

CHAPTER 206

CONDUCT OF ELECTIONS AND MANNER OF VOTING

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206.01 TIME FOR VOTING. At all elections hereafter held in the several districts in this state or in any municipal corporation, except annual town meetings, within the state, the polls in each district except in cities, villages, or boroughs of less than 1,000 inhabitants, shall open at 7:00 a. m., and in cities, villages, and boroughs of less than 1,000 inhabitants the governing body thereof may, by resolution adopted 30 days prior to any election, fix a time for the opening of the polls, which time shall be not later than 9:00 a. m. and be kept open continuously until 8:00 p. m., at which time they shall close. In towns the polls shall be open from 9:00 a. m. to 8 p. m. unless the town board shall by resolution adopted 30 days prior to any election fix an earlier time for opening the polls which shall not be earlier than 7:00 a. m. Such earlier time shall thereafter be effective until revoked by the board. The governing body of any municipal corporation may, by resolution duly adopted prior to the giving of notice of election, designate the time, in no event less than three hours, during which the polls shall remain open for the next succeeding, and all subsequent municipal elections, to be effective until revoked. Those voters who, at the time of closing the polls, are either in the polling place or in line at the door thereof and have not been able to vote shall be entitled to vote and the polls shall remain open a sufficient time for them to do so.

[1939 c. 345 part 6 c. 8 s. 1; 1941 c. 293; 1945 c. 229 s. 2] (601-6(8))

206.02 JUDGES TO OPEN BALLOT BOXES. Immediately before opening the polls, one of the judges shall open the ballot boxes in the presence of the people there assembled, turn them upside down so as to empty them of everything that is in them; then lock them and deliver the key to another of the judges. The judges shall thereupon proclaim that the polls are open, and cause written, or printed notices of the hour of closing them to be conspicuously posted outside the polling place. Such boxes shall not be reopened until opened for the purpose of counting the ballots therein at the close of the polls.

[1939 c. 345 part 6 c. 8 s. 2] (601-6(8)a)

206.03 BALLOTS TO BE DISTRIBUTED IN POLLING PLACE ONLY. No official ballot shall be distributed except in the voting room to voters about to vote, and no ballot which is not officially endorsed in the handwriting of such judges shall be placed in the box. The ballot boxes shall at all times be kept in public view.

[1939 c. 345 part 6 c. 8 s. 3] (601-6(8)b)

206.04 DUTIES OF JUDGES. One of the judges shall have charge of and hand to and receive from each voter the ballots. The other two shall have charge of the two election registers, each using one as herein provided.

[1939 c. 345 part 6 c. 8 s. 4] (601-6(8)c)

206.05 JUDGES TO INITIAL BALLOTS. Before the voting begins, or as soon thereafter as possible, two judges shall place their initials on the backs of all the ballots they have, immediately under or opposite the facsimile of the signature of the officer under whose directions the ballots were printed, and shall not otherwise mark the same.

[1939 c. 345 part 6 c. 8 s. 5] (601-6(8)d)

206.06 CHALLENGERS. The judges shall allow one voter of each political party, selected by the parties, respectively, and having a certificate in writing from the chairman of an authorized committee of the party he represents, to be in the room where the election is held, to act as challenger of voters; and such challengers may remain with the board until the votes are canvassed and the result declared. In case of the temporary absence of any challenger for meals or by reason of sickness, he may substitute some other person of like political belief, who shall be identified by an affidavit of such challenger.

[1939 c. 345 part 6 c. 8 s. 6] (601-6(8)e)

206.07 APPOINTMENT OF CHALLENGERS. Challenger, or challengers, of illegal voters at election in each district, for non-partisan candidate or candidates shall be appointed by the candidate or candidates in writing, and they shall have all the rights and powers which the challengers representing political parties have under section 206.06.

[1939 c. 345 part 6 c. 8 s. 7] (601-6(8)f)

206.08 WHO MAY APPOINT CHALLENGERS. The mayor of any city, the president of any village, or the chairman of any town board shall, upon written petition of at least 25 legal voters presented to him not less than three days prior to any election, appoint in writing challengers of illegal voters for each district in said municipal corporation for any proposition to be voted on at said election.

[1939 c. 345 part 6 c. 8 s. 8] (601-6(8)g)

206.09 WHO MAY REMAIN IN POLLING PLACES. No person shall be allowed to remain inside the voting place except members of the board, clerks, peace officers, challengers and voters who are about to vote, unless it be a voter who is called upon to assist another voter who cannot read English or is physically disabled, in marking his ballot as herein provided. The challengers shall not be allowed to handle or inspect registration cards or lists, and shall not attempt to influence voting on election days in any manner.

[1939 c. 345 part 6 c. 8 s. 9] (601-6(8)h)

206.10 JUDGES OR CHALLENGERS MAY CHALLENGE VOTER; MAY BE REQUIRED TO TAKE OATH. Each judge shall, and any authorized challenger or other voter may, challenge any person whom he knows or suspects not to be a qualified voter. The challenger shall state the ground thereof, whereupon a judge shall administer to the challenged person the following oath: "You do solemnly swear that you will fully and truly answer all such questions as shall be put to you touching your qualifications as a voter at this election?" The judges shall then question the challenged person in such manner as will tend to disclose the particular facts in reference to which the challenge is made. He may be inquired of as to his name, age, then place of residence, length of time he has resided in the town, city, ward, or district; where his last place of residence was; as to his citizenship, whether he is a native or naturalized citizen, and, if the latter, when, where, in what court, and before whom, he was naturalized; whether he came into the town, city, or ward for the purpose of voting at that election; how long he intends to remain a resident of such town, city, or ward; and such other questions as tend to test his residence and his right to vote. If he refuses to answer the questions put to him, his name shall not be put upon the election registers, nor shall he be allowed to vote, unless he at once reconsiders and answers the questions. He shall not be allowed to vote if he leaves the polling place and afterwards returns although then ready to answer the questions.

