

Minnesota Attorney General: Administrative Rules Proceedings

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ADOPTED RULES OF THE SECRETARY OF STATE FOR CERTIFICATION AND EXPERIMENTAL AND GENERAL USE OF VOTING MACHINES

(Implementing Minnesota Statutes Chapter 206)

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ADOPTED

RULES OF THE SECRETARY OF STATE

for

CERTIFICATION and EXPERIMENTAL and GENERAL USE OF VOTING MACHINES

(Implementing Minnesota Statutes Chapter 206)

June 30, 1976

ADOPTED RULES OF THE SECRETARY OF STATE FOR CERTIFICATION AND EXPERIMENTAL AND GENERAL USE OF VOTING MACHINES

CHAPTER ONE: DEFINITIONS AND OTHER GENERAL MATTERS

SecStat 3101 Conduct of Elections. Except as provided in other Minnesota Statutes or in these rules, election judges shall conduct elections in the manner prescribed for precincts using paper ballots in the Minnesota election law.

SecStat 3102 Additional Procedures. These rules set minimum standards for procedures in the use of voting machines. An election jurisdiction may by resolution require additional procedures. A copy of such resolution including the procedures shall be filed with the secretary of state within five days after its adoption.

SecStat 3103 Training. The official in charge of the election for the election jurisdiction shall deliver to the secretary of state 60 days before the election the plan and content for the training of election judges as required by Minnesota Statutes 206.19 and 206.195. The training shall include but need not be limited to the following procedures:

(a) pre-election checkout at the polling place;

(b) information and supplies that are to be displayed in the polling place;

(c) explanation of the duties of judges including but not limited to:

(1) encouraging the voter to practice the method of voting by use of the demonstration model of the voting machine;

(2) explaining use of any apparatus necessary to use with the voting machine, such as stylus, marking device, insertion of ballot card;

(3) explaining the ballot label and its relation to the ballot card;

(4) if a primary election, explaining that a voter may vote in the election of only one party and indicate how that choice may be made;

(5) if a general election, indicating the method for write-in votes;

(6) indicating how the voter can check his ballot before leaving the voting booth;

(7) informing the voter of the proper method of completing the ballot, including use of ballot envelope;

(d) activities involved in closing the polls, preparing the ballots for tabulation, and transporting of ballots to the counting center;

(e) provision for individualized training of any persons who will serve as judges in the case of emergency when a trained judge is unable to serve.

SecStat 3104 Meanings of Terms.

(a) As used in SecStat 3101 through 3999, terms defined in Minnesota Statutes 206.01 shall have the meanings given them in that section.

(b) The following terms shall have the meanings given them as follows:

(1) ACCEPTANCE TEST Initial tests which shall be successfully completed before a vendor shall be licensed to sell voting machines in Minnesota.

(2) APPLICATION PROGRAM A computer program that solves a problem posed by a computer user.

(3) APPROVED COMPUTER Vendor's model which has been approved by the secretary of state to tabulate official ballots in Minnesota.

(4) BACK UP (DUPLICATE) PROGRAM An identical computer program for vote-recording and vote-tallying to be prepared and tested and held in readiness should it be needed to replace the computer program prepared for use in the election.

(5) BALLOT CARD A date processing card which is preprinted with numbers or names of the offices, candidates for those offices, and propositions to be voted on in an election. The ballot card is used by the voter to designate his choices and is subsequently tabulated by a computer.

(6) BALLOT ENVELOPE A paper container approved by

the secretary of state into which the ballot card is inserted by a voter after voting.

(7) BALLOT IMAGE A corresponding representation in electronic form on tape or disc of the punch or mark pattern of a voted ballot.

(8) BALLOT LABEL 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.

(9) BIT-FOR-BIT COMPARISON A method for comparison of machine encoded characters.

(10) CHAD The pre-scored portion of the ballot card which is removed from the ballot card by the voter when casting his ballot.

(11) COMBINATION BALLOT CARD A ballot card with a card attached by perforation for write-ins, containing instructions and spaces for write-ins.

(12) COMPUTER A data processor which can automatically perform a sequence of logical and/or arithmetic operation without human interventions.

(13) COMPUTER EXPERT A person knowledgeable in the engineering, programming, and operation of a computer for the purposes of vote-recording and vote-tallying.

(14) COMPUTER FACILITY The counting center where votes are tabulated from all the precincts included in the election jurisdiction.

(15) COMPUTER PROGRAM The set of operating instructions for a computer by which it examines, counts, tabulates, and prints votes recorded by a voter on a ballot card or other electronic medium.

(16) CONSOLE LOG (also computer log, log book) Computer generated listing of actions performed by the computer, including both normal and abnormal operations.

(17) COUNTING CENTER A location selected by the governing body of a municipality subject to approval of the secretary of state where an electronic system is used for the automatic tablulation of ballots.

(18) CRIMP HINGE A hinge with locking spurs which is attached to the ballot label pages to allow for insertion, proper alignment, and positioning of the ballot label pages in the ballot frame assembly.

(19) DAMAGED BALLOT A valid ballot cast by a voter which is mutilated at the precinct, in transpor-

tation to the counting center, and/or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated.

(20) DEFECTIVE BALLOT A voted ballot card which the election judges have determined that the voter either mutilated or placed thereon some mark, printing, or writing, for the purpose of distinguishing it. A ballot may also be declared defective in whole or in part because of the inability of the judges to determine the intent of the voter.

(21) DEMONSTRATION BALLOT CARD A ballot card of a distinctive color used to instruct voters in the use of the voting device.

(22) DEMONSTRATION MODEL An approved copy of the voting machine in use in a precinct containing ballot labels representing offices and containing fictitious names, to demonstrate to voters the method of voting.

(23) DETACHABLE STUB A two-part section of each ballot card, each part of which is printed with the identical number, which is part of a serial numbering of all ballot cards assigned to that precinct.

(24) DUPLICATE BALLOT CARD A ballot card on which

the word "DUPLICATE" is printed, stamped, or written and which may be of a different color to which election judges transfer a voter's selections from the original ballot card when necessary.

(25) EDIT LISTING A computer generated listing showing the names, rotation sequence, and ballot position numbers for each candidate as they appear in the computer program for each precinct.

(26) ELECTION JURISDICTION Any municipality, township, county or special election district holding original responsibility for an election or part thereof.

(27) ELECTION OFFICIAL IN CHARGE OF THE COUNTING CENTER If one election jurisdiction is using the counting center, the official in charge of the election for that jurisdiction; if more than one election jurisdiction is involved, the county auditor of the county in which these jurisdictions are located.

(28) END CARD A data processing card which instructs the computer program that all ballots of a precinct have been counted.

(29) HARDWARE Physical equipment, as opposed to computer program, used in vote-recording and vote-tallying by computer.

(30) HEADER CARDS Data processing cards which contain the necessary data to identify the precinct of the following ballot cards to the computer.

(31) LIST OF PERSONS VOTING The list maintained by election judges in the precinct from the voters certificates completed by voters as they qualify to receive a ballot.

(32) MARKING DEVICES Either an apparatus in which ballots or ballot cards are inserted and used in conjunction 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 or punch made by such marking device may be in the form of a round dot, a square, or any other shape that will clearly indicate the intent of the voter.

(33) MUNICIPAL CORPORATION An election jurisdiction however constituted; same meaning in these rules as "election jurisdiction".

(34) OBJECT CODE The machine code of a computer program on which the computer operates.

(35) OFFICIAL IN CHARGE OF THE ELECTION FOR THE ELECTION JURISDICTION The city or township clerk

or a designated official of the special district holding the election.

(36) OPERATING SYSTEMS Software which controls the execution of computer programs and which provides scheduling, debugging, input/output control, accounting, compilation, storage assignment, data management, and related services.

(37) OVERVOTE A condition of a voted ballot in which more votes have been cast for an issue or office than the number of votes which the voter is lawfully entitled to cast.

(38) PRECINCT CERTIFICATION The certification supplied by the election jurisdiction to each precinct on which to record unusual occurrences at the precinct, the number of voters who registered on election day, the number who voted, and other information as may be requested by the election jurisdiction and the secretary of state.

(39) PROGRAMMER Person, persons, or commercial vendor designated by an election jurisdiction to write a computer program to record and tally votes in an election.

(40) PUBLIC ACCURACY TEST A public test conducted prior to election day for the purpose of demonstrating the accuracy of the computer program and computer which will be used to count the ballots and to

demonstrate and explain the testing procedures being used to determine the accuracy.

(41) RULES Regulations of procedures for conduct of elections in accordance with Minnesota election law which, when duly promulgated by the secretary of state, shall have the force of law.

(42) SEAL Device of metal or other material with a number on it. Such a seal is used to secure voting machines. Another seal is used to secure transfer cases.

(43) SELF-CONTAINED VOTING STATION A unit which contains a voting machine or marking device having all four sides enclosed and lighted; when assembled the unit creates one individual voting station.

(44) SOFTWARE Computer programs, procedures, rules, and possibly assorted documentation concerned with the operation of a data processing system. Contrast with "hardware". Computer program and paper media used in vote-recording and vote-tallying for computer use.

(45) SOURCE CODE The instructional language in which a programmer writes a computer program. The object code is a translation of this language.

(46) SPOILED BALLOT CARD A ballot which has been returned to the election judges by a voter and for which a new ballot card may have been issued.

(47) STATE OFFICE Any office in nomination or election of candidates for president and vice president, U.S. senate, U.S. congress, state legislature, and state constitutional office.

(48) STYLUS An instrument which a voter uses to punch out the pre-scored positions of a ballot card.

(49) SUPPORT SOFTWARE All software, such as an operating system, that does not pertain to any specific user need.

(50) TEST DECK A set of pre-audited mock voted ballot cards used to determine that the computer and software to be used in the election count the votes.

(51) TRANSFER CASE A container for transporting ballots to the counting center.

(52) UNASSIGNED LOCATIONS Voting positions on the voting machine or data processing card not programmed to receive an indication of votes in the election in progress.

(53) UNDERVOTE A condition of a voted ballot in which fewer votes have been cast for an issue or office than permitted by law.

(54) VALID VOTE A voted ballot cast according to the instructions on the voting machine in keeping with the Minnesota election law and these rules.

(55) VENDOR Organization contracting to supply any

elements of a vote-counting and vote-tallying system which can include hardware, support software, and computer program.

(56) VOTE An indication by a voter of intent recorded by a variety of mechanical or electronic methods.

(57) VOTE-RECORDING MEDIUM The material or configuration thereof on which data are recorded, such as paper tape, cards, magnetic tape.

(58) VOTER REGISTRATION LIST A list of voters registered in that precinct sometimes used for the purpose of checking off each voter who comes to vote in that election.

(59) VOTING BOOTH A structure constructed in a manner prescribed in Minnesota Statutes 204A.11, Subd. 2 so that the voter while preparing his ballot may be free from observation. Each booth has a facility to hold a voting machine.

(60) VOTING MACHINE A lever machine or an electronic or mechanical equivalent thereof utilized by a voter to record his choices relative to candidates and issues to be voted on in an election.

(61) VOTING SYSTEM A system in which votes are recorded and such votes are subsequently counted and tabulated by automatic tabulating equipment.

(62) WRITE-IN A vote for a candidate whose name does not appear on the official ballot for the office for whom a voter elects to vote.

SecStat 3105 - 3199 Reserved for Future Use.

CHAPTER TWO: CERTIFICATION

This chapter pertains to the vendor only. It does not pertain to computer center operators or responsible authorities of election jurisdictions.

SecStat 3201 Acceptance Testing.

(a) In addition to the general testing of the integrity of the computer program, the voting system (both hardware and software) shall demonstrate its storage requirements and its speed of operation which may include its print-out capability to provide speed for unofficial results and full audit capability for official results to be certified. There shall be demonstrated any special parameter alteration that can be programmed into it and a full explanation of any modification that can be inserted.

(b) Test conditions shall involve a simulation of realistic conditions, coupled with a checkoff of the design specifications which were imposed.

(c) Vendor of the program shall identify all the hardware configurations with which the computer program is intended to operate and also identify the maximum values of election parameters which the program can support. These parameters shall include the maximum number of precincts, offices and issues, candidates per office, as well as statistical data required by

the secretary of state as identified in law and these rules.

SecStat 3202 Simulation & Vote Counting.

(a) Simulation of vote-counting for the purpose of acceptance testing shall involve a configuration of number of voters, precincts, offices, and candidates which involves the largest number of voters in an election in which it is expected to be used. Testing should be in a manner commensurate with the logic of the computer program, the capabilities of the program, storage, and ability to tally correctly the quantity of votes anticipated. Simulated ballots may be prepared by use of ballot images on tape or disc. Simulated ballots (however produced) shall include those involving no overvotes or marks in unassigned locations as well as ballots showing overvotes, undervotes, and invalid votes.

(b) When the computer program is to be used with several difference hardware configurations, a test of the computer program with each configuration shall be completed including the various election arrangements of different numbers of voters, precincts, offices, numbers of candidates, and issues.

(c) Use of ballot-generating program;

(1) To develop a computer-readable medium of randomly configured ballot images which is the inverse of the vote-tallying program under test, the secre-

tary of state may begin with a set of results for every precinct and every office and issue and decompose the results into a set of ballots, including some which involve valid votes, overvotes, and undervotes, in many difference combinations.

(2) Results obtained by the vote-tallying program under test shall match the results of the tape of ballot images at the option of the secretary of state.

(3) At the option of the secretary of state the ballot-generating program may also be used to generate actual ballots as well as a tape of ballot images.

SecStat 3203 Audit Trail.

(a) There shall be a complete printout of overvotes and undervotes as an audit trail.

(b) The computer printout containing the tally shall include the following:

(1) For each precinct the candidates and issues shall be listed in rotational order given in the instructions for voters in that precinct.

(2) The number of ballots counted for that precinct shall be shown.

(3) The number of overvotes, the number of undervotes and the number of non-overvoted ballots for each office and issue shall be shown.

(4) The program shall be designed so that undervotes are recorded directly from the ballots and not determined by subtraction of candidate totals from non-overvoted ballots.

SecStat 3204 Approval. For certification, the vendor shall deposit with the secretary of state a copy of the source vote-tallying program, documentation describing the program, and copies of all compilers and other support software which are used to convert the vote tallying program to object code If the vendor considers these data proprietary, the secretary of state shall maintain the integrity and security of the program. The secretary of state shall notify the vendor of decision in the matter of the approval of the voting machine tested within five working days of the completion of the tests described in these rules. Approval shall be valid as long as the voting machine meets the standards set out in the statutes and rules.

SecStat 3205 Decertification. If a voting machine no longer meets the standards of the statutes and rules, the secretary of state may withdraw approval of the voting machine after a hearing.

SecStat 3206-3299 Reserved for Future Use.

CHAPTER THREE: PRE-ELECTION CHECK OUT OF COMPUTER PROGRAMS

SecStat 3301 Design of Computer Programs

(a) Computer programs shall be written so as to tabulate accurately each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with the laws of the state of Minnesota and these rules.

(b) Computer programs shall include instructions requiring that precinct identification be punched on all ballot cards. Two identical header cards may precede the deck of ballot cards of each precinct. The program may provide that if two identical header cards do not appear in front of the ballot cards of a precinct, no counting of ballots for that precinct shall take place.

(c) A data processing card may follow the ballots of each precinct instructing the computer that all ballots of the precinct have been counted. The program may provide that if header cards contain instructions to the computer that all ballots of the preceding precinct have been counted, no separate end card is needed.

(d) Computer programs may be contained on data processing cards, magnetic tape, disc, ROM (read only memories), PROM (programmable read only memories), or

any combination thereof.

(e) The operators shall prepare at least two edit listings from the computer program showing candidates' names and respective ballot position numbers as they appear in the computer program for each precinct. The edit listings shall be delivered to the appropriate election jurisdiction at least 14 days prior to the election.

(f) No later than five days after candidates' names are certified by the secretary of state the election jurisdiction responsible for requesting the computer program shall supply any information such as candidates' names and rotation to the programmers designated to write the computer program.

(g) The computer program for any election must be completed and delivered to the election jurisdiction or the county auditor when two or more election jurisdictions elect to use a common counting center at least 14 days prior to the election. The programmers shall also prepare and deliver to the election jurisdiction or to the county auditor when two or more election jurisdictions elect to use a common counting center at the same time an exact duplicate or duplicates of the program for use as backup. One duplicate shall be required if county offices are included in the election, and a second duplicate shall be required if state offices and questions are included in the election. In-

structions containing the necessary information, steps and procedures required to operate the computer program shall be prepared to accompany the original program and the backup program or programs delivered with them. There shall be at least two copies of the instructions for each computer facility. It shall be the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators.

(h) The vote tabulation portion of the computer program shall be written as follows:

(1) In nonpartisan races in all elections and in the partisan primary elections, the computer program shall reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballot labels in the various precincts.

(2) The computer program shall count valid votes cast by a voter for candidates for an office.

(3) The computer program shall count valid votes cast by a voter for or against any question.

(4) The computer program shall not count the votes cast by a voter for an office or question if the number of votes cast exceeds the number which the voter is entitled to vote for on such office or question, but it shall record that there is an overvote condition as re-

ferred to in SecStat 3203.

(5) The computer program shall ignore marks and/or punches in a ballot card in positions where no candidates' names or questions appear on the official ballot; these marks and/or punches shall have no effect on any portion of the ballot.

(6) For the purpose of programming, the partisan, non-partisan, and proposal sections of the ballot are to be considered independent ballots. No action of a voter on one such section of the ballot shall affect his action on another section of the ballot.

(7) In partisan primary elections, the computer program shall count the votes recorded by a voter for candidates in one political party only and reject all of the partisan section of the ballot if votes are cast for candidates of more than one political party, but count valid votes in the non-partisan section of the ballot.

(8) In partisan primary elections the computer program shall check for the situation of a voter casting votes for candidates of more than one political party prior to checking for overvote conditions.

SecStat 3302 Preparation of Test Deck or Ballot Image.

(a) It shall be the duty of the election jurisdiction

requesting the computer program to prepare a test deck of ballot cards to be used to determine that the computer and the computer program will correctly count the votes cast for all offices and/or all proposals in compliance with the laws of the state of Minnesota.

