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.23 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

206.23 VIOLATIONS; PENALTIES. Any person who shall violate any of the rules and regulations adopted by the governing body of any municipality where voting machines are used, providing for the conduct of elections and primaries, or who shall violate any of the provisions of this chapter shall be guilty of a felony; and, upon conviction, punished by a fine of not more than \$1,000, or by imprisonment in the state prison for not more than one year.

[1959 c 675 art 7 s 24]

206.24-206.54 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]