[1939 c. 345 part 6 c. 8 s. 10] (601-6(8)i)

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206.11- OATH AFTER CHALLENGE. After the questions specified in section 206.10 have been answered, if the challenge is not withdrawn, the judges shall administer the following oath: "You do swear that you are a citizen of the United States; that you are 21 years of age, and have been a resident of this state for six months immediately preceding this election, and an actual resident of this district for 30 days immediately preceding this election; that you are a qualified voter in this district and that you have not voted at this election?" Upon taking this oath he shall be allowed to vote, except when it appears that his name has been registered and erased then he shall not be allowed to vote unless he also produces a person known to a majority of the judges, who makes and subscribes an oath in their presence as to the identity of the person so offering to vote, after which he shall be allowed to vote. If such person refuses to take the oath specified in this section or section 206.10, or, when so required, refuses to produce the person to swear to his identity and residence, as herein provided, then his name shall not be put upon the election register, nor shall he be allowed to vote.

When any voter who has registered under a permanent registration system is challenged because his name does not appear upon the election register of the district in which he desires to vote and, upon examination, it appears that such name was erroneously omitted from the election register, he shall be permitted to vote at such election in the district, and an emergency voting card, containing substantially the following information, shall be signed by the applicant and the judges:

"EMERGENCY VOTING CARD

.....WardPrecinct
Name
Residence

The undersigned judges hereby certify that the above named voter was permitted to vote in this precinct at the election held....., 19....., pursuant to instructions from the office of the commissioner.

.....
Signature of voter Judges of Election
Signature of judge calling office." Authorized by

[1939 c. 345 part 6 c. 8 s. 11] (601-6(8)j)

206.12 CERTIFICATES OF REGISTERED VOTERS. In all municipal corporations operating under a permanent registration system, before any person offering to vote receives the ballots from the judges, a certificate containing the following information shall be signed by the applicant:

"CERTIFICATE OF REGISTERED VOTER

.....PrecinctWard(City)
(Village)..... County, Minnesota, I hereby certify that
I am a qualified voter, permanently registered in accordance with the provisions of
Part Two of the Minnesota Election Law in the above precinct and ward, (City)
(Village) of....., County of....., Minnesota.

(Signature of voter).....
(Address)
Approved.....
(Judge) (Clerk) of Election."

The certificate shall be approved by a judge or clerk and then handed to the voter who shall deliver it to the judge in charge of ballots as proof of his right to vote. The certificates shall be arranged in alphabetical order and returned to the clerk of the municipal corporation after the close of the election in envelopes provided for the return of the ballots.

[1939 c. 345 part 6 c. 8 s. 12] (601-6(8)k)

206.13 VOTING. The voter, having prepared his ballots, shall hand the same to the judge in charge of the ballot boxes, who, without opening or permitting them to be opened or examined, shall deposit the same in the proper boxes, first announcing the name and residence of the voter in an audible voice; and the judges in charge of the registers shall mark "Voted," or the letter "V" in a column therein prepared, in the same line with the voter's name. At any time before such ballots or either of them have been deposited in the boxes, he shall be subject to challenge by either of the judges, or by any person who was not present at the time he procured such ballots, but no challenger or other person except a judge, who was present when the ballot was delivered and had knowledge thereof shall afterwards interpose a challenge. When so challenged the same proceedings shall be had as provided in this chapter, and, if the person offering to vote is found disqualified, said ballots so prepared by him shall be placed among the spoiled ballots, and not opened. When no challenge is interposed, the voter shall, after voting, at once retire from the voting rooms; and, when challenged, he shall retire as soon as the challenge is determined, and not again return unless by permission of all the judges.

At any time before his ballots are deposited in the ballot boxes by the judges, the vote of any absent voter may be challenged for any cause, and the judges shall have all the power and authority given by law to hear and determine the legality of such ballots.

[1939 c. 345 part 6 c. 8 s. 13] (601-6(8)l)

206.14 VOTER TO RECEIVE BALLOTS. Having registered, when necessary, and, in case of a challenge, the same having been determined in his favor, every voter shall be entitled to a political party ballot and a non-partisan ballot. Such ballots shall be so endorsed with the initials of two of the judges that the same will show when folded. He shall be instructed by one of the judges as to the proper method of marking and folding his ballots, and shall then retire alone to an unoccupied booth and, without undue delay, mark the same as provided by law. If he shall spoil or deface such a ballot, he shall at once return the same and receive another.