(b) Simulated ballots through use of ballot images on tape or disc may be used to evaluate the logic of the computer program.

(c) The test deck or ballot image shall include ballots involving no overvotes or marks in unassigned locations as well as ballots involving overvotes, undervotes, and invalid votes in many different combinations.

(d) The test deck or ballot image shall test in a manner commensurate with the logic of the computer program, the capabilities of the program and storage to tally correctly the maximum number of votes which might be cast for any office or question in the election.

(e) The test deck shall conform to SecStat 3104 (50). A test deck shall be prepared specifically for each election.

(f) The test deck or ballot image prepared shall consist of a pre-audited configuration of ballots to record a pre-determined number of valid votes for each candidate and issue.

(g) A documentation, record, chart, or listing shall be prepared indicating the punches recorded in the test

ballots. Said documentation shall indicate whether punches are valid or invalid.

(h) Ballots shall be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot;

(i) For district offices in which the number of candidates appearing on the ballot for that office varies by district, test ballots shall be prepared with the number of votes allowed by law for that office in that district and also shall include votes in positions which are assigned to that office for which no candidate's name appears in those positions for that district.

(j) In partisan primary elections test ballots shall be prepared to check the program for splitting tickets. Test ballots shall be prepared with votes appearing in the same ballot for candidates of opposite political parties, nonpartisan candidates, and proposals. At least one ballot shall be prepared with votes for one party and including votes for a non-partisan office in excess of the number permitted by law.

(k) Test ballots shall be prepared in which votes appear in positions other than those used for candidates or proposals.

(l) In preparing the test deck or ballot image a number of the ballots shall be voted to include valid votes

in each section of the ballot, i.e. partisan, non-partisan, and proposal sections.

(m) At least 50 blank ballot cards shall be run before the test deck is run. Blank ballots in which no positions have been voted shall be included in the test deck or ballot image.

(n) At least one test ballot shall be prepared with votes in all positions where there is a candidate or measure on the ballot.

(o) A duplicate of the test deck shall be prepared to be used with the duplicate or back-up computer program. The duplicate test deck may consist of standard data processing cards.

SecStat 3303 Preliminary Testing of Computer Programs.

(a) Prior to the public accuracy test, the election jurisdiction providing the computer programs shall test the computers and programs to ascertain that they will correctly count the votes for all offices and measures. The computer programs shall be tested on all precincts.

(b) The election jurisdiction requesting the computer programs shall compare the edit listing against the ballot labels of all precincts to ascertain that:

(1) The appropriate labels are in each precinct.

(2) The ballot position numbers for each candidate and proposal appearing on the ballot labels

agree with those recorded on the edit listing for each precinct. It shall be the duty of each election jurisdiction to make a certificate as to the above and file it with the county auditor. In elections where state and county officers are to be voted for, an additional certificate shall be filed with the secretary of state.

(c) The test shall be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction, and the results shall be compared against the pre-determined results of the test deck or ballot image. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

(d) When an errorless count has been made on all precincts, it shall be the duty of the election jurisdiction providing the computer program to:

(1) Secure all computer programs, including the object code, all support software utilized except the operating system, test decks, and pre-determined results of the test decks, in a metal container which shall be sealed with a metal seal and stored in a secured area that is subject to normal computer temperature humidity restraints.

(2) Prepare a certificate that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction and that the results agree with the pre-determined results of the test deck. The certificate shall also contain the seal number which was used in (1). The certificate shall be attached to the computer results of the test.

(3) Deliver the items mentioned in (1) and (2) to the county auditor.

SecStat 3304 Public Accuracy Test.

(a) A public accuracy test shall be held within five days prior to the election for the purpose of demonstrating the accuracy of the computer programs and computers to be used at the election.

(b) The public accuracy test shall be conducted according to Minnesota Statutes 206.17

(c) The time and place of the public accuracy test shall be designated by the election jurisdiction providing the computer program, which shall give public notice of the time and place of the test at least 48 hours before by publication in official newspapers.

(d) The test shall be open to the public. The chief election offficial of the election jurisdiction shall explain the methods and test procedures used to de-

termine the accuracy of the computer programs. This will include submitting as public record the certificate prepared in accordance with SecStat 3303 (d) (2) of these rules that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction.

(e) The sealed container containing the computer programs, test deck, pre-determined results, and header cards shall be opened and the computer programs and computers tested to determine their accuracy on the computer on which they are to be used on election night. The initial testing of the computers and programs shall be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested shall be at the discretion of the election jurisdiction.

(f) Persons allowed in the immediate area of the computer at the public accuracy test shall be limited to those persons allowed in the immediate area on election night provided in Minnesota Statutes 206.185, Subd. 3. Each of the above named parties may be accompanied by a computer expert of his choice. In conventional data processing installations, the immediate area of the computer shall mean the room in which the computer is located. All other interested persons may observe from an observation area.

(g) Any back-up or duplicate computer programs prepared and delivered according to SecStat 3301 (g) shall be tested on the computer on which they would be used on election night. The test decks used in these procedures shall be the ones prepared in accordance with this chapter. Any test cards made under this chapter shall be marked "TEST".

(h) If an error is detected in any part of the testing, the cause shall be ascertained, the error corrected, and an errorless count shall be made on all precincts. If determined by the election jurisdiction, the meeting may be adjourned to a time and date certain.

(i) The secretary of state may provide a test deck for any computer program. If so, it shall be delivered at the public accuracy test. The computers and computer programs shall be tested by use of this test deck. Thereafter, at the discretion of the secretary of state it shall be used in lieu of or in addition to the test deck prepared by the election jurisdiction.

(j) After the completion of the public accuracy test and an errorless count has been made, the election jurisdiction shall certify the results of the test conducted. Certification shall be signed by the witnesses specified in Minnesota Statutes 206.17 and shall be attached to or written on the computer results of the

public accuracy test; a copy of the certification shall be sent to the secretary of state.

(k) Immediately after certifying the results of the public accuracy test, the election jurisdiction shall secure all computer programs, including the object code, software utilized, test decks, certified computer results of the test, and the pre-determined results in a metal container which shall be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. Attached to or inside the container shall be a certificate describing its contents and on which the number of the seal has been recorded. The certificate shall be signed by at least two witnesses as specified in Minnesota Statutes 206.17, and if attached to the container in a plastic envelope it shall be attached in such a manner that it cannot be removed without breaking the seal.

(l) All computer programs, test decks, and other related materials shall be clearly identified as to the computer on which they were tested and shall be used on no other computer until tested in accordance with SecStat 3304.

(m) The election jurisdiction shall immediately deliver to the county auditor or his designee the metal case containing the computer programs and test decks which are to be used to tabulate the results of the election.

The county auditor shall retain and secure the programs and deliver them to the counting center on election night no earlier than 6:00 P.M. The container containing back-up or duplicate computer programs and related material shall be delivered to and secured by the county auditor. It shall be the responsibility of the county auditor to store the original and duplicate or back-up computer program in separate locations. If state offices and questions are included in the election, the container containing the second back-up or duplicate computer program and related materials shall be delivered to and secured by the secretary of state.

SecStat 3305-3399 Reserved for Future Use:

CHAPTER FOUR: SECURITY OF COMPUTER PROGRAMS AND SYSTEMS FOR USE IN ELECTIONS

SecStat 3401 Isolation from Other Influences. A computing system shall be set up so that the vote-tallying procedures will function in isolation from other influences while being tested or run.

SecStat 3402 Initialization of System. Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, make certain that computer

programs are not influenced by extraneous peripheral equipment. The erasure of memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, shall be accomplished. Active measures shall be undertaken to assure that all tapes and discs to be used that are supposed to be initially blank are actually blank (except for machine-readable inventory identifiers) and have no defects.

SecStat 3403 Support Software. All the support software used with vote-tallying computer programs shall be maintained on media under the control of the election administration.

SecStat 3404 Physical Protection of Object Codes. Master copies of all computer programs including support software and application programs shall be retained in secured locations, separate from the location of working copies. Once generated the master copy shall be used in a read-only mode. No writing shall be done on the storage medium of the master copy. Before use of the working copy it shall be compared bit-for-bit against the master copy. Any difference must be explainable.

SecStat 3405 Labeling of Discs and Tapes. Discs and tapes employed for any vote-tallying purpose shall have both human-readable and machine-readable labels. When the machine-readable label is read by the operating system, a halt

in further operation shall occur until the computer operator enters the human-readable label. A match between the two labels must precede any further computer operation.

SecStat 3406 Control of System Control Cards. Punched cards used for modification of operating system conditions shall have a use code and version number punched in identification fields of the cards. Each card shall be checked for proper use and version when read by the operating system, and the effect of the card on system operation shall be reported on the system output printer.

SecStat 3407 Logging of Operations. The operating system of the computer must be programmed to report automatically on the system printer all actions taken by the operators to change conditions and their times of occurrence. These actions may include mounting and dismounting tapes, connecting or removing peripherals, insertion of data, or a changing of control switch settings.

SecStat 3408 Separation of Computer Room Duties. A basic principle of internal control is to divide the execution of critical functions among two or more persons. One individual shall not be totally responsible for a given activity, such as computer operation.

SecStat 3409 Control of Computer Program Changes. Every change to a computer program used for vote tallying and under control of the election jurisdiction, even those involving only one statement shall be authorized, approved, and documented by the responsible authority of the election jurisdiction with no exceptions.

SecStat 3410 - 3499 Reserved for Future Use.

CHAPTER FIVE: PREPARATION OF ELECTION SUPPLIES

SecStat 3501 Preparation of Ballots.

(a) Ballot cards. All ballot cards used in an election shall have attached by perforation a detachable stub on which duplicate numbers shall be printed in consecutive order. On all ballot cards, the words "OFFICIAL BALLOT CARD" shall be printed or stamped on the face of the detachable stub. The ballot card shall have a corner cut on one corner. The following statement shall be printed or stamped on the back of the stub of all official ballot cards in bold face capital letters:

STOP

WRONG SIDE

TURN CARD OVER

The precinct number designation shall be printed, stamped, or written and punched on each ballot card used in an election so as to identify in which precinct it originated. In the case of a combination

ballot card/write-in ballot, the portion of the ballot for write-ins shall contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of the candidates for those offices shall be printed on the ballot cards and on the ballot labels so that the voter may review his choices before leaving the voting booth or station.

(b) Ballot envelopes. The ballot envelope shall be of sufficient size and construction so that when the ballot is inserted in it all portions thereof indicating voting marks are hidden from view. Instructions shall be printed on the ballot envelope and shall include the following:

(1) After you have voted, check your ballot with the ballot label to be sure that your vote is recorded for the candidate and/or question of your choice.

(2) Insert ballot in this envelope with the stub exposed.

(3) Return this envelope with the ballot enclosed to the election judge.

(4) If you spoil your ballot or if you make a mistake in voting, return it to the election judge and receive another ballot.

In voting machine systems where write-in votes are not written on the media contained in the machine

or the cards inserted in the machine, the inside flap of the envelope shall contain language which clearly indicates that this is the place to vote for write-in candidates. It shall contain the following language:

> A write-in vote will not be counted unless it includes the name of the person voted for and the title of the office.

(c) Voting instructions shall be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions shall be printed as to where the voter is to proceed to continue voting. Additional instructions which conform with the election laws may be printed on the ballot labels when deemed advisable so as to assist the voter in casting his ballot.

(d) When a state office or question appears on the ballot, five days before the election the election jurisdiction shall forward to the secretary of state two copies of the sample ballot, two copies of a ballot card, and two copies of a ballot envelope.

SecStat 3502 Preparation of Voting Machines.

(a) All voting machines shall be identified as to the precinct in which they will be used.

(b) The election official in charge of the election

jurisdiction shall prepare the voting machines so that in every particular they will meet the requirements for voting and counting at such election.

(c) All ballot label pages shall have a crimp hinge attached for insertion and positioning in the ballot frame. Ballot label pages attached by tape to a rod or which are placed into a clear plastic envelope through which a rod is inserted are not allowed.

(d) If a machine uses masks, the official in charge of the election jurisdiction shall prepare or cause to be prepared the masks to be used. The masks shall have holes punched in appropriate positions for which the elector will be entitled to vote and in no others.

(e) Ballot label pages assembly shall be inserted and sealed into each voting machine so that the ballot label pages assembly cannot be removed without breaking the seal. Flat metal or wire seals shall be used for this purpose. On voting machines which do not have permanent rivets on the back or sides which prevent the removal of the ballot label pages assembly, a second seal must be used so that the ballot pages assembly cannot be removed without breaking the seal.

(f) The ballot labels in each voting machine of a precinct shall be compared against the edit listing and/or sample ballot for that precinct to ascertain that the offices, candidates' names and ballot pos-

ition numbers are the same and appear in the same position.

(g) The ballot label pages of each voting machine shall be examined to ascertain that holes in the mask appear directly opposite each arrow and that no other holes appear in the mask and that the ballot label pages are in proper sequence.

(h) Operation of each voting machine using a ballot card shall be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card shall then be examined to insure that each received a clear punch or mark.

(i) The identifying number of the voting machine and the seal number used to seal the ballot label pages assembly to the machine shall be recorded on the precinct certification for the precinct in which the device will be used. The election official who sealed the machine shall also sign the certification.

(j) When a voting machine has been prepared for the election, it shall be the duty of the official in charge of the election jurisdiction to make a certificate in writing which shall be filed with the county auditor. This certificate shall contain precinct number, identifying number of the machine, and number of the metal seal or seals used to seal the machine and state that the ballot labels have been

compared against the edit list and/or sample ballot for that precinct and that the candidates' names and ballot numbers agree and appear in the same position and that the machine has been properly prepared and tested.

(k) In elections where state or county officers are to be voted for, an additional certificate as required in SecStat 3502 (j) shall be filed with the secretary of state.

SecStat 3503 Preparation of Election Supplies.

(a) The municipal clerk of the election jurisdiction which owns the voting machines shall prepare and package or place into a transfer case the ballot cards for each precinct. Each package shall be sealed with a red paper seal or, if a transfer case is used, sealed with a metal seal. The package or transfer case shall contain a certificate signed by the municipal clerk setting forth the number of ballots therein and that such ballots were counted, packaged, and sealed by that clerk personally or by his duly authorized assistant. All ballot cards not issued to a precinct or assigned for absentee voting shall be secured and accounted for by the municipal clerk. The municipal clerk shall maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot

cards shall be delivered to the chief election judge of the proper precinct.

(b) The following additional items shall be included in the precinct supplies;

(1) edit listing for precinct;

(2) ballot envelopes in sufficient quantity to match quantity of ballots;

(3) envelopes marked "spoiled ballot cards," "defective ballot cards," "absentee ballots";

(4) envelope for "original ballot cards for which duplicates are to be made for any reason";

(5) precinct certification form;

(6) set of instructions for operating the precinct on election day;

(7) copy of current Minnesota Election Laws published by the secretary of state.

(c) If the precinct header card is to be sent to the precinct, it shall be contained in an envelope for that purpose, placed into the transfer case of the precinct and delivered to the appropriate precinct.

(d) An approved ballot box shall be provided to each precinct for the deposit of voted ballot cards. This ballot box need not be made of metal but must be capable of being sealed during election day.

(e) No vendor or vendor's representative shall be present during election day activities in precincts.

SecStat 3504-3599 Reserved for Future Use.

CHAPTER SIX: ELECTION JUDGES DUTIES PRIOR TO OPENING OF POLLS

SecStat 3601 Arrangement of Voting Machines. Voting machines may be used in voting booths or in self-contained voting stations. If voting machines are used in voting booths, they shall be arranged so that the activity of the voter while preparing his ballot shall be concealed from all other persons. If voting machines are used in self-contained voting stations, the stations shall be arranged so that the secrecy of the ballot is not violated. Should a voter object to the arrangement of the self-contained voting station at which he has been assigned to vote, claiming that the station is so positioned as to not afford him an opportunity to vote in secrecy, the election judges shall evaluate the claim. If the judges determine that the claim is valid, they shall rearrange said voting device so as to afford the voter the opportunity to vote his ballot in secrecy.

SecStat 3602 Examination of Voting Machines. The election judges shall inspect the voting machines by:

(a) comparing the seal number on the machines with seal numbers recorded by the municipal clerk on the precinct certification;

(b) comparing the names and ballot position numbers printed on the ballot labels with the edit listing to ascertain that the offices and candidates' names are

the same and appear in the same order on each;

(c) checking to see that the ballot label pages are in the proper sequence and agree with sequence indicated on the edit listing;

(d) checking that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it;

(e) placing a demonstration card into each device and punching or marking it for each candidate and proposition on the ballot and attempting to punch or mark in places other than those indicated by an arrow; examining the card to see that each candidate and proposition received a clean punch or mark and that no holes appear in the ballot card in any other position;

(f) in an election in which write-ins are permitted, checking that there is a marking pencil provided for write-in for each machine in each voting booth or self-contained voting station;

(g) checking the stylus to see that it is not broken and that a point exists on each;

(h) checking that there is adequate lighting and that the lights are in proper working condition.

SecStat 3603 Discrepancy. In the event of a discrepancy, the election judges shall notify the muncipal clerk immediately, and the voting device shall not be used until such discrepancy is resolved.

SecStat 3604 Demonstration Voting Machine. The demonstration voting machine shall be arranged so as to be able to offer each voter an opportunity to use it prior to voting.

SecStat 3605-3699 Reserved for Future Use.

CHAPTER SEVEN: CONDUCT OF ELECTIONS, INCLUDING ABSENTEE VOTING

SecStat 3701 Election Procedures and Manner of Voting:

(a) Unless otherwise provided for in Minnesota law or in these rules, paper ballot procedures as provided in Minnesota Statutes, Chapter 204A shall be followed to the extent possible.

(b) Where combination ballot card/write-in ballots are used, all rules relating to write-in, security, and identification shall apply to the combination ballot card/write-in ballot.

(c) The election judges shall offer each voter the opportunity to use the demonstration voting machine. The judges shall explain that the demonstration voting machine is only a sample of the actual voting machine.