[1939 c. 345 part 6 c. 8 s. 14] (601-6(8)m)

206.15 MARKING BALLOTS. At any primary election the voter shall designate his choice on the ballot by marking a cross (X) in the small square opposite the name of each candidate for whom he wishes to vote. If he shall mark more names than there are candidates to be nominated for any office, or if for any reason it be impossible to determine his choice for any office, his ballot shall not be counted for such office; but the rest of his ballot, if properly marked shall be counted. If he shall vote upon his party ballot for candidates of more than one party his entire ballot shall be void. No ballot shall be rejected for any technical error which does not render it impossible to determine the voter's choice, even though such ballot be somewhat soiled or defaced.

[1939 c. 345 part 6 c. 8 s. 15] (601-6(8)n)

206.16 SHALL MARK EACH BALLOT. The voter shall mark each of such ballots. If he spoils or defaces either of them, he shall at once return the same and get other ballots as hereinafter provided. In marking ballots, the following rules shall be observed.

(1) When presidential electors are to be voted for, the voter shall place a mark (X) in the square opposite the group of candidates of the party of his choice.

(2) In all other cases he shall place a like mark (X) in the square opposite the printed name of each candidate for whom he desires to vote and only those so marked shall be counted.

(3) When he so desires, he may write other names in the blank spaces under the printed names of the candidates, and the names so written shall be counted as balloted for, whether marked in the small square or not.

(4) When he has prepared his ballot, he shall so fold it concealing its face and all marks thereon, as to expose only the endorsement and the facsimile signature and initials of the judges on the back thereof.

(5) He shall mark and fold separately each ballot, and at once withdraw from the voting booth.

[1939 c. 345 part 6 c. 8 s. 16] (601-6(8)o)

206.17 SHALL FOLD BALLOTS AND DEPOSIT IN INDICATED BOXES.

When a voter has marked his ballots, he shall fold each one separately so that its face will be concealed and only the initials on the back visible, and hand the same to the judge in charge of the ballot boxes. Each such folded ballot shall forthwith be placed in the proper ballot box, and the name of the voter checked upon the election register in the column headed "Primary Election" but no entry or notation shall be made in such register, or otherwise, showing to which political party any voter belonged or which political party ballot he voted nor shall the judges knowingly permit any other person within the polling place to make such an entry or notation. No voter, judge, clerk, or other person shall at any time place any mark as a means of identification under any ballot handed to or cast by any voter or upon any spoiled or discarded ballot except the initials of the judges on the backs of the ballots and the marks indicating the voter's choice of candidates made in the manner provided by law, and any violation of this provision shall be a gross misdemeanor. So far as applicable, all provisions of chapters 200 to 212 relating to false registration, defacing posted lists, time allowed employees for voting, ballots, voting room, removal from district, regulations of polling places, challenge of voters, rules for marking ballots, methods of voting, violations of such provisions, and penalties, shall be observed and enforced.

[1939 c. 345 part 6 c. 8 s. 17] (601-6(8)p)

206.18 SPOILED BALLOTS. When a voter spoils a ballot, he may return it and receive another. When any voter states under oath that he cannot read English, or that he is physically unable to mark his ballot, he may call to his aid two of the judges, who shall mark his ballot 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 marking his ballots. When he shall prefer he may call to his aid any voter of the same district, who, unaccompanied by a judge, may retire with him to one of the booths and mark the ballot for him, but no such person shall mark the ballots of more than three such voters at one election. Before his ballot is deposited, such voter shall show it privately to either a judge or a clerk to ascertain that it is marked as directed, but a physically disabled voter who is able to determine for himself need not show his ballot. No judge or other person so assisting a voter shall, in any manner, request, persuade, induce, or attempt to persuade or induce, such voter to vote for any particular political party or candidate, but shall mark 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.

[1939 c. 345 part 6 c. 8 s. 18] (601-6(8)q)

206.19 VOTER NOT TO DIVULGE NAME OF PERSON FOR WHOM HE VOTES. No voter shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted, nor shall he ask for or receive assistance from any one within the polling place in the preparation of his ballot except as herein provided. When any voter, after having marked his ballot, shows it to any one, except as herein provided, the judge shall refuse to receive such ballot, but shall place it among the spoiled ballots, and when such showing has clearly been intentional, no other ballot shall be delivered to such voter.

[1939 c. 345 part 6 c. 8 s. 19] (601-6(8)r)

206.20 VOTER TO GIVE CORRECT ADDRESS. Every voter, at the time of applying for his ballot, shall truly state the name of the street in which he resides and, if the house where he resides is numbered, the number thereof and, if required, whether he is the householder or a lodger or employee therein and such other matters as are necessary for identification. On refusal to make such statement, he shall not be allowed to vote.

[1939 c. 345 part 6 c. 8 s. 20] (601-6(8)s)

206.21 EMPLOYEES MAY VOTE WITHOUT LOSS OF TIME. Every employee entitled to vote at an election shall be permitted to absent himself from his work for that purpose during the forenoon of each election day, without a penalty or deduction from salary or wages on account of such absence.

[1939 c. 345 part 6 c. 8 s. 21] (601-6(8)t)

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206.22 JUDGES TO REMOVE BALLOT FOR EACH VOTER. No judge shall remove any of the ballots from the block except separately as required by voters for voting. The judges shall preserve unused and spoiled ballots and return them to the officers from whom they were received, with a statement of the number unused, and take receipt therefor.

[1939 c. 345 part 6 c. 8 s. 22] (601-6(8)u)

206.23 SHALL HAND BALLOTS TO VOTER. When the judges are satisfied that the person applying for ballots is a voter, the judge having charge of the ballots shall tear from the blocks one ballot of each kind that is to be voted, having the proper initials thereon, and hand the same to the voter, who shall retire alone to one of the booths and there prepare such ballot or ballots. Voters may be allowed to carry with them to the booths sample ballots to assist them in marking the official ballots, but the same shall not be printed on white, pink, india tint, or red paper; and it shall be a misdemeanor to print or distribute sample ballots printed upon such paper. Sample ballots may be printed in newspapers as matter of news.

[1939 c. 345 part 6 c. 8 s. 23] (601-6(8)v)

206.24 INCAPACITATED VOTERS. When the judges are informed that a voter is at the door who is unable to enter the polling place without assistance, they may appoint one of their number to take an official ballot or ballots to him and assist in marking the same, when requested, in the presence of some one selected by such voter. When the ballot or ballots have been marked and folded, the same shall be handed to the judge in charge of the ballot boxes, who shall announce: "Ballot (or ballots) offered by (name), a person unable to enter the voting place by reason of physical disability; does anyone object to the reception of this ballot." If no one objects, the ballot or ballots shall be deposited; but, if objection be made, it shall be treated as the interposition of a challenge and proceedings shall be had as in case of challenges.

[1939 c. 345 part 6 c. 8 s. 24] (601-6(8)w)

206.25 INTOXICATED PERSONS MAY BE DENIED RIGHT TO VOTE. Intoxication shall not be regarded as a physical disability, and no intoxicated person shall be entitled to assistance in marking his ballot. No voter shall be permitted to vote while grossly intoxicated.

[1939 c. 345 part 6 c. 8 s. 25] (601-6(8)x)

206.26 NUMBER OF VOTERS IN POLLING PLACE. The number of voters within the rail shall in no case exceed the number of booths by more than three. The judges may make such regulations as they deem proper as to the time which a voter may remain in the polling room while receiving, preparing, and voting his ballot, which time shall not be less than three nor more than ten minutes, unless the delay is occasioned by his vote being challenged, or is the fault of the board, or some of them.

[1939 c. 345 part 6 c. 8 s. 26] (601-6(8)y)

206.27 JUDGES TO MAKE PROCLAMATION OF CLOSING. The judges shall make oral proclamation at the door of each polling place 30 minutes before the hour fixed by law for closing the polls, in substantially the following words: "Hear ye! hear ye; the polls will be closed in 30 minutes." When the hour for closing has arrived, the polls shall be closed; provided, that those voters who, at the time of closing the polls, are either in the polling place or in line at the door thereof and have not been able to vote may vote and the polls shall remain open a sufficient time for them to do so. On or before the opening of the polls the judges shall agree upon some standard of time to be used in opening and closing the polls.

[1939 c. 345 part 6 c. 8 s. 27] (601-6(8)z)

206.28 TALLY BOOKS. Two tally books with returns shall be furnished for each district by the official charged with the printing of the ballots, at the time and in the manner the ballots are furnished. Each book furnished for white ballots shall be headed, "Tally book and returns for white ballots.....of;, County, Minnesota, General Election, November....., 19.....," directly under which and extending across the sheet from side to side shall be two heavy red lines one-half inch apart. At the left side of each sheet of the book, in a column of suitable width, commencing just below the red lines, there shall be printed in plain type the title of each office to be filled and the name of each

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candidate for the same, and as many blank spaces as appear on the printed ballot, the whole being, as nearly as may be, in the same order as on the official ballot.

[1939 c. 345 part 6 c. 9 s. 1; 1941 c. 194 s. 1] (601-6(9))

206.29 FORM OF TALLY BOOK. Under the name of each candidate or blank line, except where a red line is herein provided, a light blue line shall be ruled across each sheet, and in each space five-eighths of an inch wide, extending from the second line from the top to the bottom line, four light blue lines shall be ruled, in such manner as to divide each such space into five smaller spaces, each one-eighth of an inch wide. In each other space three-eighths of an inch wide the abbreviation "No." shall be printed. Over that part of the column of titles of offices and names of candidates showing the titles shall be printed the word "Office" and over that part of the column showing the names of the candidates shall be printed the word "Candidates." In each column headed "No." shall be printed in figures, in numerical order, "1," "2," "3" and so on, the figure "1" being placed in line with and opposite the name of the candidate nearest the top, and the figure "2" opposite the name of the next candidate, and in like manner down the column. Similar tally books shall be provided for the pink ballots.

[1939 c. 345 part 6 c. 9 s. 2] (601-6(9)a)

206.30 FORM OF TALLY BOOKS. The form of tally book and returns furnished by county auditors shall be the same as are furnished by the secretary of state, except that the words "india tint" shall be substituted for the word "white" or "pink" in the heading; and those furnished by the officials charged with the printing of the red ballots shall be the same, except the word "red" shall be substituted for the word "white" in the heading, and the names of candidates may be printed or written, or partly printed and partly written.

[1939 c. 345 part 6 c. 9 s. 3; 1941 c. 194 s. 2] (601-6(9)b)

206.31 COUNTY AUDITOR TO FURNISH TALLY BOOKS FOR PRIMARY ELECTION. For each state primary election the auditor shall furnish to each district, with the ballots, two sets of the tally book and returns for each political party having candidates and for non-partisan candidates to be voted for. Each shall be headed "Tally book and returns for (name of political party) (name of city or village) (county) (ward or town).....election district, for a primary election held.....(date)." The names of candidates shall appear on the tally book and returns in the order in which they appear in the official sample ballots and in each case shall have the proper designation at the head thereof. On the back thereof shall be printed the statements required in this chapter, and also a certificate signed by all the judges and clerks certifying that the candidates whose names appear on the tally book and returns received the number of votes set opposite their names.