(d) The election judge shall explain to the voter how to compare ballot card with ballot label pages after voting.

(e) Any voter who requests information about the voting system shall be instructed by an election judge about the system and counting procedures.

(f) In precincts where there is voter registration, the

election judge shall deliver to the voter his ballot card after the judge receives the certificate of registered voter signed by the voter and initialed by an election judge. The ballot card number shall be recorded on or attached to that certificate. Ballot cards and envelopes are not to be issued until a voting station is vacant.

(g) Upon being issued a ballot card and envelope the voter shall go to the voting station which is unoccupied and vote his ballot card. Before leaving the voting station the voter shall place the ballot card in the envelope with the detachable stub exposed.

(h) Upon leaving the voting station the voter shall publicly hand the envelope containing the ballot card with the stub attached to an election judge. If the voter has not placed the ballot card in the envelope before leaving the voting station, he shall be instructed to return to the voting station and place the ballot card in the envelope.

(i) The judge receiving the ballot card and envelope from the voter shall compare the number on the ballot stub with the ballot card number recorded on or attached to the voter certificate to determine if the ballot card is the one issued to the voter. If the ballot card number is not the same as

that assigned, the ballot card and the certificate shall be placed in the spoiled ballot envelope and not counted. In no case shall a spoiled ballot card be placed in the ballot card box.

(j) If the numbers compare, the judge shall detach the ballot card stub in the presence of the voter and deposit the ballot card in the envelope in the ballot card box.

(k) If any voter spoils his ballot card by inadvertantly defacing it or removing the prenumbered ballot card stub or should the voter request a new ballot card, the voter shall in secret place the ballot card in the ballot envelope and return it to the election judge and the judge shall deliver to him another ballot card and ballot envelope. The spoiled ballot card and ballot envelope shall be placed in the envelope marked "SPOILED BALLOT CARDS". In precincts where there is voter registration, one of the election judges shall note the change in the ballot card number given such voter upon the certificate of registered voter. The method of changing the number of the ballot card issued shall be by drawing a line through the number of the original ballot issued and writing the new number above.

(l) As frequently as possible and at least every half hour the election judges shall check the seals and ballot label pages of the voting machines to assure that

none has been altered or defaced. Should the judges find that the ballot label pages of a voting machine have been altered, mutilated, or damaged in such a manner that the judges cannot correct the same without doing damage to the offices and candidates names appearing thereon, said voting machine shall not be used until such condition is corrected. A note of such occurrence shall be made in the precinct certification.

(m) Any ballot card found in a booth or voting machine shall be marked "found in booth". The card shall be placed in an envelope which shall be placed in the transfer case. In no case shall such ballot be placed with the properly cast ballots. A note of such occurrence shall be made in the remarks section of the precinct certification.

SecStat 3702 Absentee Ballots.

(a) The issuing, receipt, processing, and tabulation of absentee ballots in election jurisdictions using electronic voting systems shall be as provided by law and these rules.

(b) Voters requesting absentee ballots shall be supplied with paper absentee ballots, as provided by law.

(c) Absentee votes shall be cast on paper absentee ballots. These paper absentee ballots shall be delivered either to an absentee ballot precinct as provided by law or

to the polling place in the voter's precinct.

(d) Upon receipt of the last mail at the polling place in the precinct on election day, two election judges not of the same political party shall number the absentee ballots, serially, and transfer the intent of the absentee voter and the serial number from the absentee ballot to the official vote-recording medium used in the precinct. In absentee ballot precincts, this procedure may be done during the day.

(e) Two election judges not of the same party shall check each absentee ballot with the vote-recording medium to determine that the medium records the absent voter's intent. Any write-in votes shall be recorded as provided in these rules.

(f) Vote-recording media processed under SecStat 3702 (d) shall be labeled "absentee", inserted in envelopes, stubs removed, and placed with ballot cards cast by voters in person in that precinct.

SecStat 3703-3799 Reserved for Future Use.

CHAPTER EIGHT: ELECTION JUDGES DUTIES AFTER POLLS CLOSE

SecStat 3801 Procedures Following Close of Polls.

(a) All unused ballot cards and envelopes shall be secured for return to the official in charge of the election for the election jurisdiction.

(b) The ballot labels and seals of each voting machine shall be inspected to insure that they have not been altered and are intact and that seal numbers agree with the numbers as verified at the opening of the polls. Any discrepancy shall be noted in the remarks section of the precinct certification.

(c) The election judges shall compare the number of certificates of registered voters with the number of names recorded on voter registration list, voter registration cards, or election register as having voted that day. The number of electors who voted as indicated by these records shall be entered on the precinct certification.

(d) The election judges shall open the ballot box and remove the ballots therefrom. Prior to removing the ballots from their envelopes they shall be counted to determine the total number. The judges shall compare the total number of names recorded in the precinct certification. If the ballots shall be in excess of the number of electors voting and it is impossible to reconcile the number, the ballots shall be replaced in the ballot box and one of the election judges shall publicly draw out so many ballots as shall be equal to such excess. Such excess ballots while still in their envelopes shall be marked "excess" and be placed in an envelope and sealed. The judges shall note on the

outside of the envelope its contents and place it in the transfer case. A notation of the pertinent facts shall be made in the precinct certification. If the number of ballots counted is less than the number of electors voting according to the count determined in SecStat 3801 (c) the reason for the discrepancy shall be noted in the precinct certification. If the judges are unable to explain the discrepancy, they shall so state in the precinct certification.

(e) Each ballot in its envelope shall be examined for write-ins. Ballot cards for which no write-in exists shall be separated from their envelopes and placed in appropriate piles.

(f) The judges shall examine all ballot cards for ballot cards with chad hanging and for defective ballot cards.

(g) The intent of the voter is to be ascertained when processing ballot cards. Ballot cards with chad hanging shall be processed in the following manner:

(1) Where a chad is found attached to the card by one or two corners, the chad shall be removed by the election judge and the ballot card placed with the other valid ballots.

(2) Where chad is found hanging by 3 corners the ballot card shall be defective for that office and shall be placed in the envelope for original

cards for which duplicates are to be made at the counting center. (See Chapter 9, these rules.)

(h) Where it is clearly evident from examination of the ballot card that the ballot card has been mutilated or marked for the purpose of distinguishing it then such ballot card shall be defective and shall not be counted. Such ballot shall be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

(i) Where a write-in vote exists, the judges shall determine if it is valid and process it in the manner prescribed in SecStat 3802.

(j) When the ballot cards have been processed and checked, the judges shall determine that the number of ballot cards which they are submitting to the counting center for tabulation agrees with the number of names recorded in SecStat 3801 (c) less any discrepancy for which notations have been made in the precinct certification. The number of valid ballot cards which are being submitted for tabulation shall be entered in the appropriate place on the precinct certification and on the transfer case certificate.

(k) The election judges shall enter in the appropriate place on the precinct certification the number of ballot cards issued to the precinct, the number of ballot cards issued to voters, the number of spoiled ballot

If space in the transfer case is inadequate, then a second transfer case or metal container of a type approved by the election jurisdiction for storage of ballots is to be used and the sealing and security handled in the same manner as the transfer case.

(m) The election judges shall sign a "certificate of election judges". The certificate shall state:

(1) the number of electors who voted as shown by the precinct certification;

(2) that prior to opening the polls, all voting machines were examined and found to be sealed with metal seals bearing the same numbers as certified by the election jurisdiction;

(3) that the ballot labels were in their proper places;

(4) that the position of candidates' names and ballot numbers on the ballot labels and the ballot cards were the same as appeared in the same position as indicated on the edit listing;

(5) that at the close of the polls each voting machine was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position;

(6) the number of ballot cards being submitted for tabulation;

(7) that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precince certification;

(8) that all ballot cards requiring duplication are in the proper envelope;

(9) that all write-in votes have been properly recorded;

(10) that all ballot cards used in the election and all ballot cards to be duplicated have been placed in the transfer case and that the case was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal;

(11) the number of the seal used to seal the transfer case.

(n) The unused ballot cards and unused ballot envelopes shall be returned to the election official in charge of the election jurisdiction who shall issue a receipt therefor .

(o) The transfer case shall be sealed with a metal seal in such a manner so as to render it impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal shall be a certificate signed by the judges indicating its content and the number of the

metal seal used to seal the said case. The seal number shall also be recorded in the certificate of the election judges. The transfer case certificate shall be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the metal seal.

(p) The transfer case containing the required items as identified in SecStat 3801 (1) shall be delivered to the counting center by two election judges, not of the same political party.

SecStat 3802 Processing Write-In Votes.

(a) The election judges shall check all ballot envelopes (with the ballot card inside) or the write-in ballot portion of a combination ballot card/write-in ballot in which a write-in appears, number the ballot envelope serially beginning with number one and place the same number on the ballot card of the voter, and then determine whether the write-in vote is valid.

(b) A valid write-in vote shall record on the appropriate designated place for write-ins the following information:

(1) an office to be voted on at that election;

(2) any name to be considered as a write-in candidate for that office.

Stickers containing the above information are permissible.

(c) All write-in votes which are not recorded in the appropriate designated place for write-ins are not

valid unless the number of write-ins exceed the number of spaces allowed for write-ins. In such a case, the write-ins in excess of the spaces provided are to be considered valid provided they are contained on the ballot envelope or write-in portion of the ballot card. All write-in votes which do not have an office or candidate's name indicated shall not be valid.

(d) When a valid write-in exists, the election judges shall determine whether the write-in vote has caused an overvote. If the voter who writes in the name of a candidate also votes on the ballot card for that same office, then the ballot is defective for that office only.

(e) When a write-in vote is determined to be valid and no overvote condition exists, the election judges shall enter the candidate's name and the office on the write-in tally return. The ballot card shall be placed with the other valid ballot cards for tabulation. The envelope containing the write-in vote shall be placed in a separate pile containing write-in votes.

(f) When a write-in vote is determined to be valid and an overvote condition exists for that office, the election judges shall place the ballot card and write-in vote in the envelope of "original ballot cards for which duplicates are to be made." The manner of duplication shall be prescribed in Chap-

ter 9 of these rules.

(g) At the discretion of the official in charge of the election for the election jurisdiction the processing of write-in ballots may be done at the counting center instead of at the precinct.

SecStat 3803 - 3899 Reserved for Future Use.

CHAPTER NINE: PROCEEDINGS AT THE COUNTING CENTER

SecStat 3901 Preliminary Procedures.

(a) The person(s) who shall operate the computer used for tabulation of ballots on election night shall not be the same person(s) who wrote the computer program. This shall not exclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operator(s) shall take and subscribe to the election judges' oath.

(b) Persons assigned to administer the counting center shall compare the seal number on the container containing the computer programs, computer center header cards, official test deck, and pre-determined results with that recorded in the certificate of the public accuracy test to see that they agree.

(c) Prior to the tabulation of ballots and again after the last precinct has been counted, the counting center personnel shall test the computer program and computer as to their accuracy and certify the

results. The accuracy test shall be conducted with the test deck or ballot image designated in Chapter 3 of these rules. Copies of these test results shall be designated "prior to tabulation of ballots" or "after tabulation of ballots". A copy of each test certificate shall accompany the results of the tabulation of the ballots and be filed with the county auditor in the county where the precincts are located. When the official in charge of the counting center certifies that the tabulation has been done in isolation, the test after tabulation need not be performed.

(d) Authorized counting center personnel may at their discretion test the program using the official test deck or ballot image periodically throughout the tabulation of ballots to insure that the program and computer are operating accurately.

(e) A console log including the count and accuracy test and the tabulation of the ballots shall be maintained and certified by the computer operators and the election official in charge of the counting center to the municipal clerk unless it contains information on more than one municipality in which case it shall be delivered to the county auditor. In the event the computer is not capable of creating a console log, then a manual log of any abnormal events shall be maintained.

SecStat 3902 Procedures for Transfer Cases.

(a) Upon receipt of the transfer case from the election judges of a precinct, authorized counting center personnel shall check the identification on the transfer case to see that it matches the identification on the judges' certificate. The transfer case shall then be opened and checked to see that it contains the ballots and all other material required by these rules. The opened metal seal from the transfer case shall be placed inside the case. The identification on the case shall be noted on all reporting materials. Authorized counting center personnel shall then issue a certificate to the election judges delivering the case acknowledging receipt of all materials.

(b) The transfer case containing the ballot cards shall then be delivered to the proper counting center personnel for preparation for tabulation. The election official in charge of the counting center shall provide adequate security at the counting center.

(c) In processing the ballot cards of a given precinct, the computer center header card and the precinct header card shall be placed in front of the deck of ballot cards of the respective precinct. The end card shall immediately follow the deck of ballot cards.

(d) Immediately upon the completion of the counting of a precinct, all ballot cards for the precinct and pre-

cinct header cards shall be returned to the transfer case or other suitable container and sealed as to make it impossible to open the case without breaking the seal.

(e) The election official in charge of the counting center shall determine whether the number of ballot cards tabulated by the computer agrees with the number of ballot cards submitted by the election judges at the precinct. If a discrepancy exists, authorized counting center personnel shall correct it. In the event the discrepancy cannot be resolved, a notation shall be made of the pertinent facts on the statement of returns

SecStat 3903 Duplication of Ballots. Any ballots requiring duplication at the counting center shall be duplicated in the following manner:

(a) Whenever a ballot card is required to be duplicated, the duplication process shall be performed by two election judges not of the same political party.

(b) Whenever it is necessary to duplicate a ballot card, the duplicate card and the original card shall be identified with a single number written on both cards. The number on the duplicate card shall be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering shall be serial.

(c) The reason for duplication shall be written on the duplicate ballot card, e.g., write-in, chad, damaged.

The election judges duplicating the card shall initial the duplicated card and the original card.

(d) When duplicating a ballot card, one election judge shall call from the original ballot card the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. Duplicate ballot card shall be compared against the original ballot card to assure it has been accurately duplicated.

(e) All original ballot cards which require duplication shall be placed in an envelope marked "original ballot cards for which duplicates have been made The duplicated ballot card shall be placed with the other valid ballot cards to be tabulated.

(f) Any writing required on any ballot card shall be done with a soft tip marking instrument.

SecStat 3094 Copies of Returns. The election official in charge of the counting center shall certify four copies of the returns. The certification shall state the name of the community, municipality or township, precinct numbers, offices, names of candidates, number of persons registered before polls open on election day (in those areas having voter registration), number of ballots counted, vote totals, and any other data defined by the secretary of state such as precinct identification number. Authorized personnel in the counting center shall transfer any

numbers to forms supplied by the secretary of state for the purpose of state reporting of election results. The statement of returns may be a computer print-out as well as any form(s) designated by the secretary of state for the purpose of preparing the state canvassing board report and publication of election results.

SecStat 3905 Distribution of Returns. Returns as referred to in SecStat 3904 shall be certified to the municipal clerk who shall retain one copy of the statement of returns and send the remaining three copies to the county auditor, along with any forms determined by the secretary of state to be on file with the state. The county auditor shall retain one copy of the statement and forward the two remaining copies of the statement to the secretary of state together with two copies of the report of the county canvassing board report. Copies of any additional forms determined by the secretary of state for preparation of the state canvassing board report and other public reports of the election shall be completed and returned to the secretary of state.

SecStat 3906 Delivery of Material After Counting. After the last precinct has been counted and the final accuracy test has been conducted, the election official in charge of the counting center shall deliver all materials to the office of the municipal clerk of each election jurisdiction served by the counting center. That clerk upon

filing reports as prescribed in SecStat 3905 shall retain ballots and voter certificates for one year unless otherwise ordered by a court order or recount procedure as defined by Minnesota Statutes. Test decks or ballot images, accuracy test results and computer programs shall be delivered to the county auditor.

SecStat 3907 County Auditor to Maintain Materials. The county auditor shall maintain all the materials forwarded as required in SecStat 3905 and SecStat 3906 for a period of one year unless otherwise advised by a court order or recount procedure as defined by Minnesota Statutes.

SecStat 3908 - 3999 Reserved for Future Use.

The regulations adopted by the attorney general September 6, 1968, governing the experimental use of electronic voting systems are repealed.

APPROVED AS TO FORM AND LEGALITY
AUG 9 1976 19
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STATE OF MINNESOTA
DEPARTMENT OF STATE
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Joan Anderson Growe
Secretary of State

ADOPTED AMENDMENTS

TO THE

RULES OF THE SECRETARY OF STATE

FOR

VOTER REGISTRATION

(Implementing Minnesota Statutes Chapter 201)

June 30, 1976

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CHAPTER ONE: COUNTY AUDITOR'S DUTIES

SecStat 101 Delegation of Duties. The county auditor may delegate to municipal officials all duties assigned to him by these rules and by Minnesota Statutes, Chapter 201, except the preparation and distribution of lists of registered voters and the duties assigned to him by Chapter Nine of these rules. The auditor may delegate the responsibility to accept voter registrations, but a delegation of this responsibility does not relieve the auditor of his duty to accept voter registrations.

SecStat 102 Auditor's Rules Filed with the Secretary of State. Whenever a county auditor adopts rules for the delegation of voter registration duties assigned to him, the auditor shall file a copy of the rules with the secretary of state no later than five working days before the effective date of the rules.

SecStat 103-199 Reserved for future use.

CHAPTER TWO: REGISTRATION FILES

(SecStat 201 is repealed.)

(SecStat 202 is renumbered 201.)

SecStat 202 Delivery of Duplicate File for Elections. The county auditor shall provide for the transportation of the duplicate voter registration file to the precinct polling place on election day. The auditor shall prescribe procedures which will insure the safety of the voter registration records and their timely delivery at the precinct polling place on election day. It shall be the duty of the

auditor to maintain the dignity and integrity of the voting system.

SecStat 203-299 Reserved for future use.

CHAPTER THREE: VOTER REGISTRATION CARDS

SecStat 301 Specifications

(a) Voter registration cards printed for the purpose of distribution and mailing shall be printed in the following manner:

(1) The size shall be 6" X 12-3/4" (including 3/4" stub).

(2) The paper shall be approximately white 100 lb. offset.

(3) The ink shall be blue.