[1939 c. 345 part 6 c. 9 s. 4; 1941 c. 194 s. 3] (601-6(9)c)

206.32 TALLY BOOK TO BE PART OF ELECTION RETURNS. The officers of election shall, on that part of the tally book and returns provided for the purpose, make full and accurate returns of the votes cast for each candidate in the form prescribed in this chapter.

[1939 c. 345 part 6 c. 9 s. 5; 1941 c. 194 s. 4] (601-6(9)d)

206.33 ELECTION RETURNS. In making out the returns, the clerks shall set down the total number of names entered upon the election registers, in columns prepared therefor, the total number of ballots actually cast and counted, the name of each person voted for, the number of votes received by him, and the office, all numbers being written in both words and figures. Such returns shall be in substantially the following form: "At an election held at..... in the.....election district, composed of..... in the county of.....State of Minnesota, on the.....day of....., 19....., the following named persons received the number of votes opposite their respective names for the following offices: For.....(office)..... A. received.....votes;" and the same in case of every person voted for; and a similar return showing votes cast for and against each proposition. Such returns shall be made in duplicate, each signed by the judges and attested by the clerks.

[1939 c. 345 part 6 c. 9 s. 6; 1941 c. 194 s. 5] (601-6(9)e)

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206.34 SEALING RETURNS; STATEMENT OF TOTAL VOTE CAST. Before separating, the judges shall include one set of such tally book and returns in each of two envelopes; each envelope shall then be sewed by drawing twice through it and the tally book and returns therein a substantial twine, by tying the ends thereof together and then sealing the envelope in three places with wax and stamp furnished by the county auditor, one of which places shall be over the knot in the twine, then endorse the envelope in the following form: "Tally book and returns of the election district of.....in the county of....." and direct one of these envelopes to the auditor and the other to the proper town, village, or city clerk. In towns, villages, and cities of the fourth class, one set of such tally book and returns, together with all unused and spoiled white, pink, and india tint ballots, shall be delivered to the auditor at his office, by a judge chosen by lot or agreement, within 24 hours after the closing of the polls, and the other, in like manner, to the clerk of the municipal corporation. The judges shall also make two summary statements of the total votes cast for each person for any office, and for and against each proposition voted upon, and cause one of such statements to be filed with the auditor and cause the other of such statements to be filed with the city, village, or town clerk, as the case may be, where they shall remain open to public inspection.

[1939 c. 345 part 6 c. 9 s. 7; 1941 c. 194 s. 6] (601-6(9)f)

206.35 RETURNS TO BE DELIVERED TO CITY CLERK IN CITIES OF FIRST CLASS. In cities of the first, second, and third classes, immediately after the canvass has been completed and the returns prepared, the judges and clerks, before separating and without stopping at any place or leaving any of their ballot boxes, returns, or ballots at any place or with any person, shall deliver to the city clerk, at his office, one set of such returns, the ballot boxes, all unused and spoiled red ballots, and all other things in this act required to be delivered by them to such clerk; and such clerk shall remain in his office to receive the same until all have been delivered. Such clerk shall keep a book in which, in their presence, he shall enter the names of the judges and clerks, and the hour at which such delivery was made, which book shall be preserved in his office for the same period as the ballots. The judges in each district shall forthwith choose one of their number, by lot or agreement, to deliver the other copy of such returns, and the unused and spoiled white, pink, and india tint ballots, to the auditor. The judge so chosen shall deliver such returns, ballots, and all other things in this chapter required to be so delivered, to such auditor, at his office, within 24 hours after delivery of the ballot boxes and returns to the city clerk.

[1939 c. 345 part 6 c. 9 s. 8] (601-6(9)g)

206.36 AUDITOR TO DISPATCH SPECIAL MESSENGER IN CERTAIN CASES. When the judges fail to make returns, as provided in this chapter, the auditor or clerk to whom such returns should have been made shall dispatch a special messenger to obtain them, who shall be entitled to the same compensation as a judge for like services, and be subject to the same penalties.

[1939 c. 345 part 6 c. 9 s. 9] (601-6(9)h)

206.37 IRREGULARITIES NOT TO BE CONSIDERED IN RETURNS. No officer to whom election returns are required to be made shall refuse to receive them because they are returned or delivered to him in any other manner than that prescribed in this chapter, except that they must be sealed. No canvassing board shall refuse to include any returns in its canvass of votes on account of any informality in holding the election or making returns thereof, but all returns shall be received and the votes canvassed by such canvassing board and included in its statements where there is a substantial compliance with the provisions of this chapter.

[1939 c. 345 part 6 c. 9 s. 10] (601-6(9)i)

206.38 AUDITOR TO MAKE CERTIFICATES OF ELECTIONS. The auditor of each county or the secretary of state, where the district comprises more than one county, shall make, for every officer and member of the legislature elected therein a certificate of such election, and deliver the same to the person entitled thereto, without fee, upon demand. No certificate of election shall be issued by the auditor of any county, or by the secretary of state, to any person declared elected by the canvassing board of such county, or by the state canvassing board, at any general election until 12 days after such canvassing board has canvassed the returns and declared the result of such election. In case of a contest, the certificate shall not

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be issued until the district court has determined the contest. The auditor of any county shall also make for any candidate or voter of his county, a certified copy of any statement of votes made by the county canvassing board, on payment or tender of one dollar therefor.

[1939 c. 345 part 6 c. 9 s. 11; 1945 c. 229 s. 3] (601-6(9)j)

206.39 CANVASS OF VOTES IN PRIMARY ELECTIONS. Canvass of votes on primary ballots shall be made in the same manner and by the same officers as is provided by this chapter, except as herein otherwise provided. The ballots shall be counted in the following manner: The election officers shall take the ballots from the boxes, count those cast for the candidates of each political party and for non-partisan candidates, place the political party ballots and non-partisan ballots in separate piles and fasten them together.

[1939 c. 345 part 6 c. 10 s. 1] (601-6(10))

206.40 CANVASS OF VOTES TO BE PUBLIC. The judges shall then proceed to canvass the votes cast at such election. Such canvass shall be public and continued without intermission until completed and the result declared, but this shall not be construed to prevent any temporary recess for taking meals or other necessary purposes. During such canvass no person other than the judges and clerks shall handle or interfere with the ballots.

[1939 c. 345 part 6 c. 10 s. 2] (601-6(10)a)

206.41 ORDER OF CANVASS. The ballot boxes shall be opened, the votes counted, and the results declared, one box at a time as follows: First, the white box; second, the pink; third, the india tint; and fourth, the red. The returns shall not be prepared until the votes in all the boxes have been counted so as to allow corrections in case any errors have occurred by reason of the deposit of ballots in the wrong boxes.

[1939 c. 345 part 6 c. 10 s. 3] (601-6(10)b)

206.42 METHOD OF CANVASS. The judges shall begin the canvass by taking from the box the ballots, unopened except so far as necessary to ascertain whether every ballot is single, and counting them to determine whether their number corresponds with the number appearing on the election register to have been cast in such box. When two or more ballots are found so folded together as to appear like a single ballot, they shall lay them aside until the ballots in all the boxes have been counted. If, on comparing such ballots with the number of the same kind appearing by the election register to have been cast, it is evident that the ballots so folded together are cast by one voter, they shall preserve but not count them. When there is an excess of ballots in any box, they shall examine them and ascertain whether all are properly marked with the initials of the judges, and, if any are not so marked, they shall preserve but not count them. When there is still an excess, they shall replace them in the box, and one judge, without looking, shall draw from the box a number of ballots equal to such excess, which shall be preserved, but not counted.

[1939 c. 345 part 6 c. 10 s. 4] (601-6(10)c)

206.43 BALLOTS DEPOSITED IN WRONG BOX. When the number of ballots in any box equals or exceeds the number shown by the election registers to have been cast in such box, no ballots proper to have been deposited therein, but found in another box, shall be counted; but when the number is less than that shown by the election registers, and ballots properly belonging in such box are found in another box, they shall be counted the same as those in the proper box; but if counting such ballots produces an excess of votes above the number shown by the election registers, then the number shall be reduced by drawing therefrom as provided in section 206.42.

[1939 c. 345 part 6 c. 10 s. 5] (601-6(10)d)

206.44 DISPOSITION OF BALLOTS FOUND IN WRONG BOX. When any ballots not belonging among those being canvassed from any ballot box shall be found, the same shall be laid aside until the canvass of the kind of ballots to which they belong. If there be a deficiency in the number of ballots of such kind in the proper box, the ballots so found in the wrong box, to the extent of such deficiency (selected by lot when necessary), shall be included and counted with the kind of ballots to which they belong. When the number of ballots as finally counted agrees with the election registers, those not counted shall be attached to a certificate made

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by the judges, stating why such ballots were not counted, which certificate and uncounted ballots shall be sealed in a separate envelope and returned with the other returns to the officer from whom they were received.

[1939 c. 345 part 6 c. 10 s. 6] (601-6(10)e)

206.45 CLERKS TO TALLY BALLOTS. The clerks shall carefully enter an account of the ballots as counted for each person or proposition on tally books as provided in this chapter.

[1939 c. 345 part 6 c. 10 s. 7] (601-6(10)f)

206.46 CANVASSING VOTES; METHODS; INSPECTION. When canvassing the votes, the ballots shall first be separated into piles, each pile to contain only ballots on which is marked a vote for one candidate for an office, or one group of presidential electors, or for or against any proposition voted upon, as the case may be. After such separation has been made, one of the judges shall examine each such pile; and, if such judge shall find any ballots therein which are not marked for such candidate, group of presidential electors, or for or against such proposition, he shall remove the same therefrom, and if such ballots so removed are marked in such manner that they properly belong in another pile, such judge shall immediately place same in the proper pile. Following such inspection, a different judge than the one making the inspection shall count the ballots in each such pile, announce the number thereof to the clerks, who shall write such number in the proper place on the tally books. This procedure shall be followed by the judges and clerks until all votes cast for every candidate for office, every group of presidential electors, and for or against every proposition voted upon shall be counted and canvassed. The tally books provided for in this chapter shall be furnished by the city clerk for city elections and by the county auditor for county and state elections.