(4) The duplicate card shall have a very light blue screen.

(5) The card shall have three 1/16" perforations that result in the three equal size cards 6" X 4".

(6) The top stub shall have a substance applied to it so that the card can be sealed when it is folded together for mailing.

(b) The original voter registration card shall be in the following form:

VOTER REGISTRATION CARD

Please type or print in ink

Read instructions before completing

Name _____
Last First Middle

Legal Residence _____
Street or Route No. (Do not use P.O. box) Apt. No. and Rural Box No.

_____
City or Township

_____
County Zip

W._____ P._____

S.D. No. _____

OFFICE USE ONLY

Telephone Number (optional) _____

Month and Day of Birth (optional) _____/_____
Mo. Day

Previous Name (if changed since last registration) _____

Most Recent Prior Residence _____
Street or Route No.

_____
Apt. No. City or Township County State Zip

Your Address at Your Most Recent Prior Registration _____

_____
Street or Route No. Apt. No. City or Township

_____
County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

I certify that I will be at least 18 years old on election day and the above facts are correct. I understand that giving false information to procure a registration is a felony punishable by not more than 5 years imprisonment and a fine of not more than $5,000, or both.

_____/_____/_____ _____
Date Legal Signature of Voter

Be sure to sign the blue card

In the upper right hand corner of the card there shall be a box marked for "office use only". In the box there shall be: "W_____", "P_____", and "S.D. No._____". (These initials stand for "ward", "precinct" and "school district".) Other information may also be included.

(c) The duplicate voter registration card shall be in the following form:

DUPLICATE VOTER REGISTRATION CARD

Sign this card - DO NOT COMPLETE
The information will be typed by the voter registration office.

Name _____
Last First Middle

Legal
Residence _____
Street or Route No. (Do not use P.O. box) Apt. No. and Rural Box No.

_____
City or Township

_____
County Zip

W._____ P._____

S.D. No. _____

OFFICE USE ONLY

Telephone Number (optional) _____

Month and Day of Birth (optional) _____/_____
Mo. Day

Previous Name (if changed since last registration) _____

Most Recent Prior Residence _____
Street or Route No.

_____
Apt. No. City or Township County State Zip

Your Address at Your Most Recent Prior Registration _____

_____
Street or Route No. Apt. No. City or Township

_____
County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

_____/_____/_____
Date

_____
Legal Signature of Voter
(for identification only)

In the upper right hand corner of the card there shall be a box marked for "office use only". In the box there shall be: "W_____", "P_____" and "S.D. No._____". (These initials stand for "ward", "precinct" and "school district".) Other information may also be included.

(d) The instruction card shall be in the following form:

INSTRUCTIONS FOR VOTER REGISTRATION

READ CAREFULLY BEFORE REGISTERING

1. Print in ink or type all information requested on the white card.
2. Print or type your legal name -- Do not use nicknames.
3. Your residence should be that place where you actually live -- Post Office Boxes cannot be accepted as legal residence.
4. If your name has been changed through marriage, divorce or decree or order of court since your last voter registration, print or type your former name on the appropriate line.
5. Print or type your most recent prior residence. If you have not had a previous residence, print or type "none".
6. Address of last previous registration -- Print or type the address from which you were last registered to vote. If same as last previous address, print or type "same". If you have never been registered to vote before, print or type "none".
7. After the white card is completed, sign your full name in ink on the appropriate line on <u>both</u> the white card and the blue card.
8. The blue card must be signed in ink on the line where it is required, but do not fill in the blue card. It will be typed in by the voter registration office.
9. After the white card is completed and both cards are signed, seal using sealing tab attached.
10. Complete the address on the reverse of the white registration card by filling in the name of the county where you reside and the name of the city which is the

county seat. Mail or deliver to the office of the county auditor.

An eligible voter is a person who at the time of any election:

(a) is 18 years of age or older,

(b) is a citizen of the United States and

(c) has resided in Minnesota for 20 days.

The following persons are not eligible voters:

(a) any person who has been convicted of a felony or treason, who has not been restored to his civil rights;

(b) any person who is under guardianship over his person;

(c) any person who is adjudicated to be not mentally competent; and

(d) any person who is not properly registered, in areas that provide for voter registration.

(e) The reverse side of the original (white) registration card shall be in the following form:

first
class
postage

RETURN TO:

(here the county auditor shall supply the address)

(f) The reverse side of the duplicate (blue) registration card shall be lined horizontally to create spaces 1/4" wide and divided vertically into four sections to allow the judges of election to record the date of the election in which the voter voted.

(Diagram of the back of the duplicate card in SecStat 301f is repealed.)

(g) (Unchanged.)

(h) (Unchanged.)

SecStat 302 Printing and Distribution. Each county auditor in each county with voter registration shall cause to be printed and shall maintain an adequate number of voter registration cards in compliance with Minnesota Statutes Chapter 201 and these rules. Any election official who causes voter registration cards to be printed shall print the cards in a form prescribed by Minnesota Statutes Chapter 201 and these rules. The auditor shall provide voter registration cards to any person or group who requests a reasonable number of cards for the purpose of distribution. In those areas which have pre-election day registration, the auditor shall encourage pre-election day registration by making registration cards available to persons and groups for distribution.

SecStat 303-399 Reserved for future use.

CHAPTER FOUR: PLACES OF REGISTRATION

SecStat 401 Duties. Each county auditor in every county with voter registration shall designate a number of public buildings within the county where persons may obtain, complete and deposit registration cards. The county auditor or his designee shall be on duty in the building so designated and it shall be the duty of the person on duty to transmit completed registration cards, or copies thereof if the county auditor does not maintain the original registration file, within two working days after receipt to the county auditor.

SecStat 402 Number of Buildings. There shall not be in any county with voter registration less than one building where voter

registration cards may be obtained and deposited, for every 30,000 residents of the county or fraction thereof. The buildings shall be located throughout the county according to population distribution. The auditor may designate more buildings than are required by law.

SecStat 403 Polling Places. Procedures concerning election day registration at the polling place are covered in Minnesota Statutes Chapter 201 and Chapter Six of these rules.

SecStat 404-499 Reserved for future use.

CHAPTER FIVE: NOTIFICATIONS

SecStat 501 Properly Completed Registrations. When a county auditor determines that a registration card is not faulty or defective, he shall separate the parts of the card. Using the information on the original card, the auditor shall complete the duplicate card. The auditor shall then file the original card in the original card file and the duplicate card in the duplicate card file. The county auditor shall maintain both files in an orderly manner. The county auditor shall cause a notice to be mailed to each newly registered voter a card indicating the voter's name, address, precinct and polling place. The card shall require that it be returned if not deliverable.

SecStat 502 Registration Received Fewer than Twenty Days Before an Election. When an auditor receives correctly completed registrations during the period when registration cannot be accepted for an election, the auditor shall notify the applicant that he must register on election day to vote at the upcoming election. Included in this notification shall be information to

the voters concerning the manner in which they may register to vote on election day at the polls. In the notice to the applicant the auditor shall explain that the registration card received by the auditor makes the applicant an eligible voter at the next election following the upcoming election.

SecStat 503 Faulty or Deficient Registrations. When a person attempts to register prior to election day and the county auditor determines that the registration is faulty or defective, the auditor shall notify the person attempting to register that his registration was not correctly completed. The auditor shall attempt to obtain the needed information by mail or by telephone.
If a registration card is faulty or defective and the address or the telephone number cannot be determined, the registration card shall be removed from the files and maintained separately for one year. The applicant shall be allowed to vote only after correctly completing a registration card.

When the auditor notifies a person of an incorrectly completed registration, the auditor shall also notify the applicant of the dates on which registrations cannot be accepted for an election and of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the next election following the upcoming election.

When an auditor receives a faulty or deficient registration during

the period when registrations cannot be accepted for an election, the auditor shall notify the applicant that he must register at the polling place of the precinct in which he resides on election day to vote at the election. The auditor shall also notify the applicant of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the next election following the upcoming election.

SecStat 504 Wrong County. When a county auditor receives a registration card from a person who he has reason to believe is a resident of another county, he shall within two working days forward the registration card to the auditor of the proper county if it can be ascertained. The auditor shall notify the applicant of the action.

SecStat 505 Ineffective Registration. Upon receipt of a voter registration card that is faulty or defective, filed with the wrong office or filed during a period when pre-election day voter registrations cannot by law be accepted, the following notice of ineffective registration shall be mailed to the person requesting to become registered.

NOTICE OF INEFFECTIVE REGISTRATION

IMPORTANT INFORMATION ABOUT YOUR VOTER REGISTRATION

To: _____

Your Voter Registration cannot be accepted by this office for the following reason(s):

1. ☐ Wrong County. Your registration has been forwarded to _____ County.

2. ☐ Incomplete: _____

_____

3. ☐ Your registration was received fewer than 20 days before the upcoming election. It will be effective on __/__/____. (day after next election).

4. ☐ Minnesota law provides that pre-election day registration for the upcoming __/__/____ election be received in this office by __/__/____. You may register to vote at the polling place on election day by using either a valid Minnesota driver's license or receipt thereof or a non-qualification certificate or receipt thereof, or by having a registered voter in your precinct witness your registration, or by having a valid registration in the same precinct under a different address or by presenting this card to the election judges on election day.

Your Polling Place is _____

_____ County Auditor __/__/____
(signature) (date)

SecStat 505 is renumbered 506.

(SecStat 506 and 507 are repealed.)

SecStat 507 Auditor's Notification Form. When a registration is received by a county auditor and the person requesting to register indicates he was previously registered to vote, the county auditor shall notify the county auditor in the county of previous residence that the voter has changed residency. The form for notification

shall be as follows:

To the Auditor of _____ County
County Courthouse

_____, Minnesota
(County Seat)

The following person has registered to vote in _____ County. You are hereby requested to check your registration files and remove the person's name if it should appear in your file.

Voter's name _____

Voter's former address _____

Auditor of _____ County

Copy of original voter registration card enclosed _____

The county auditor who sends the form may attach a reproduction of the original registration card rather than fill in "Voter's name" and "Voter's former address".

SecStat 511 Removal of Cards. Whenever a registration card is to be removed from the registration files, except that of a deceased person, the county auditor shall notify the person whose card is to be removed of such action and the reason for such action in writing. The cards removed shall be maintained in separate files for one year.

SecStat 512 Name Omitted, Emergency Voting. When any voter who has registered prior to an election day is challenged because his name does not appear in the duplicate registration file of the precinct in which he desires to vote, he may register on that election day by following the election day registration procedures provided by Chapter Six of these rules; or if it appears upon examination that such name was erroneously omitted from the file,

he shall be permitted to vote in the precinct, and an emergency voting card shall be signed by the applicant and the judges, containing the following information:

EMERGENCY VOTING CARD

Ward _____ Precinct _____

Voter's name _____

Residence _____

_____

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

_____ _____
(Signature of Voter) (Judge of Election)

_____ _____
(Signature of judge calling auditor's office) (Judge of Election)

_____
(Judges of Election)

_____
(Authorized by)

SecStat 513-599 Reserved for future use.

CHAPTER SIX: ELECTION DAY REGISTRATION

SecStat 601 Residence. Any person otherwise qualified but not registered to vote in the precinct in which he resides may register to vote on election day at the polling place of the precinct in which he resides in areas with voter registration. To register on election day a person must complete and sign the original card, sign the duplicate card and provide proof of his residence. A person

may prove his residence on election day only by presenting a valid Minnesota drivers license or a receipt thereof or a valid non-qualification certificate issued by the Minnesota Department of Public Safety or a receipt thereof, a valid registration in the same precinct under a different address or an "ineffective registration notice" mailed by the county auditor or by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the following oath:

I, _____, swear that I am a registered voter in

_____
County City or Township Ward

_____ and that I personally know that
Precinct

_____ is a resident of this precinct.
Name of person registering

_____
Signature of Registered Voter

Subscribed and sworn to before me

_____ _____
Date Signature of Election Judge

The above oath shall be printed on a 4" X 6" card by the county auditor. After every election day the county auditor shall file the oaths and maintain them for one year.

SecStat 602 Swearing to Residence. No person in a polling place as a challenger, pursuant to Minnesota Statutes 204A.38, shall be permitted to swear to the residence of any persons attempting to register on election day. A voter registered in the same precinct, including an election judge, may swear to the residence of any person who he knows to be a resident of the precinct; provided, however, that a judge swears to such residence before another election judge.

(SecStat 603 is repealed.)

SecStat 603 Election Judges. One judge may both distribute ballots and register voters during the course of an election day, but one judge shall not perform both functions for the same voter. Persons wishing to register to vote on election day may determine whether they wish to fill out the voter registration card themselves or request the assistance of an election judge. The judges shall confine their questions to information necessary to complete the voter registration card.

(SecStat 605 is repealed.)

(SecStat 606 is renumbered 604.)

SecStat 605-699 Reserved for future use.

CHAPTER SEVEN: COPIES OF LISTS OF REGISTERED VOTERS.

SecStat 701 Request Form. Persons requesting copies of lists of registered voters shall make the request in the following form:

To the Auditor of _____, County
County Courthouse

_____, Minnesota
County Seat

I hereby request copies of the lists of registered voters for the following precincts: _____

_____
(attach additional sheets if necessary)

My name is _____

I reside at _____
Street address City (or Township)

I certify that I am a registered voter in this county. I am aware that using the lists of registered voters for purposes not related to elections, political activities, or law enforcement is a violation of the law.

____/ /_____ _____

Date (signature)

SecStat 702 Lists in Other Forms. A county auditor may make available lists of registered voters in forms other than paper copies, such as duplicate computer tapes. The Secretary of State may review and determine satisfactory methods of reproducing lists of registered voters. This rule does not relieve the auditor of the duty to make paper copies of lists of registered voters available. A paper copy of the list of registered voters shall be available for public inspection at all times in the county auditor's office.

SecStat 703 Cost Determination. When a county auditor determines the cost of copies of lists of registered voters, the auditor shall take into account only the costs of reproduction actually incurred by his office to fill the specific request. The auditor shall not take into account the general office expenses or other expenses which would have been incurred by the auditor's office even without the preparation of the request.

SecStat 704-799 Reserved for future use.

CHAPTER EIGHT: CHALLENGES

SecStat 801 Procedure. Persons wishing to challenge a voter's registration pursuant to Minnesota Statutes 201.231 shall do so in

the following form:

To the Auditor of _____ County
County Courthouse

_____, Minnesota
(County Seat)

I, _____, am a registered voter in
(Name of person making challenge)

_____, County, Minnesota. I reside at

_____
(Street or Route No.) (City or Township)

I challenge the registration of _____
Name of challenged voter

whose registration lists his residence as _____
(Street or Route No.)

_____
(City or Township)

The grounds for my challenge are: _____

_____
(attach additional sheets of signed statement if necessary)

_____ _____
Date (signature of challenger)

The petition shall be accompanied by an affidavit of the challenger stating the basis for the challenge on personal knowledge.

SecStat 802-899 Reserved for future use.

CHAPTER NINE: ANNUAL REPORT

SecStat 901 Auditor's Duties. Each county auditor, in every county where there is permanent voter registration, shall file with the secretary of state by February 1 of each year a report of the conduct of voter registration and voting in the county for the period from January 1 through December 31 of the preceeding calendar year. The report shall be on a form provided by the secretary of state.

SecStat 902 Information on the Report. In general election years the following information shall be contained on the annual report for the state primary and the state general elections:

I. (1) The number of registered voters.

(2) An itemized account of the cost of registering voters.

(3) The name of each governmental unit having pre-election day registration.

(a) the number of persons registered in each;

(b) the number of persons registered on the days of the state primary and general elections.

(4) The name of each governmental unit having only election day registration.

(a) The number of persons registered in each.

(b) The number of persons registered on the days of the state primary and general elections.

II. (1) The number of persons voting in the state primary and general elections.

(2) An itemized account of the cost of elections.

(3) The number of persons voting in each governmental unit having pre-election day registration on the day of the state primary and general elections.

(4) The number of persons voting in each governmental unit having only election day registration on the days of the state primary and general elections.

III. (1) The number of requests for copies of lists of registered voters. The cost charged to each person making the request.

(2) The number of requests for voter registration cards for the purpose of general distribution. The number given for each request. The total number of cards given out for general distribution.

IV. (1) The number of persons eligible to register, whether or not registered in each governmental unit (estimated).

(2) A narrative description of any registration drives conducted in the county.

SecStat 903 Information on the Report Compiled During Years When There is No State Primary or General Election.

I. The total number of registered voters in the county.

II. The total cost of registering voters in the county.

SecStat 904-999 Reserved for future use.

CHAPTER TEN: ELECTRONIC OR AUTOMATIC DATA PROCESSING SYSTEMS

SecStat 1001 Approval by Secretary of State. Any county auditor may maintain voter registration records on electronic or automatic data processing systems; provided, however, that the auditor shall obtain the approval of the proposed system from the secretary of state prior to its implementation.

SecStat 1002 Compatibility. Any voter registration records maintained on electronic or automatic data processing systems and provided to registered voters within the county shall include, and be limited to, in this order, horizontally across form: registrant name, address (including street or route number, city or township and zip code) and telephone number when provided by the registrant.

Each entry in a precinct shall be arranged in alphabetical order by last name of registrant. Each precinct shall be entered in the municipality listing in numerical order by precinct number. Each municipality shall be entered in alphabetical order by municipality name within the county. Standards for data entry shall be compatible with secretary of state standards.

SecStat 1003-1009 Reserved for future use.

APPROVED AS TO FORM AND LEGALITY
AUG 9 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
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Joan Anderson Growe
Secretary of State

PROPOSED

RULES OF THE SECRETARY OF STATE

for

CERTIFICATION and EXPERIMENTAL and GENERAL USE OF VOTING MACHINES

(implementing Minnesota Statutes, Chapter 206)

April 6, 1976

PROPOSED RULES OF THE SECRETARY OF STATE FOR CERTIFICATION AND EXPERIMENTAL AND GENERAL USE OF VOTING MACHINES

(Implementing Minnesota Statutes, Chapter 206)

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PROPOSED RULES OF THE SECRETARY OF STATE FOR CERTIFICATION AND EXPERIMENTAL AND GENERAL USE OF VOTING MACHINES

CHAPTER ONE: DEFINITIONS

SecStat 3101 Conduct of Elections. Except as provided in other Minnesota Statutes or in these rules, election judges shall conduct elections in the manner prescribed for precincts using paper ballots in Minnesota Statutes, Chapter 202.A, Chapter 203.A, and Chapter 204.A.