At the close of such canvass, before the returns are completed, the judges and clerks shall sign a certificate on the back of each tally book which shall be substantially as follows:

"CERTIFICATE

We, the undersigned judges and clerks of the.....Precinct,.....Ward, of the (City) (Village) (Town) of....., Minnesota, do hereby certify that all ballots cast at the.....election held....., 19....., were carefully and properly piled, checked and counted, and that the number of votes marked opposite the respective names of the candidates, the respective groups of presidential electors, and respectively for and against the propositions voted upon correctly shows the number of votes so cast.

Signed:..... Judges

Signed:..... Clerks

Dated....., Minnesota,, 19....."

[1939 c. 345 part 6 c. 10 s. 8] (601-6(10)g)

206.47 BALLOTS TO BE PLACED IN ENVELOPES AND SEALED. As soon as practicable after the canvass has been completed and before the election board separates or adjourns and in the presence of all the judges, the ballots cast shall be removed from the ballot boxes and placed in envelopes of the same color as the ballots and of a size to hold the ballots of each box without folding. Heavy envelopes suitable for this purpose, reinforced with cloth at all folds, shall be furnished by the county auditor to each district. After the ballots are in place the envelopes shall be carefully sealed and each judge shall write his name upon the envelope over the sealed part in such a way that the envelope cannot be opened without disturbing the continuity of the lines in the writing. The number of ballots in each envelope, the kind thereof, and the name of the district shall also be plainly written upon the envelopes. No unused ballots or returns shall be placed in the envelopes.

[1939 c. 345 part 6 c. 10 s. 9] (601-6(10)h)

206.48 TO BE DELIVERED TO COUNTY AUDITOR. As soon as the ballots have been placed in their envelopes and properly sealed and one of the judges has been chosen to deliver election returns to the county auditor, the envelopes shall be delivered by such judge personally to the county auditor. The envelopes shall be

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securely wrapped in such a manner that such envelopes and the seals shall be properly protected. The county auditor shall file all envelopes containing ballots thus transmitted to him in his office and shall keep them in a safe place with seals unbroken unless previously opened by proper authority for examination or recount, in which event the auditor shall cause the envelopes to be again securely sealed with the names of the persons making such inspection or recount endorsed thereon in the manner provided for endorsement by judges; provided, that such envelopes may be opened by the county canvassing board, if necessary, to procure any election returns which may have inadvertently been sealed up with said returns by the judges, but such envelopes shall again be sealed in the manner herein provided. The provisions hereof shall not apply to cities of the first class operating under a home rule charter.

[1939 c. 345 part 6 c. 10 s. 10] (601-6(10)i)

206.49 DISPOSITION OF BALLOTS IN CERTAIN COUNTIES. In counties having a population of 200,000 or more, and in all cities having a population of 50,000 or more, whether operating under home rule charters or otherwise, the ballots in each district shall, as soon as practicable after the canvass is completed, and in the presence of all the judges, be strung and fastened together into a single package by passing a substantial twine string through and around the ballots cast in such district, tying the ends of the twine and sealing the same with wax over the knots with a seal provided by the county auditor or the city clerk, as the case may be. After the ballots have been so strung, fastened and sealed, they shall be replaced in the ballot boxes in the presence of all the judges, and each ballot box be locked and shall then be sealed by pasting a firm paper across the lid and body thereof, in such manner that the box cannot be opened without breaking the seal, and each judge shall write his name upon said paper, so that such signatures shall cross the opening between the lid and the body of the box. Such sealing shall be done before the board separates or adjourns, but not until by a canvass of the ballots in all the boxes, it has been ascertained that all of the ballots to be sealed in a box have been placed therein.

In counties having a population of 200,000 or more, and in all cities having a population of 50,000 or more, whether operating under home rule charters or otherwise, the ballot boxes, after the ballots have been placed therein and the boxes have been properly sealed, shall be returned to the office of the county auditor or city clerk, as the case may be, by at least two of the judges in person, and shall thereafter be stored in such manner as to admit at all times of actual, visual inspection of the exterior of the said boxes.

[1939 c. 345 part 6 c. 10 s. 11] (601-6(10)j)

206.50 RULES FOR CANVASSING BALLOTS. All ballots shall be counted for the persons for whom they were intended, so far as such intent can be clearly ascertained from the ballots themselves, and in determining such intent, the following rules shall be observed.

(1) When a voter has placed a mark (X) against two or more names for the same office, where only one is elected, his vote shall not be counted for either candidate.

(2) When a voter has written the name of a person in the proper place, his vote shall be counted for such person, whether he makes a mark (X) opposite thereto or not.

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

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

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

(6) When the judges can determine from a ballot the voter's choice for a part only of the officers, the ballot shall be counted for such part only.

(7) When a voter uses uniformly a mark other than "X" in marking his ballot, clearly indicating his intent to mark against a name, and does not use (X) anywhere else on the ballot his vote shall be counted for each candidate so marked.

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

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

[1939 c. 345 part 6 c. 10 s. 12] (601-6(10)k)

206.51 DEFECTIVE BALLOTS. A ballot so defective in whole or in part that it cannot be counted by reason of inability of the judges to determine the intent of the voter shall be marked on the back "Defective," or "Defective as to.....," naming the office as to which it is defective. Such ballots shall be strung in regular order with those not defective. A memorandum of the number of such ballots, and, if defective in part only, of the defective parts not counted, shall be made, certified, and returned by the judges with their other returns. Thereupon the ballots shall be strung in the order they are read and canvassed, and the string tied and sealed. When the correct result has been ascertained, one of the canvassing judges shall publicly announce to those present the number of votes cast for each candidate.