SecStat 3102 Number of Voting Machines. Enough voting machines shall be provided in each precinct to expeditiously process the voters but in no case shall less than one voting machine and booth or station be provided for every 600 eligible voters in a precinct. One demonstration model shall be provided for each precinct.

SecStat 3103 Additional Procedures. These rules set minimum standards for procedures in the use of voting machines; an election jurisdiction may by resolution require additional procedures. A copy of such resolution including the procedures shall be filed with the secretary of state within five (5) days after its adoption.

SecStat 3104 Training. The official in charge of the election for the election jurisdiction shall deliver to the secretary of state sixty (60) days before the election the plan and content for the training of election judges as required by M.S. 206.19 and 206.195. The training shall include (but need not be limited to) the following procedures:

(a) pre-election checkout at the polling place;
(b) information and supplies that are to be displayed in the polling place;
(c) explanation of the duties of judges , including but not limited to:
    (1.) encouraging the voter to practice the method of voting by use of the demonstration model of the voting machine;
    (2.) explaining use of any apparatus necessary to use with the voting machine, such as stylus, marking device, insertion of ballot card;
    (3.) explaining the ballot label and its relation to the ballot card.
    (4.) if a primary election, explaining that a voter may vote in the election of only one party and indicate how that choice may be made;

(5.) if a general election, indicating the method for write-in votes;

(6.) indicating how the voter can check his ballot before leaving the voting booth;

(7.) informing the voter of the proper method of completing the ballot, including use of ballot envelope;

(8.) activities involved in closing the polls, preparing the ballots for tabulation, and transportation of ballots to the counting center;

(d) provision for individualized training of any persons who will serve as judges in the case of emergency when a trained judge is unable to serve.

SecStat 3105 Meanings of Terms.

(a) As used in SecStat 3101 through 4099, terms defined in Minnesota Statutes 206.01 shall have the meanings given them in that section.

(b) The following terms shall have the meaning given them as follows:

(1.)	ACCEPTANCE TEST	Initial tests which shall be successfully completed before a vendor shall be licensed to sell voting machines in Minnesota.
(2.)	APPLICATION PROGRAM	A computer program that solves a problem posed by a computer user.
(3.)	APPROVED COMPUTER	Vendor's model which has been approved by the secretary of state to tabulate official ballots in Minnesota.
(4.)	BACK UP (DUPLICATE) PROGRAM	An identical computer program for vote recording and vote tallying to be prepared and tested and held in readiness should it be needed to replace the computer program prepared for use in the election. This procedure is highly recommended by these rules; its institution by an election jurisdiction,

however, is at the option of that jurisdiction.

(5. BALLOT CARD: A data rocessing card, approved by the secretary of state, which is pre-printed with numbers or names of the offices, candidates for those offices, and propositions to be voted on in an election. The ballot card is used by the voter to designate his choices and is subsequentl tabulated by a computer. Ballot cards shall have attached by a perforation a detachable stub on which ballot numbers shall be printed an consecutive order. On all ballot cards, the words "OFFICIAL BALLOT CARD" shall be printed or stampe on the face of the detachable stub. The ballot card shall have a corner cut on one corner.

(6.) BALLOT ENVELOPE — A paper container approved by the secretary of state into which the ballot card is inserted by the elector, after voting.

(7.) BALLOT IMAGE — A corresponding representation in electronic form of the punch or mark pattern of a voted ballot.

BALLOT LABEL: The term "ballot label," 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.

(8.) BIT-FOR-BIT COMPARISON — A method for comparison of machine encoded characters.

(9.) CHAD — The prescored portion of the ballot card which is removed from the ballot card by the voter when casting his vote.

(10.) COMBINATION BALLOT CARD/ WRITE-IN BALLOT — A ballot card with a card attached by perforation for write-ins, containing instructions and spaces for write-ins. The

attached card for write-ins shall be of a size other than the ballot card. A detachable stub shall be attached to the combination ballot by perforation and have printed or stamped ballot numbers in consecutive order. The words "OFFICIAL BALLOT CARD" shall also be printed on the face of the detachable stub. The combination ballot card and write-in ballot shall be designed so that when properly folded no portion of the voting face of either ballot is exposed.

(11.) COMPUTER — A data processor which can automatically perform a sequence of logical and/or arithmetic operation without human interventions.

(12.) COMPUTER EXPERT — A person knowledgeable in the engineering, programming, and operation of a computer for the purposes of vote recording and vote tallying.

(13.) COMPUTER FACILITY — This shall mean the counting center where votes are tabulated from all the precincts included in the election jurisdiction.

(14.) COMPUTER PROGRAM — The set of operating instructions for a computer by which it examines, counts, tabulates and prints votes recorded by a voter on a ballot card or other electronic medium.

(15.) CONSOLE LOG (also computer log, log book) — Computer generated listing of actions performed by the computer, including both normal and abnormal operations.

(16.) COUNTING CENTER — A location selected by the gov-

erning body of a municipality subject to approval of the secretary of state where an electronic system is used for the automatic tabulation of ballots.

(17.) CRIMP HINGE — A hinge with locking spurs which is attached to the ballot label pages to allow for insertion, proper alignment, and positioning of the ballot label pages in the ballot frame assembly.

(18.) DAMAGED BALLOT — A valid ballot cast by a voter which is mutilated at the precinct, in transportation to the counting center, and/or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated, according to procedures promulgated in these rules.

(19.) DEFECTIVE BALLOT — A voted ballot card which the election judges have determined that the voter mutilated or placed thereon some mark, printing, or writing for the purpose of distinguishing it.

A ballot may also be declared defective in whole or in part, by inability of the judges to determine the intent of the voter.

(20.) DEMONSTRATION BALLOT CARD — A ballot card of a distinctive color used to instruct voters on the use of the voting device. The card shall have "DEMONSTRATION" printed or stamped on it.

(21.) DEMONSTRATION MODEL — An approved copy of the voting machine in use in a precinct containing ballot labels representing offices and containing fictitious names. Used to demonstrate to electors the method of voting.

(22.) DETACHABLE STUB — A two-part section of each ballot card, each part of which is printed with the identical

number, which is part of a serial numbering of all ballot cards assigned to that precinct.

(23.) DUPLICATE BALLOT CARD — A ballot card on which the word "DUPLICATE" is printed, stamped or written, to which election judges transfer a voter's selections from the original ballot card when necessary, according to these rules.

(24.) EDIT LISTING — A computer generated listing showing the names, rotation sequence, and ballot position numbers for each candidate as they appear in the computer program for each precinct.

(25.) ELECTION JURISDICTION — Any municipality, township, county or special election district holding original responsibility for an election or part thereof.

(26.) ELECTION OFFICIAL IN CHARGE OF THE COUNTING CENTER — If one election jurisdiction is using the counting center, this official may be the official in charge of the election for that jurisdiction; if more than one election jurisdiction is involved, the county auditor of the county in which these jurisdictions are located shall be in charge of the counting center.

(27.) END CARD — A data processing card which in-

structs the computer program that all ballots of a precinct have been counted.

(28.) HARDWARE — Physical equipment used in vote recording and vote tallying for computer use.

(29.) HEADER CARDS — Data processing cards which contain the necessary data to identify the precinct of following ballot cards to the computer.

(30.) LIST OF PERSONS VOTING — This list may be manually maintained by election judges in the precinct from the voters certificates completed by voters as they qualify to receive a ballot.

(31.) MARKING DEVICES — 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 or punch made by such marking device may be in the form of a round dot, a square, or any other shape that will clearly indicate the intent of the voter. (M.S. 206.01. Subd. 14.)

(32.) MUNICIPAL CORPORATION — An election jurisdiction however constituted; same meaning in these rules as "election jurisdiction".

(33.) OBJECT CODE — The machine code of a computer program on which the computer operates is the object code.

(34.) OFFICIAL IN CHARGE OF THE ELECTION FOR THE ELECTION JURISDICTION

This may be the city or township clerk or his designee or a designated official of the special district holding the election.

(35.) OVERVOTE

A condition of a voted ballot in which more votes have been cast for an issue or office than permitted by law.

(36.) PRECINCT CERTIFICATION

The certification supplied by the election jurisdiction to each precinct on which to record unusual occurences at the precinct, the number of voters who registered on election day, the number who voted, and other information as may be requested by the election jurisdiction and the secretary of state. The certification is to be signed by the election judges and returned to the official in charge of the election for the election jurisdiction.

(37.) PROGRAMMER

Person, persons, or commercial vendor designated by an election jurisdiction to write a computer program to record and tally votes in an election.

(38.) PUBLIC ACCURACY TEST

A public test conducted prior to election day for the prupose of demonstrating the accuracy of the computer program and computer which will be used to count the ballots and to demonstrate and explain the testing procedures being used to determine the accuracy, as provided for in M.S. Chapter 206.17.

(39.) RULES

Regulations of procedures for

conduct of elections in accordance with Minnesota election law which, when duly promulgated by the secretary of state shall have the force of law.

(40.) SEAL

This may be of metal or other material with a number on it. Such a seal is used to secure the voting machines. Another seal is used to secure the transfer cases.

(41.) SELF-CONTAINED VOTING STATION

A unit which contains a voting machine or marking device having all four sides enclosed, and lighted; when assembled the unit creates one individual voting station.

(42.) SOFTWARE

Computer programs, procedures, rules, and possibly assorted documentation concerned with the operation of a data processing system. Contrast with hardware. Computer program and paper media used in vote recording and vote tallying for computer use.

(43.) SOURCE CODE

This is the instructional language in which a programmer writes a computer program. The object code is a translation of this language.

(44.) SPOILED BALLOT CARDS

A ballot which has been returned to the election judges by a voter and for which a new ballot card may have been issued.

(45.) STATE OFFICE

In these rules, state office refers to any office in an election for nomination or election of candidates for U.S. president and vice president, U.S. senate, U.S. congress, state legislature and state constitutional office.

(46.) STYLUS — An instrument which the elector uses to punch out the prescored positions of a ballot card.

(47.) SUPPORT SOFTWARE — All software, such as an operating system that does not pertain to any specific application or computer program.

(48.) TEST DECK — A set of preaudited mock voted ballot cards used to determine that the computer and software to be used in the election count the votes in the manner prescribed by law. The ballot cards shall be identified by the word "TEST" and may be of a different color from the ballot cards to be used in the election.

(49.) TRANSFER CASE — A container for transporting ballots to the counting center. The container shall be capable of being sealed and shall be of sturdy material sufficient to protect the ballots during all reasonable forseeable hazards, including auto collisions, during their transportation to the counting center. The container shall be capable of protecting the ballots from moisture.

(50.) UNASSIGNED LOCATIONS — Voting positions on the voting machine or data processing card not programmed to receive an indication of votes in the election in progress.

(51.) UNDERVOTE — A condition of a voted ballot in which less votes have been cast for an issue or office than permitted by law.

(52.) VALID VOTE — A voted ballot cast according to the instructions on the

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(52.) VALID VOTE — A voted ballot cast according to the instructions on the

voting machine in keeping with Minnesota election law and these rules.

(53.) VENDOR — Organization contracting to supply any elements of a vote tallying system which can include hardware, support software, and computer program.

(54.) VOTE — An indication by a voter of intent which may be recorded by a variety of mechanical or electronic methods.

(55.) VOTE-RECORDING MEDIUM — The material or configuration thereof on which data are recorded, such as paper tape, cards, magnetic tape.

(56.) VOTER REGISTRATION LIST — In counties with voter registration, some county auditors or election jurisdictions supply a list of voters registered in that precinct for the purpose of checking off each voter who comes to vote in that election.

(57.) VOTING BOOTH — A structure constructed in a manner prescribed in M.S. 203.10, Subd. 2, so that the voter while preparing his ballot may be free from observation. In each booth there shall be a facility to hold a voting machine.

(58.) VOTING MACHINE — As used in these rules this term shall include a lever machine or an electronic or mechanical equivalent thereof utilized by a voter to record his choices relative to candidates and issues to be voted on in an election.

(59.) VOTING SYSTEM — A system in which votes are

recorded and such votes are subsequently counted and tabulated by automatic tabulating equipment.

(60.) WRITE-IN

A vote for a candidate whose name does not appear on the official ballot for the office for which a voter elects to vote. These votes may be written on media as provided by Minnesota law and these rules, or they may be printed on stickers which are affixed by the voter to the media.

SecStat 3106-3199 Reserved for Future Use.

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(59.) VOTING SYSTEM — A system in which votes are

CHAPTER TWO: CERTIFICATION

SecStat 3201 Acceptance Testing.

(a) in addition to the general testing of the integrity of the computer program, the voting system (both hardware and software) shall demonstrate its storage requirements and its speed of operation including its print-out capability to provide speed for unofficial results and full audit capability for official results to be certified. There shall be demonstrated any special parameter alteration that can be programmedinto it and a full explanation of any modification that can be inserted;

(b) test conditions shall involve a simulation of realistic conditions, coupled with a checkoff of the design specifications which were imposed;

(c) vendor of the program shall identify all the hardware configurations with which the computer program is intended to operate and also identify the maximum values of election parameters which the program can support. These parameters shall include the maximum number of precincts, offices and issues, candidates per office, as well as statistical data required by the secretary of state as identified in law and these rules.

SecStat 3202 Simulation & Vote Counting.

(a) simulation of vote-counting for the purpose of acceptance testing shall involve a configuration of numbers of voters, precincts, offices, and candidates which involves the largest number of voters in an election in which it is expected to be used. Simulated ballots may be prepared by use of ballot images on tape or disc. Simulated ballots (however produced) shall include those involving no over-votes or marks in unassigned locations as well as ballots showing over-votes, undervotes, and invalid votes;

(b) when the computer program is to be used with several different hardware configurations, a test of the computer program with each configuration shall be completed including the various election arrangements of different numbers of

voters, precincts, offices and numbers of candidates, and issues;

(c) use of ballot-generating program;

(1) to develop a computer-readable medium of randomly-configured ballot images which is the inverse of the vote-tallying program under test, the secretary of state may begin with a set of results for every precinct and every office and issue and decompose the results into a set of ballots, including some which involve valid votes, over-votes, and under-votes, in many different combinations;

(2) results obtained by the vote-tallying program under test shall match the results of the tape of ballot images at the option of the secretary of state.

(3) the ballot-generating program may also be used to generate actual ballots as well as a tape of ballot images at the option of the secretary of state

SecStat 3203 Audit Trail.

(a) there shall be a complete printout of overvotes and undervotes as an audit trail;

(b) the computer printout containing the tally shall include the following:

(1) for each precinct the candidates and issues shall be listed in rotational order given in the instructions for voters in that precinct;

(2) the number of ballots counted for that precinct shall be shown;

(3) the number of overvotes, the number of undervotes and the number of non-overvoted ballots for each office and issue shall be shown.

(4) the program shall be designed so that undervotes are recorded directly from the ballots

and not determined by substraction of candidate totals from non-overvoted ballots.

SecStat 3204 . Approval. for certification, the vendor shall deposit with the secretary of state a copy of the source vote-tallying program, documentation describing the program, and copies of all compilers and other support software which are used to convert the vote tallying program to object code. If the vendor considers this data proprietary the secretary of state shall maintain the integrity and security of the program.

Secretary of state shall notify the vendor of decision in the matter of the approval of the voting machine tested within five (5) working days of the completion of the tests described in these rules. Approval shall be valid as long as the voting machine meets the standards set out in the statutes and rules.

SecStat 3205 Decertification. if a voting machine no longer meets the standards of the statutes and rules, the secretary of state may withdraw approval of the voting machine after a hearing.

SecStat 3206-3299 Reserved for Future Use.

SecStat 3301 Design of Computer Programs.

(a) computer programs shall be written so as to accurately tabulate each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with the laws of the state of Minnesota and these rules;

(b) Computer programs shall include instructions requiring that precinct identification be punched on all ballot cards. Two identical header cards may precede the deck of ballot cards of each precinct. The program may provide that if two identical header cards do not appear in front of the ballot cards of a precinct, no counting of ballots for that precinct shall take place;

(c) a data processing card may follow the ballots of each precinct instruction the computer that all ballots of the precinct have been counted. The program may provide that if header cards contain instructions to the computer that all ballots of the preceding precinct have been counted, no separate end card is needed.

(d) computer programs may be contained on data processing cards, magnetic tape, disc, ROM (read only memories), PROM (programmable read only memories); or any combination thereof;

(e) the programmers shall prepare at least two edit listings which are to be computer generated from the computer program showing candidates' names and respective ballot position numbers as they appear in the computer program for each precinct. The edit listings shall be delivered to the appropriate election jurisdiction at least 14 days prior to the election;

(f) the election jurisdiction responsible for requesting the computer program shall supply any information

such as candidates' names and rotation to the programmers designated to write the computer program no later than 10 days after the last day to file for office; in a state general election, no later than 5 days after the candidates names are certified by the Secretary of State;

(g) the computer program for any election must be completed and delivered to the election jurisdiction at least 14 days prior to the election. The programmers shall also prepare and deliver to the county auditor (if county offices are included in the election) and to the secretary of state (if state offices and questions are included in the election) at the same time an exact duplicate of the program;

(h) instructions containing the necessary information, steps, and procedures required to operate the computer program shall be prepared and submitted to the election jurisdiction by the programmers and deposited with the secretary of state. There shall be at least two copies of the instructions for each computer facility. It shall be the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators;

(i) vote tabulation portion of the computer program shall be written as follows:

(1) in nonpartisan races in all elections and in the partisan primary elections, the computer program shall reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballot labels in the various precincts;

(2) the computer program shall count valid votes cast by a voter for candidates for an office;

(3) the computer program shall count valid votes cast by a voter for or against any question;

(4) the computer program shall not count the votes cast by a voter for an office or question if the number of votes cast exceeds the number which the voter is entitled to vote for on such office or question, but it shall record that there is an over-vote condition as referred to in SecStat 3203;

(5) the computer program shall ignore punches in a ballot card in positions where no candidates' names or questions appear on the official ballot. These punches shall have no effect on any portion of the ballot;

(6) for the purpose of programming, the partisan, non-partisan, and proposal sections of the ballot are to be considered independent ballots. No action of a voter on one such section of the ballot shall affect his action on another section of the ballot;

(7) in partisan primary elections, the computer program shall count the votes recorded by a voter for candidates in one political party only and reject all of the partisan section of the ballot if votes are cast for candidates of more than one political party, but count valid votes in the nonpartisan section of the ballot;

(8) in partisan primary elections the computer program shall check for the situation of a voter casting votes for candidates of more than one political party prior to checking for overvote conditions.

SecStat 3302 Preparation of Test Deck or Ballot Image.

(a) it shall be the duty of the election jurisdiction requesting the computer program to prepare a test deck of ballot cards to be used to determine that the computer and the computer program will correct-

(4) the computer program shall not count the votes cast by a voter for an office or question if the number of votes cast exceeds the number which the voter is entitled to vote for on such office or question, but it shall record that there is an over-vote condition as referred to in SecStat 3203;

(5) the computer program shall ignore punches in a ballot card in positions where no candidates' names or questions appear on the official ballot. These punches shall have no effect on any portion of the ballot;

(6) for the purpose of programming, the partisan, non-partisan, and proposal sections of the ballot are to be considered independent ballots. No action of a voter on one such section of the ballot shall affect his action on another section of the ballot;

(7) in partisan primary elections, the computer program shall count the votes recorded by a voter for candidates in one political party only and reject all of the partisan section of the ballot if votes are cast for candidates of more than one political party, but count valid votes in the nonpartisan section of the ballot;

(8) in partisan primary elections the computer program shall check for the situation of a voter casting votes for candidates of more than one political party prior to checking for overvote conditions.

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(a) it shall be the duty of the election jurisdiction requesting the computer program to prepare a test deck of ballot cards to be used to determine that the computer and the computer program will correct-

such as candidates' names and rotation to the programmers designated to write the computer program no later than 10 days after the last day to file for office; in a state general election, no later than 5 days after the candidates names are certified by the Secretary of State;

(g) the computer program for any election must be completed and delivered to the election jurisdiction at least 14 days prior to the election. The programmers shall also prepare and deliver to the county auditor (if county offices are included in the election) and to the secretary of state (if state offices and questions are included in the election) at the same time an exact duplicate of the program;

(h) instructions containing the necessary information, steps, and procedures required to operate the computer program shall be prepared and submitted to the election jurisdiction by the programmers and deposited with the secretary of state. There shall be at least two copies of the instructions for each computer facility. It shall be the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators;

(i) vote tabulation portion of the computer program shall be written as follows:

(1) in nonpartisan races in all elections and in the partisan primary elections, the computer program shall reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballot labels in the various precincts;

(2) the computer program shall count valid votes cast by a voter for candidates for an office;

(3) the computer program shall count valid votes cast by a voter for or against any question;

ly count the votes cast for all offices and/or all proposals in compliance with the laws of the state of Minnesota;

(b) simulated ballots through use of ballot images on tape or disc may be used to evaluate the logic of the computer program;

(c) test deck or ballot image shall include ballots involving no overvotes or mark in unassigned locations as well as ballots involving overvotes, undervotes, and invalid votes in many different combinations;

(d) test deck or ballot image shall test the maximum number of votes which might be cast for any office or question in the election;

(e) the test deck shall be prepared as defined in see SecStat 3105. A test deck shall be prepared specifically for each election;

(f) the test deck or ballot image prepared shall consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and measure in a number estimated to maximum number to be received in the election;

(h) a documentation, record, chart, or listing shall be prepared indicating the punches recorded in the test ballots. Said documentation shall indicate whether punches are valid or invalid;

(i) ballots shall be prepared having votes in excess of the number allowed by law for each

office and proposal appearing on the ballot;

(j) for district offices in which the number of candidates appearing on the ballot for that office varies by district, test ballots shall be prepared with the number of votes allowed by law for that office in that district and also include votes in positions which are assigned to that office for which no candidates name appears in those positions for that district;

(k) in partisan primary elections test ballots shall be prepared to check the program for splitting tickets. Test ballots shall be prepared with votes appearing in the same ballot for candidates of opposite political parties, nonpartisan candidates, and proposals. At least one ballot shall be prepared with votes for one party and including votes for a partisan office or another political party in excess of the number permitted by law;

(l) test ballots shall be prepared in which votes appear in positions other than those used for candidates or proposals;

(m) in preparing the test deck or ballot image a number of the ballots shall be voted to include valid votes in each section of the ballot, i.e. partisan, nonpartisan, and proposal sections;

(n) at least 50 blank ballot cards shall be run before the test deck is run. Blank ballots in which no positions have been voted shall be included in the test deck or ballot image;

(o) At least one test ballot shall be prepared with votes in all positions where there is a candidate or measure on the ballot;

(p) a duplicate of the test deck shall be prepared to be used with the duplicate or back-up computer program. The duplicate test deck may consist of standard data processing cards.

SecStat 3303 Preliminary Testing of Computer Programs.

(a) the election jurisdiction providing the computer programs shall prior to the public accuracy test, test

the computers and programs to ascertain that they will correctly count the votes for all offices and measures. The computer programs shall be tested on all precincts;

(b) the election jurisdiction requesting the computer programs shall compare the edit listing against the ballot labels of all precincts to ascertain that:

(1) the appropriate labels are in each precinct;

(2) the ballot position numbers for each candidate and proposal appearing on the ballot labels agree with that recorded on the edit listing for each precinct. It shall be the duty of each election jurisdiction to make a certificate as to the above and file it with the county auditor. In elections where state and county officers are to be voted for, an additional certificate shall be filed with the secretary of state;

(c) the test shall be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction and the results compared against the predetermined results of the test deck or ballot image. For the purpose of this test, the test deck may be reproduced onto standard data processing cards;

(d) when an errorless count has been made on all precincts, it shall be the duty of the election jurisdiction providing the computer program to:

(1) secure all computer programs, including the object code, all support software utilized, test decks predetermined results of the test decks, in a metal container which shall be sealed with a metal seal;

(2) prepare a certificate that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction and that the results agree with the predetermined results of the test

deck; the certificate shall also contain the seal number which was used in (1); the certificate shall be attached to the computer results of the test;

(3) deliver the items mentioned in (1) and (2) to the county auditor.

SecStat 3304 Public Accuracy Test.

(a) a public accuracy test shall be held within five(5) days prior to the election for the purpose of demonstrating the accuracy of the computer programs and computers to be used at the election;

(b) the public accuracy test shall be conducted according to Minnesota Statutes 206.17;

(c) the time and place of the public accuracy test shall be designated by the election jurisdiction providing the computer program, which shall give public notice of the time and place of the test at least 48 hours before by publication in official newspapers;

(d) the test shall be open to the public. The chief election official of the election jurisdiction shall explain the methods and test procedures used to determine the accuracy of the computer programs. This will include submitting as public record the certificate prepared in accordance with Chapter 4 C.3 of these rules that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction;

(e) the sealed container containing the computer programs, test deck, predetermined results, and header cards shall be opened and the computer programs and computers tested to demonstrate their accuracy. The initial testing of the computers and programs shall be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested shall be at the discretion of the election jurisdiction;

(f) persons allowed in the immediate area of the computer at the public accuracy test shall be limited to those persons allowed in immediate area on election night provided in Minnesota Statutes 206.185, Subd.3. Each of the above named parties may be accompanied by a computer expert of his choice. In conventional data processing installations, the immediate area of the computer shall mean the room in which the computer is located. All other interested persons may observe from an observation area;

(g) each computer program which will or may be used to tabulate the results of the election shall be tested on the computer on which it is to be used on election night. This includes any back-up or duplicate computer program. the test decks used in these procedures shall be the ones prepared in accordance with this chapter;

Any test cards made under this chapter shall be marked "T[redacted]"

(h) if an error is detected in any part of the testing, the cause shall be ascertained, the error corrected, and an errorless count shall be made on all precincts. If determined by the election jurisdiction, the meeting may be adjourned to a time and date certain;

(i) the secretary of state may provide a test deck for any computer program. If so, it shall be delivered at the public accuracy test. The computers and computer programs shall be tested by use of this test deck. Thereafter, at the discretion of the secretary of state it shall be used in lieu of or in addition to the test deck prepared by the election jurisdiction;

(j) after the completion of the public accuracy test and an errorless count has been made, the election jurisdiction shall certify the results of the test conducted. Certification shall be signed by the witnesses specified in M.S. 206.17 and shall be attached to or written on the computer results of the public accuracy test; a copy of the certification shall be sent to the secretary of state;

(k) immediately after certifying the results of the public accuracy test, the election jurisdiction shall secure all computer programs, including the object code, software utilized, test decks, certi-

fied computer results of the test and the predetermined results, in a metal container which shall be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. Attached to or inside the container shall be a certificate describing its contents, and on which the number of the seal has been recorded. The certificate shall be signed by at least two witnessess as specified in M.S. 206.17, and if attached to the container in a plastic envelope, it shall be attached in such a manner that it cannot be removed without breaking the seal;

(l) all computer programs, test decks and other related materials shall be clearly identified as to the computer on which they were tested and shall be used on no other computer;

(m) the election jurisdiction shall immediately deliver to the county auditor or his designee the metal case containing the computer programs and test decks which are to be used to tabulate the results of the election. The county auditor shall retain and secure the programs and deliver them to the counting center on election night no earlier than 6:00 p.m. The container containing back-up or duplicate computer programs and related material shall be delivered to and secured by the county auditor. It shall be the responsibility of the county auditor to store the original and duplicate or back-up computer program in separate locations.

SecStat 3305-3399 Reserved for Future Use.

SecStat 3401 Use of Dedicated Operation. A computing system shall be set up so that vote-tallying procedures will be processed in isolation without other influences while being tested or run.

SecStat 3402 Initialization of System. Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, make certain that computer programs are not influenced by extraneous peripheral equipment. The erasure of memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, shall be accomplished. Active measures shall be undertaken to assure that all tapes and discs to be used that are supposed to be initially blank are actually blank (except for machine-readable inventory identifiers) and have no defects.

SecStat 3403 Use of Dedicated Support Software. All the support software used with vote-tallying computer programs shall be maintained on media under the control of the election administration and not used for any other purpose. Separate copies of all computer support software shall be obtained from a general supplier from his stock of standard products or shall be written in-house. Demonstration to the election jurisdiction by the supplier, through bit-for-bit comparison, that the copies received are standard products, unaltered in any way, is required.

SecStat 3404 Physical Protection of Object Codes. Master copies of all computer programs including support software and application programs shall be retained in secured locations, separate from the location of working copies. The master copy once generated shall be used in a read-only mode. No writing shall be done on the storage medium of the master copy. Before use of the working copy it shall be compared bit-for-bit against the master copy. Any difference must be explainable.

SecStat 3405 Labeling of Discs and Tapes. Discs and tapes employed for any vote-tallying purpose shall have both human-readable and machine-readable labels. When the machine-readable label is read by the operating system, a halt in further operation shall occur until the computer operator enters the human-readable label. A match between the two labels must precede any further computer operation.

SecStat 3406 Control of System Control Cards. Punched cards used for modification of operating system conditions shall have a use code and version number punched in identification fields of the cards. Each card shall be checked for proper use and version when read by the operating system and the effect of the card on system operation reported on the system output printer.

SecStat 3407 Logging of Operations. The operating system of the computer must be programmed to report automatically on the system printer all actions taken by the operators to change conditions and their times of occurence. These actions may include mounting and dismounting tapes, connecting or removing peripherals, insertion of data, or a changing of control switch settings.

SecStat 3408 Separation of Computer Room Duties. A basic principle of internal control is to divide the execution of critical functions amony two or more persons. One individual shall not be totally responsible for a given activity, such as computer operation.

SecStat 3409 Control of Computer Program Changes. Every change to a computer program used for vote tallying and under control of the election jurisdiction, even those involving only one statement shall be authorized, approved, and documented with no exceptions.

SecStat 3410 - 3499 Reserved for Future Use.

CHAPTER FIVE: PREPARATION OF ELECTION SUPPLIES

SecStat 3501 Preparation of Ballots.

(a) Ballot cards. All ballot cards used in an election shall be of a type and form approved by the secretary of state and have attached by perforation a detachable stub on which duplicate numbers shall be printed in consecutive order. The following statement shall be printed or stamped on the back of the stub of all official ballot cards in bold face capital letters:

STOP
WRONG SIDE
TURN CARD OVER

The precinct number designation shall be printed, stamped or written, and punched on each ballot card used in an election so as to identify in which precinct it originated.

In the case of a combination ballot card/ write-in ballot, the portion of the ballot for write-ins shall contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of the candidates for those offices shall be printed on the ballot cards and on the ballot labels so that the voter may review his choices before leaving the voting booth or station.

(b) Ballot envelopes. All ballot envelopes used in an election shall be of a type and form approved by the secretary of state. The ballot envelope shall be of sufficient size and construction so that when the ballot is inserted in it all portions thereof indicating voting marks are hidden from view. Instructions shall be printed on the ballot envelope and shall include the following:

(1) After you have voted, check your ballot with the ballot label to be sure that your vote is recorded for the candidate and/or question of your choice.
(2) Insert ballot in this envelope with the stub exposed.
(3) Return this envelope with the ballot enclosed to the election judge.
(4) If you spoil your ballot or if you make a mistake in voting, return it to the election judge and receive another ballot.

In voting machine systems where write-in votes are not written on the media contained in the machine or the cards inserted in the machine, the inside flap of the envelope shall contain language which

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SecStat 3410 - 3499 Reserved for Future Use.

clearly indicates that this is the place to vote for write-in candidates. It shall contain the following language:

> A write-in vote will not be counted unless it includes the name of the person voted for and the title of the office.

(c) Voting instructions shall be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions shall be printed as to where the voter is to proceed to continue voting. Additional instructions which conform with the election laws may be printed on the ballot labels when deemed advisable so as to assist the voter in casting his ballot.

(d) When a state office or question appears on the ballot the election jurisdiction shall forward five (5) days before the election to the secretary of state two copies of the sample ballot required in M.S. 209.09, two copies of a ballot card, and two copies of a ballot envelope.

SecStat 3502 Preparation of Voting Machines.

(a) All voting machines shall be identified as to the precinct in which they will be used.

(b) The election official in charge of the election jurisdiction shall prepare the voting machines so that they will in every particular meet the requirements for voting and counting at such election.

(c) All ballot label pages shall have a crimp hinge attached for insertion and positioning in the ballot frame. Ballot label pages attached by tape to a rod or which are placed into a clear plastic envelope through which a rod is inserted are not allowed.

(d) If a machine uses masks, the official in charge of the election jurisdiction shall prepare or cause to be prepared the masks to be used. The masks shall have holes punched in appropriate positions for which the elector will be entitled to vote and in no others.

(e) Ballot label pages assembly shall be inserted and sealed into each voting machine so that the ballot label pages assembly cannot be removed without breaking the seal. Flat metal or wire seals shall be used for this purpose. On voting machines which do not have permanent rivets on the back or sides which prevent the removal of the ballot label pages assembly, a second seal must be used so that the ballot pages assembly cannot be removed without breaking the seal.

(f) The ballot labels in each voting machine of a precinct shall be compared against the edit listing and/or sample ballot for that precinct to ascertain that the offices, candidates' names and ballot position numbers are the same and appear in the same position.

(g) The ballot label pages of each voting machine are to be examined to ascertain that holes in the mask appear directly opposite each arrow and that no other holes appear in the mask and that the ballot label pages are in proper sequence.

(h) Operation of each voting machine using a ballot card shall be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card shall then be examined to insure that each received a clear punch.

(i) The identifying number of the voting machine and the seal number used to seal the ballot label pages assembly to the machine shall be recorded on the precinct certification for the precinct in which the device will be used. The election official who sealed the machine shall also sign the certification.

(j) When a voting machine has been prepared for the election, it shall be the duty of the official in charge of the election jurisdiction to make a certificate in writing which shall be filed with the county auditor. This certificate shall contain precinct number, identifying number of the machine, number of the metal seal or seals used to seal the machine, and state that the ballot labels have been compared against the edit list and/or sample ballot for that precinct and that the candidates' names and ballot numbers agree and appear in the same position and that the machine has been properly prepared and tested.

(k) In elections where state or county officers are to be voted for, an additional certificate as required in SecStat 3502 (j) shall be filed with the secretary of state.

SecStat 3503 Preparation of Election Supplies.

(a) The municipal clerk of the election jurisdiction which owns the voting machines shall prepare and package or place into a transfer case the ballot cards for each precinct. Each package shall be sealed with a red paper seal or if a transfer case is used, sealed with a metal seal. The package or

clearly indicates that this is the place to vote for write-in candidates. It shall contain the following language:

> A write-in vote will not be counted unless it includes the name of the person voted for and the title of the office.

(c) Voting instructions shall be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions shall be printed as to where the voter is to proceed to continue voting. Additional instructions which conform with the election laws may be printed on the ballot labels when deemed advisable so as to assist the voter in casting his ballot.

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transfer case shall contain a certificate signed by the municipal clerk setting forth the number of ballots therein and that such ballots were counted, packaged, and sealed by that clerk personally or by his duly authorized assistant. All ballot cards not issued to a precinct or assigned for absentee voting shall be secured and accounted for by the municipal clerk. The municipal clerk shall maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot cards shall be delivered to the chief election judge of the proper precinct.

(b) The following additional items shall be included in the precinct supplies:
   (1) edit listing for precinct;
   (2) ballot envelopes in sufficient quantity to match quantity of ballots;
   (3) envelopes marked "spoiled ballot cards," "defective ballot cards," "absentee ballots";
   (4) envelope for "original ballot cards for which duplicates are to be made for any reason";
   (5) precinct certification form;
   (6) set of instructions for operating the precinct on election day;
   (7) copy of current Minnesota Election Laws published by the secretary of state.