[1939 c. 345 part 6 c. 10 s. 13] (601-6(10)l)

206.52 MEMBERS OF COUNTY CANVASSING BOARD. The county canvassing board shall consist of the county auditor, the clerk of the district court, two members of the county board, to be selected by the board from among its members who are not candidates for nomination or election to such office, the mayor or president of the most populous municipality in the county. In the event that any of these persons shall fail or refuse to serve on the canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint a qualified voter of the county, who shall not hold any public office, to take the place of such person on the canvassing board. Three members shall constitute a quorum and when sworn shall have power to act. Such board shall meet at the auditor's office at 10:00 a. m. on or before the third day after a primary election, take the oath of office, and publicly canvass the returns of such election made to the county auditor, and it shall complete the canvass by the evening of the sixth day following such election. The canvassing board shall forthwith make the following report and file same with the county auditor:

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

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

(3) A statement of the whole number of votes registered and the number of ballots cast at such primary election; and

(4) A separate statement of the votes received by each of the non-partisan candidates and the names of the non-partisan candidates nominated.

Whenever any candidates receive an equal number of votes for the same nomination the canvassing board shall determine the tie by lot.

Upon completion of such canvass, the county auditor shall forthwith certify to the secretary of state the vote, as shown by such report, for all candidates to be voted for in more than one county, and shall mail or deliver to each nominee who is to be voted for in his county only a notice of his nomination and that his name will be placed upon the official ballot. In any primary election for city officers in any city having a home rule charter the canvassing board shall file with the clerk of such city a separate statement which will show the persons nominated for each office under the provisions of such charter, with such details as are provided in this section, omitting all political party designation, if such charter so provides.

Such canvassing board, within ten days after the general election, shall meet at the auditor's office and there publicly canvass the returns of such election made to the auditor, and shall complete such canvass without unnecessary delay, and forthwith make the following report and file same with the county auditor:

(1) A statement of the whole number of votes cast in such county for the several state officers, including therein presidential electors, members of the legislature and judges of the district court, the names of the persons for which such votes were cast, and the number cast for each; and the total number of registered names in each election district, and the total number of ballots cast therein;

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(2) A statement of the names of all persons receiving votes for any county office, and the number of votes received by each;

(3) A statement of the names of all candidates for the offices of representative in congress, and the number of votes received by each;

(4) A statement of the number of votes cast for and against any proposed change of county lines or county-seat; and

(5) A statement of the number of votes cast for and against any proposed amendment to the constitution, or other proposal submitted to popular vote.

Such canvassing board, having completed such canvass, shall declare the person receiving the highest number of votes for each county office duly elected thereto; and when such county constitutes, or contains a senatorial or representative district, it shall declare the persons receiving the highest number of votes, respectively, for senator or representative duly elected. In case of a tie, the canvassing board shall determine the result by lot.

[1939 c. 345 part 6 c. 11 s. 1; 1941 c. 330] (601-6(11))

206.53 RETURNS OF COUNTY CANVASSING BOARDS. Two copies of each of such statements shall be made and certified under the official seal of the auditor, each enclosed in an envelope directed to the secretary of state, with the auditor's name and official address and the words "Election returns" endorsed thereon, and forwarded by different mails within five days of each other. If neither copy be received by the secretary within 20 days after the election, he shall immediately notify the auditor of that fact, who shall transmit another copy thereof to the secretary by special messenger deputed by him.

[1939 c. 345 part 6 c. 11 s. 2] (601-6(11)a)

206.54 STATE CANVASSING BOARDS. The secretary of state shall call to his assistance two judges of the supreme court and two disinterested judges of the district court, and such judges, together with the secretary of state, shall constitute the state canvassing board. Such board shall meet at the office of the secretary of state on the second Tuesday after any election, except as otherwise provided for special elections. When a vacancy in the membership of said canvassing board occurs by reason of the failure of any such judge to attend the meeting of such board on the day appointed, the secretary of state shall fill such vacancy by selecting another disinterested judge from either court; provided, that not more than two judges of the supreme court shall serve upon the canvassing board at any one time.

Such canvassing board shall open and canvass the returns of a primary election made to the secretary of state; and, upon the completion of the canvass, the secretary of state shall forthwith certify to the several county auditors the names of the persons found to be nominated and mail to each such nominee a notice of his nomination. At its meeting after a general election, such canvassing board shall open and canvass the certified copies of the statements made by the county canvassing boards, prepare therefrom a statement of the whole number of votes cast at such election for members of congress, candidates for the several state offices, and such candidates for senator or representative as shall be voted upon in more than one county, the names of the persons receiving such votes, and the number received by each, and the number of votes cast for and against each constitutional amendment, specifying the several counties in which they were cast, and shall subscribe such statement and certify to the correctness thereof and, within three days after the completion of such canvass, declare the result. In case of a tie vote for any office, the result of which is to be certified by such canvassing board, it shall determine such tie by lot.

[1939 c. 345 part 6 c. 11 s. 3; 1945 c. 229 s. 4] (601-6(11)b)