(c) If the precinct header card is to be sent to the precinct, it shall be contained in an envelope for that purpose, placed into the transfer case of the precinct and delivered to the appropriate precinct.

(d) An approved ballot box shall be provided to each precinct for the deposit of voted ballot cards. This ballot box need not be made of metal but must be capable of being sealed during election day.

(e) No vendor or vendor's representative shall be present during election day activities in precincts.

SecStat 3504-3599 Reserved for Future Use.

CHAPTER SIX: ELECTION JUDGES DUTIES PRIOR TO OPENING OF POLLS

SecStat 3601 Arrangement of Voting Machines. Voting machines may be used in voting booths or in self-contained voting stations.

If voting machines are used in voting booths, they shall be arranged so that the activity of the voter while preparing his ballot shall be concealed from all other persons.

If voting machines are used in self-contained voting stations, the stations shall be arranged so that the secrecy of the ballot is not violated. Should a voter object to the arrangement of the self-contained voting station at which he has been assigned to vote, claiming that the station is so positioned as to not afford him an opportunity to vote in secrecy, the election judges shall evaluate the claim. If the judges determine that the claim is valid, they shall rearrange said voting device so as to afford the voter the opportunity to vote his ballot in secrecy.

SecStat 3602 The Election Judges Shall Check the Machines by:

(a) comparing the seal number on the machines with seal seal numbers recorded by the municipal clerk on the precinct certification;

(b) comparing the names and ballot position numbers printed on the ballot labels with the edit listing and/or sample ballot to ascertain that the offices and candidates' names are the same and appear in the same order on each;

(c) checking to see that the ballot label pages are in the proper sequence and agree with sequence indicated on the sample ballot;

(d) checking that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it;

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(c) checking to see that the ballot label pages are in the proper sequence and agree with sequence indicated on the edit listing;

(d) checking that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it;

(e) placing a dem nstration card into each device and punching it for each candidate and proposition on the ballot and attempting to punch in places other than those indicated by an arrow; examining the card to see that each candidate and proposition received a clean punch and that no holes appear in the ballot card in any other position;

(f) in an election in which write-ins are permitted, checking that there is a marking pencil provided for write-in for each machine in each voting booth or self-contained voting station;

(g) checking the stylus to see that it is not broken and that a point exists on each;

(h) checking that there is adequate lighting and that the lights are in proper working condition.

SecStat 3603 Discrepancy.

In the event of a discrepancy, the election judges shall notify the municipal clerk immediately, and the voting device shall not be used until such discrepancy is resolved.

SecStat 3604 Demonstration Voting Machine.

The demonstration voting machine shall be arranged so as to be able to offer each voter an opportuntiy to use it prior to voting.

SecStat 3605 - 3699 Reserved for Future Use.

SecStat 3701 Election Procedures and Manner of Voting.

(a) Unless otherwise provided for in Minnesota law or in these rules, paper ballot procedures as provided in Minnesota Statutes 204A. shall be followed to the extent possible.

(b) Where combination ballot card/write-in ballots are used, all rules relating to write-in, security, and identification shall apply to the combination ballot card/write-in ballot.

(c) The election judges shall offer each voter the opportunity to use the demonstration voting machine. The judges shall explain that the demonstration voting machine is only a sample of the actual voting machine.

(d) Any voter who requests information about the voting system shall be instructed by an election judge about the system and counting procedures.

(e) In precincts where there is voter registration, the election judge shall deliver to the voter his ballot card after the judge receives the certificate of registered voter signed by the voter and initialed by an election judge. The ballot card number shall be recorded on that certificate. Ballot cards and envelopes are not to be issued until a voting station is vacant.

(f) The election judge shall explain to the voter how to compare ballot card with ballot label pages after voting and offer to the voter the assistance of two election judges (not of the same political party) to help the voter check his ballot card.

(g) Upon being issued a ballot card and envelope the voter shall go to the voting station which is unoccupied and vote his ballot card. Before leaving the voting station the voter shall place the ballot card in the envelope with the detachable stub exposed.

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(g) Upon being issued a ballot card and envelope the voter shall go to the voting station which is unoccupied and vote his ballot card. Before leaving the voting station the voter shall place the ballot card in the envelope with the detachable stub exposed.

(h) Upon leaving the voting station the voter shall publicly hand the envelope containing the ballot card with the stub attached to an election judge. If the voter has not placed the ballot card in the envelope before leaving the voting station, he shall be instructed to return to the voting station and place the ballot card in the envelope.

(i) The judge receiving the ballot card and envelope from the voter shall compare the number on the ballot stub with the ballot card number recorded on or attached to the voter certificate to determine if the ballot card is the one issued to the voter. If the ballot card number is not the same as that assigned, the ballot card and the certificate shall be placed in the spoiled ballot envelope and not counted. In no case shall a spoiled ballot card be placed in the ballot card box.

(j) If the numbers compare, the judge shall detach the ballot card stub in the presence of the voter and deposit the ballot card in the envelope in the ballot card box.

(k) If any voter spoils his ballot card by inadvertantly defacing it or removing the prenumbered ballot card stub or should the voter request a new ballot card, the voter shall in secret place the ballot card in the ballot envelope and return it to the election judge and the judge shall deliver to him another ballot card and ballot envelope. The spoiled ballot card and ballot envelope shall be placed in the envelope marked "SPOILED BALLOT CARDS". In precincts where there is voter registration, one of the election judges shall note the change in the ballot card number given such voter upon the certificate of registered voter. The method of changing the number of the ballot card issued shall be by drawing a line thru the number of the original ballot issued and writing the new number above.

(l) The election judges shall as frequently as possible and at least every ½ hour check the seals and ballot label pages of the voting machines to assure that none have been altered or defaced. Should the board find that the ballot label pages of a voting machine have been altered, mutilated, or damaged in such a manner that the judges cannot correct the same without doing damage to the offices and candidates names appearing thereon, said voting machine shall not be used until such condition is corrected. A note of such occurence shall be made in the precinct certification.

(m) Any ballot card found in a booth or voting machine shall be marked "found in booth". The card shall be placed in an envelope which shall be placed in the transfer case. In no case shall such ballot be placed with the properly cast ballots. A note of such occurence shall be made in the remarks section of the precinct certification.

SecStat 3702 Absentee Ballots.

(a) The issuing, receipt, processing and tabulation of absentee ballots in election jurisdictions using electronic voting systems shall be as provided by law and these rules.

(b) Voters requesting absentee ballots shall be supplied with paper absentee ballots, as provided by law.

(c) Absentee votes shall be cast on paper absentee ballots. These paper absentee ballots shall be delivered either to an absentee ballot precinct as provided by law or to the polling place in the voter's precinct.

(d) Upon receipt of the last mail at the precinct on election day, two election judges not of the same political party shall number the absentee ballots, serially, and transfer the intent of the absentee voter from the absentee ballot to the official vote-recording medium used in the precinct.

(h) Upon leaving the voting station the voter shall publicly hand the envelope containing the ballot card with the stub attached to an election judge. If the voter has not placed the ballot card in the envelope before leaving the voting station, he shall be instructed to return to the voting station and place the ballot card in the envelope.

(i) The judge receiving the ballot card and envelope from the voter shall compare the number on the ballot stub with the number on the voter certificate to determine if the ballot card is the one issued to the voter. If the ballot card number is not the same as that assigned, the ballot card and the certificate shall be placed in the spoiled ballot envelope and not counted. In no case shall a spoiled ballot card be placed in the ballot card box.

(j) If the numbers compare, the judge shall detach the ballot card stub in the presence of the voter and deposit the ballot card in the envelope in the ballot card box.

(k) If any voter spoils his ballot card by inadvertantly defacing it or removing the prenumbered ballot card stub or should the voter request a new ballot card, the voter shall in secret place the ballot card in the ballot envelope and return it to the election judge and the judge shall deliver to him another ballot card and ballot envelope. The spoiled ballot card and ballot envelope shall be placed in the envelope marked "SPOILED BALLOT CARDS". In precincts where there is voter registration, one of the election judges shall note the change in the ballot card number given such voter upon the certificate of registered voter. The method of changing the number of the ballot card issued shall be by drawing a line thru the number of the original ballot issued and writing the new number above.

(e) These election judges shall record the number printed on the official voter recording medium of the absentee ballot from which it was transcribed as provided in SecStat 3702 (d).

(f) After the polls close two election judges not of the same party shall check each absentee ballot with the vote-recording medium to determine that the medium records the absent voter's intent. Any write-in votes shall be recorded as provided in these rules.

(g) Vote-recording media processed under SecStat 3702 (f), shall be labeled "absentee", inserted in envelopes and placed with ballot cards cast by voters in person in that precinct. In absentee ballot precincts, this procedure could be done during the day.

SecStat 3703 - 3799 Reserved for Future Use.

CHAPTER EIGHT: ELECTION JUDGES DUTIES AFTER POLLS CLOSE

SecStat 3801 Procedures Following Close of Polls.

(a) All unused ballot cards and envelopes shall be secured for return to the official in charge of the election for the election jurisdiction.

(b) The ballot labels and seals of each voting machine shall be inspected to insure that they have not been altered and are intact and that seal numbers agree with the numbers as verified at the opening of the polls. Any discrepancy shall be noted in the remark section of the precinct certification.

(c) The election judges shall compare the number of certificates of registered voters with the number of names recorded on voter registration list or voter registration cards as having voted that day. The number of electors who voted as indicated by these records shall be entered on the precinct certification.

(d) The election judges shall open the ballot box and remove the ballots therefrom. Prior to removing the ballots from their envelopes they shall be counted to determine the total number. The judges shall compare the total number of names recorded in the precinct certification. If the ballots shall be in excess of the number of electors voting and it is impossible to reconcile the number, the ballots shall be replaced in the ballot box and one of the election judges shall publicly draw out so many ballots as shall be equal to such excess. Such excess ballots while still in their envelopes shall be marked "excess" and be placed in an envelope and sealed. The judges shall note on the outside of the envelope its contents and place it in the transfer case. A notation of the pertinent facts shall be made in the precinct certification. If the number of ballots counted is less than the number of electors voting according to the count determined in SecStat 3801 (c) the reason for the discrepancy shall be noted in the precinct certification. If the judges are unable to explain the discrepancy, they shall so state in the precinct certification. The determination of the election judges shall be conclusive and sufficient explanation for purposes of recount.

(e) Each ballot in its envelope shall be examined for write-ins. Ballot cards for which no write-in exists shall be separated from their envelopes and placed in appropriate piles.

(e) These election judges shall record the number printed on the official voter recording medium of the absentee ballot from which it was transcribed as provided in SecStat 3702 (d).

(f) After the polls close two election judges not of the same party shall check each absentee ballot with the vote-recording medium to determine that the medium records the absent voter's intent. Any write-in votes shall be recorded as provided in these rules.

(g) Vote-recording media processed under SecStat 3702 (f), shall be labeled "absentee", inserted in envelopes and placed with ballot cards cast by voters in person in that precinct.

SecStat 3703 - 3799 Reserved for Future Use.

(f) The judges shall examine all ballot cards for ballot cards with chad hanging and defective ballot cards.

(g) The intent of the voter is to be ascertained when processing ballot cards. Ballot cards with chad hanging shall be processed in the following manner:

(1) where a chad is found attached to the card by one corner, the chad shall be removed by the election judge and the ballot card placed with the other valid ballots;

(2) Where chad is found hanging by 2 or 3 corners the ballot card shall be defective for that office and shall be placed in the envelope for original cards for which duplicates are to be made at the counting center. (See Chapter 9, these rules.) (M.S. Chapter 206.185, Subd. 4.)

(h) Where it is clearly evident from examination of the ballot card that the ballot card has been mutilated or marked for the purpose of distinguishing it then such ballot card shall be defective and shall not be counted. Such ballot shall be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

(i) Where a write-in vote exists, the judges shall determine if it is valid and process it in the manner prescribed in SecStat 3802.

(j) When the ballot cards have been processed and checked, the judges shall determine that the number of ballot cards which they are submitting to the counting center for tabulation a grees with the number of names recorded in SecStat 3801 (c) less any discrepancy for which notations have been made in the precinct certification. The number of valid ballot cards which are being submitted for tabulation shall be entered in the appropriate place on the precinct certification and on the transfer case certificate.

(k) The election judges shall prepare a certificate indicating the number of ballot cards issued to the precinct, number of ballot cards issued to voters, number of spoiled ballot cards, and the number of unused ballot cards. The certificate shall be placed in the transfer case.

(l) The election judges shall place in the transfer case for delivery to the counting center all of the following items:

(1) valid voted ballot cards;

(2) ballot envelopes used in the election (unless they are placed and sealed in a separate metal container for separate delivery as determined by the election jurisdiction);
(3) envelope containing absentee ballots;
(4) envelope containing spoiled ballot cards;
(5) envelope containing defective ballot cards;
(6) envelopes with notations of contents containing any other issued ballot cards which are not to be counted;
(7) certificate signed by the judges indicating number of ballot cards received, issued and used;
(8) write-in tally return sheet;
(9) precinct header card (if included in precinct supplies);
(10) precinct certification.

If space in the transfer case is inadequate, then a second transfer case or metal container of a type approved by the election jurisdiction for storage of ballots is to be used and the sealing and security handled in the same manner as the transfer case.

(m) The election judges shall sign a "certificate of election judges". The certificate shall state:
(1) the number of electors who voted as shown by the precinct certification;
(2) that prior to opening the polls, all voting machines were examined and found to be sealed with metal seals bearing the same numbers as certified by the election jurisdiction;
(3) that the ballot labels were in their proper places;
(4) that the position of candidates names and ballot numbers on the ballot labels and the ballot cards were the same as appeared in the same position as indicated on the edit listing;
(5) that at the close of the polls each voting machine was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position;
(6) the number of ballot cards being submitted for tabulation;
(7) that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precinct certification;

(2) ballot envelopes used in the election (unless they are placed and sealed in a separate metal container for separate delivery as determined by the election jurisdiction);
(3) envelope containing absentee ballots;
(4) envelope containing spoiled ballot cards;
(5) envelope containing defective ballot cards;
(6) envelopes with notations of contents containing any other issued ballot cards which are not to be counted;
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(5) that at the close of the polls each voting machine was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position;
(6) the number of ballot cards being submitted for tabulation;
(7) that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precinct certification;

(f) The judges shall examine all ballot cards for ballot cards with chad hanging and defective ballot cards.

(g) The intent of the voter is to be ascertained when processing ballot cards. Ballot cards with chad hanging shall be processed in the following manner:

(1) where a chad is found attached to the card by one corner, the chad shall be removed by the election judge and the ballot card placed with the other valid ballots;

(2) Where chad is found hanging by 2 or 3 corners the ballot card shall be defective for that office and shall be placed in the envelope for original cards for which duplicates are to be made at the counting center. (See Chapter 9, these rules.) (M.S. Chapter 206.185, Subd. 4.)

(h) Where it is clearly evident from examination of the ballot card that the ballot card has been mutilated or marked for the purpose of distinguishing it then such ballot card shall be defective and shall not be counted. Such ballot shall be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

(i) Where a write-in vote exists, the judges shall determine if it is valid and process it in the manner prescribed in SecStat 3802.

(j) When the ballot cards have been processed and checked, the judges shall determine that the number of ballot cards which they are submitting to the counting center for tabulation a grees with the number of names recorded in SecStat 3801 (c) less any discrepancy for which notations have been made in the precinct certification. The number of valid ballot cards which are being submitted for tabulation shall be entered in the appropriate place on the precinct certification and on the transfer case certificate.

(k) The election judges shall prepare a certificate indicating the number of ballot cards issued to the precinct, number of ballot cards issued to voters, number of spoiled ballot cards, and the number of unused ballot cards. The certificate shall be placed in the transfer case.

(l) The election judges shall place in the transfer case for delivery to the counting center all of the following items:

(1) valid voted ballot cards;

(8) that all ballot cards requiring duplication are in the proper envelope;

(9) that all write-in votes have been properly recorded;

(10) that all ballot cards used in the election and all ballot cards to be duplicated have been placed in the transfer case and that the case was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal;

(11) the number of the seal used to seal the transfer case.

(n) The unused ballot cards and unused ballot envelopes shall be returned to the election official in charge of the election jurisdiction who shall issue a receipt therefore.

(o) The transfer case shall be sealed with a metal seal in such a manner so as to render it impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal shall be a certificate signed by the judges indicating its content and the number of the metal seal used to seal the said case. The seal number shall also be recorded in the certificate of election judges. The transfer case certificate shall be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the metal seal.

(p) The transfer case containing the required items as identified in SecStat 3801 (1) shall be delivered to the counting center by two election judges, not of the same political party.

(q) Unless otherwise provided, the closing of the precinct and return of the precinct supplies shall be the same as provided for paper ballot precincts.

SecStat 3802 Processing Write-In Votes.

(a) The election judges shall check all ballot envelopes (with the ballot card inside) or the write-in ballot portion of a combination ballot card/ write-in ballot in which a write-in appears and determine if the write-in vote is valid.

(b) A valid write-in vote shall record on the appropriate designated place for write-ins the following information:

(1) an office to be voted on at that election;
(2) and name to be considered as a write-in candidate for that office.

Stickers containing the above information are permissible.

(c) All write-in votes which are not recorded in the appropriate designated place for write-ins are not valid unless the number of write-ins exceed the number of spaces allowed for write-ins. In such a case, the write-ins in excess of the spaces provided are to be considered valid provided they are contained on the ballot envelope or write-in portion of the ballot card. All write-in votes which do not have an office or candidate's name indicated shall not be valid.

(d) When a valid write-in exists, the election judges shall determine if the write-in vote has caused an overvote. If the voter who writes in the name of a candidate also votes on the ballot card for that same office, then the ballot is defective for that office only.

(e) When a write-in vote is determined to be valid and no overvote condition exists, the election judges shall enter the candidate's name and the office on the write-in tally return. The ballot card shall be placed with the other valid ballot cards for tabulation. The envelope containing the write-in vote shall be placed in a separate pile containing write-in votes.

(f) When a write-in vote is determined to be valid and an overvote condition exists for that office, the election judges shall place the ballot card and write-in vote in the envelope of "original ballot cards for which duplicates are to be made." The manner of duplication shall be prescribed in Chapter 9 of these rules.

(g) At the discretion of the official in charge of the election for the election jurisdiction the processing of write-in ballots may be done at the counting center in lieu of at the precinct.

SecStat 3803 - 3899 Reserved for Future Use.

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(g) At the discretion of the official in charge of the election for the election jurisdiction the processing of write-in ballots may be done at the counting center in lieu of at the precinct.

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(8) that all ballot cards requiring duplication are in the proper envelope;

(9) that all write-in votes have been properly recorded;

(10) that all ballot cards used in the election and all ballot cards to be duplicated have been placed in the transfer case and that the case was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal;

(11) the number of the seal used to seal the transfer case.

(n) The unused ballot cards and unused ballot envelopes shall be returned to the election official in charge of the election jurisdiction who shall issue a receipt therefore.

(o) The transfer case shall be sealed with a metal seal in such a manner so as to render it impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal shall be a certificate signed by the judges indicating its content and the number of the metal seal used to seal the said case. The seal number shall also be recorded in the certificate of election judges. The transfer case certificate shall be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the metal seal.

(p) The transfer case containing the required items as identified in SecStat 3801 (1) shall be delivered to the counting center by two election judges, not of the same political party.

(q) Unless otherwise provided, the closing of the precinct and return of the precinct supplies shall be the same as provided for paper ballot precincts.

SecStat 3802 Processing Write-In Votes.

(a) The election judges shall check all ballot envelopes (with the ballot card inside) or the write-in ballot portion of a combination ballot card/ write-in ballot in which a write-in appears and determine if the write-in vote is valid.

(b) A valid write-in vote shall record on the appropriate designated place for write-ins the following information:

CHAPTER NINE: PROCEEDINGS AT THE COUNTING CENTER

SecStat 3901 Preliminary Procedures.

(a) the person(s) who shall operate the computer used for tabulation of ballots on election night shall not be the same persons who wrote the computer program. This shall not preclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operator(s) shall take and subscribe to the election judges oath. (See M.S. 203.25 for election judges oath);

(b) persons assigned to administer the counting center shall compare the seal number on the container containing the computer programs, computer center header cards, official test deck, and predetermined results with that recorded in the certificate of the public accuracy test to see that they agree;

(c) prior to the tabulation of ballots and again after the last precinct has been counted, the counting center personnel shall test the computer program and computer as to their accuracy and certify the results;

the accuracy test shall be conducted with the test deck or ballot image designated in Chapter 3 of these rules. Copies of these test results shall be designated "prior to tabulation of ballots" or "after tabulation of ballots". A copy of each test certificate shall accompany the results of the tabulation of the ballots and be filed with the county auditor in the county where the precincts are located;

(d) authorized counting center personnel may at their discretion test the program using the official test deck or ballot image periodically throughout

the tabulation of ballots to insure that the program and computer are operating accurately.

(e) A console log including the count and accuracy test and the tabulation of the ballots shall be maintained and certified by the computer operators and the election official in charge of the counting center to the municipal clerk unless it contains information on more than one municipality in which case it shall be delivered to the county auditor. In the event the computer is not capable of creating a console log, then a manual log of any abnormal events shall be maintained.

SecStat 3902 Procedures for Transfer Cases.

(a) Upon receipt of the transfer case from the election judges of a precinct, authorized counting center personnel shall check the identification on the transfer case to see that it matches the identification on the judges certificate. The transfer case shall then be opened and checked to see that it contains the ballots and any other material required by these rules. The opened metal seal from the transfer case shall be placed inside the case. The identification on the case shall be noted on all reporting materials. Authorized counting center personnel shall then issue a certificate to the election judges delivering the case acknowledging receipt of all materials.

(b) The transfer case containing the ballot cards shall then be delivered to the proper counting center personnel for preparation for tabulation. The election official in charge of the counting center shall provide adequate security at the counting center.

(c) In processing the ballot cards of a given precinct, the computer center header card and the precinct header card shall be placed in front of the deck of ballot cards of the respective precinct. The end card shall immediately follow the deck of ballot cards.

(d) Immediately upon the completion of the counting of a precinct, all ballot cards for the precinct and precinct header cards shall be returned to the transfer case and sealed as to make it impossible to open the case without breaking the seal.

(e) The election official in charge of the counting center shall determine if the number of ballot cards tabulated by the computer agrees with the number of ballot cards submitted by the election

the tabulation of ballots to insure that the program and computer are operating accurately.

(e) A console log including the count and accuracy test and the tabulation of the ballots shall be maintained and certified by the computer operators and the election official in charge of the counting center to the municipal clerk unless it contains information on more than one municipality in which case it shall be delivered to the county auditor. In the event the computer is not capable of creating a console log, then a manual log of any abnormal events shall be maintained.

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(a) the person(s) who shall operate the computer used for tabulation of ballots on election night shall not be the same persons who wrote the computer program. This shall not preclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operator(s) shall take and subscribe to the election judges oath. (See M.S. 203.25 for election judges oath);

(b) persons assigned to administer the counting center shall compare the seal number on the container containing the computer programs, computer center header cards, official test deck, and predetermined results with that recorded in the certificate of the public accuracy test to see that they agree;

(c) prior to the tabulation of ballots and again after the last precinct has been counted, the counting center personnel shall test the computer program and computer as to their accuracy and certify the results;

the accuracy test shall be conducted with the test deck or ballot image designated in Chapter 3 of these rules. Copies of these test results shall be designated "prior to tabulation of ballots" or "after tabulation of ballots". A copy of each test certificate shall accompany the results of the tabulation of the ballots and be filed with the county auditor in the county where the precincts are located;

(d) authorized counting center personnel may at their discretion test the program using the official test deck or ballot image periodically throughout

judges at the precinct. If a discrepancy exists, authorized counting center personnel shall correct it. In the event the discrepancy cannot be resolved, a notation shall be made of the pertinent facts on the statement of returns.

(f) The secretary of state may require that a manual count of one office in any precinct be conducted by the authorized personnel at the counting center prior to certification of the computer tabulated results for that precinct. If the manual count and the computer tabulated results do not agree, the election official in charge of the counting center shall not certify the results until the discrepancy has been reconciled.

SecStat 3903 Duplication of Ballots. Any ballots requiring duplication at the counting center shall be duplicated in the following manner:

(a) Whenever a ballot card is required to be duplicated, the duplication process shall be performed by two election judges not of the same political party.

(b) Whenever it is necessary to duplicate a ballot card, the duplicate card and the original card shall be identified with a single number written on both cards. The number on the duplicate card shall be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering shall be serial.

(c) The reason for duplication shall be written on the duplicate ballot card: i.e., write-in, chad, damaged,

The election judges duplicating the card shall initial the duplicated card and the original card.

(d) When duplicating a ballot card, one election judge shall call from the original ballot card the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. Duplicate ballot card shall be compared against the original ballot card to assure it has been accurately duplicated.

(e) All original ballot cards which require duplication shall be placed in an envelope marked "original ballot cards for which duplicates have been made". The duplicated ballot card shall be placed with the other valid ballot cards to be tabulated.

(f) Any writing required on any ballot card shall be done with a soft tip marking instrument.

SecStat 3904 Copies of Returns. The election official in charge of the counting center shall certify four copies of the returns. The certification shall state the name of the community, precinct numbers, offices, names of candidates, number of persons registered before polls open on election day (in those election jurisdictions having voter registration), number of persons who registered on election day (in those areas having voter registration), number of ballots counted, vote totals, and any other data defined by the secretary of state such as precinct identification number. Authorized personnel in the counting center shall transfer any numbers to forms supplied by the secretary of state for the purpose of state-reporting of election results. The statement of returns may be a computer print-out as well as any form(s) designated by the secretary of state for the purpose of preparing the state canvassing board report and publication of election results.

SecStat 3905 Distribution of Returns. Returns as referenced in SecStat 3904 shall be certified to the municipal clerk who shall retain one copy of the statement of returns and send the remaining three (3) copies to the county auditor, along with any forms determined by the secretary of state to be on file with the state. The county auditor shall retain one copy of the statement and forward the two remaining copies of the statement to the secretary of state together with two (2) copies of the report of the county canvassing board report as required in M.S. 204.29, Subd. 4. Copies of any additional forms determined by the secretary of state for preparation of the state canvassing board report and other public reports of the election shall be completed and returned to the secretary of state.

SecStat 3906 Delivery of Material After Counting. After the last precinct has been counted and the final accuracy test has been conducted, the election official in charge of the counting center shall deliver all materials to the office of the municipal clerk of each election jurisdiction served by the counting center. That clerk upon filing reports as prescribed in SecStat 3905 shall retain all ballots and voter certificates for one year unless otherwise ordered by a court order or recount procedure as defined by Minnesota Statutes. Test decks or ballot images, accuracy test results and computer programs shall be delivered to the county auditor.

SecStat 3907 County Auditor to Maintain Materials. The county auditor shall maintain the materials forwarded as required in

judges at the precinct. If a discrepancy exists, authorized counting center personnel shall correct it. In the event the discrepancy cannot be resolved, a notation shall be made of the pertinent facts on the statement of returns.

(f) The secretary of state may require that a manual count of one office in any precinct be conducted by the authorized personnel at the counting center prior to certification of the computer tabulated results for that precinct. If the manual count and the computer tabulated results do not agree, the election official in charge of the counting center shall not certify the results until the discrepancy has been reconciled.

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(a) Whenever a ballot card is required to be duplicated, the duplication process shall be performed by two election judges not of the same political party.

(b) Whenever it is necessary to duplicate a ballot card, the duplicate card and the original card shall be identified with a single number written on both cards. The number on the duplicate card shall be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering shall be serial.

(c) The reason for duplication shall be written on the duplicate ballot card: i.e., write-in, chad, damaged, defective (specify the office(s) or proposition(s) for which the ballot card is defective.) The election judges duplicating the card shall initial the duplicated card and the original card.

(d) When duplicating a ballot card, one election judge shall call from the original ballot card the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. Duplicate ballot card shall be compared against the original ballot card to assure it has been accurately duplicated.

(e) All original ballot cards which require duplication shall be placed in an envelope marked "original ballot cards for which duplicates have been made". The duplicated ballot card shall be placed with the other valid ballot cards to be tabulated.

(f) Any writing required on any ballot card shall be done with a soft tip marking instrument.

SecStat 3905 and SecStat 3906 for a period of one year unless otherwise advised by a court order or recount procedure as defined by Minnesota Statutes.

SecStat 3908 - 3999 Reserved for Future Use.

CHAPTER TEN: CANVASS OF ELECTIONS

SecStat 4001 Canvass of Votes. the provisions of Minnesota Statutes 204.a.40-204.a.54 shall apply except as they are inconsistent with the provisions of these rules;

SecStat 4002 Incomplete Returns. if the returns certified by any counting center are missing, incomplete, or incorrect, the municipal canvassing board, the county canvassing board, or the state canvassing board may secure assistance in determining the correct returns of the election;

SecStat 4003 Canvassing Board Powers, Computer Programs, Procedures. the canvassing board of any municipality or county or the state canvassing board is empowered to summon before the board the person(s) having custody of the elements of the system;

(a) the canvassing board may inspect the computer and any elements of the vote tallying system and may conduct any test deemed necessary, relevent to determining the accuracy of the system;

(b) if it is found that any element of the system which was used to tabulate the ballots is incorrect and produced incorrect returns, the canvassing board of any municipality or county or state canvassing board is empowered to require the vendors who supplied the original elements of the system to correct the errors and to submit to the board corrected elements be used to retabulate the ballots;

(c) in such an event a public accuracy hearing shall be held under the direction of the canvassing board at which time the corrected system shall be tested and certified as provided in Chapter 3, and the ballots of the precincts involved retabulated;

(d) the re-tabulation of ballots shall be conducted by the canvassing board in the same manner prescribed for tabulation of ballots in Chapter 9.

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SecStat 3905 and SecStat 3906 for a period of one year unless otherwise advised by a court order or recount procedure as defined by Minnesota Statutes.

SecStat 3908 - 3999 Reserved for Future Use.

A certified copy of the report of any systems problem shall be filed by the canvassing board with the secretary of state within 48 hours after the request.

SecStat 4004 Canvassing Board Powers, Counting Center Procedures. the canvassing boards whether municipal, county, or state are empowered to summon the persons having the transfer cases containing the ballots, to bring them before the board;

(a) the board of canvassers is authorized to open the boxes and take therefrom any books or papers bearing upon the count and return of the election judges, but they shall not remove or mark ballots therein;

(b) the canvassing board when deemed necessary for a proper count, may summon the precinct election judges, counting center personnel, and any other election judges involved in the processing and tabulation of ballots as the case may be and require them to count any ballots which they failed to count;

(c) if in the judgement of the canvassing board after examining the returns, precinct certification, or computer programs, the returns already made are incorrect or incomplete, the canvassing board shall canvass the vote from the corrected returns.

SecStat 4005 Procedures After Canvass. when the examination of papers or computer programs is completed or the ballots have been counted or retabulated as provided in this chapter, they shall be returned to the transfer case or containers and be sealed and delivered to the legal custodian thereof. The number of the seal shall be recorded on a certificate to be filed with the clerk of the canvassing board.

SecStat 4006 Liability for Voting System Error. should it be determined that an error in vote tabulation is dependent upon some liability in the vendor's specifications for the voting system, the vendor shall be allowed one calendar year from

the date of the retabulation of the ballot cards to submit to the secretary of state justification for the liability in order to have its certification to supply that voting system in this state continued. The secretary of state may request assistance from computer experts(s) to review the justification and may request successful completion of an acceptance test as provided in Chapter 2 before approving continuance of certification to supply that voting system in Minnesota.

SecStat 4007 Recounts. once a recount has been determined either by law or the order of a court, the official charged with recounting the ballot cards shall call those persons to his assistance as is necessary to administer the recount;

(a) the recount of any office shall not delay the certification of other candidates for other offices declared elected by the canvassing board;

(b) in the event it is found by the canvassing board during a recount, that the elements of the system which were used on election night were in error and produced incorrect returns for the office or question being recounted, then all precincts affected by the error in the system shall be recounted for the office or question being recounted regardless of whether or not they have been petitioned for a recount.

SecStat 4008-4099 Reserved for Future Use.

The regulations adopted by the attorney general September 6, 1968 governing the experimental use of electronic voting systems are hereby rescinded.

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The regulations adopted by the attorney general September 6, 1968 governing the experimental use of electronic voting systems are hereby rescinded.

A certified copy of the report of any systems problem shall be filed by the canvassing board with the secretary of state within 48 hours after the request.

SecStat 4004 Canvassing Board Powers, Counting Center Procedures. the canvassing boards whether municipal, county, or state are empowered to summon the persons having the transfer cases containing the ballots, to bring them before the board;

(a) the board of canvassers is authorized to open the boxes and take therefrom any books or papers bearing upon the count and return of the election judges, but they shall not remove or mark ballots therein;

(b) the canvassing board when deemed necessary for a proper count, may summon the precinct election judges, counting center personnel, and any other election judges involved in the processing and tabulation of ballots as the case may be and require them to count any ballots which they failed to count;

(c) if in the judgement of the canvassing board after examining the returns, precinct certification, or computer programs, the returns already made are incorrect or incomplete, the canvassing board shall canvass the vote from the corrected returns.

SecStat 4005 Procedures After Canvass. when the examination of papers or computer programs is completed or the ballots have been counted or retabulated as provided in this chapter, they shall be returned to the transfer case or containers and be sealed and delivered to the legal custodian thereof. The number of the seal shall be recorded on a certificate to be filed with the clerk of the canvassing board.

SecStat 4006 Liability for Voting System Error. should it be determined that an error in vote tabulation is dependent upon some liability in the vendor's specifications for the voting system, the vendor shall be allowed one calendar year from

PROPOSED AMENDMENTS

TO THE

RULES OF THE SECRETARY OF STATE

FOR

VOTER REGISTRATION

(Implementing Minnesota Statutes Chapter 201)

April 6, 1976

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CHAPTER ONE: County Auditor's Duties

SecStat 101 Delegation of Duties. The county auditor may delegate to municipal officials all duties assigned to him by these rules and by Minnesota Statutes, Chapter 201, except the responsibility to maintain custody of the original file of voter registration, the preparation and distribution of precinct lists and the duties assigned to him by Chapter Nine of these rules. The auditor may delegate the responsibility to accept voter registrations, but a delegation of this responsibility does not relieve the auditor of his duty to accept voter registrations.

SecStat 102 Auditor's Rules Filed with the ~~Commissioner~~ Secretary of State. Whenever a county auditor adopts rules for the delegation of voter registration duties assigned to him, the auditor shall file a copy of the rules with the ~~commissioner~~ secretary of state no later than five working days before the effective date of the rules.

SecStat 103-199 Reserved for future use.

CHAPTER TWO: Registration Files

(SecStat 201 is repealed.)

(SecStat 202 is renumbered 201.)

SecStat ~~203~~ 202 Delivery of Duplicate File for Elections. The county auditor shall provide for the transportation of the duplicate voter registration file to the precinct polling place ~~for elections~~ on election day. The auditor shall prescribe procedures which will insure the safety of the voter registration records and their timely delivery at the precinct polling place on election day. It shall be

the duty of the auditor to maintain the dignity and integrity of the voting system.

SecStat ~~204~~ 203-299 Reserved for future use.

CHAPTER THREE: VOTER REGISTRATION CARDS

SecStat 301 Specifications.

(a) Voter registration cards printed for the purpose of distribution and mailing shall be printed in the following manner:

(1) The size shall be 6" X 12-3/4" (including 3 ¼" stub).

(2) The paper shall be approximately white 80 lb. offset.

(3) The ink shall be black ~~(face-and-back)~~.

(4) The duplicate card shall have a very light ~~grey~~ blue screen.

(5) The card shall have three 1/16" perforations that result in the three equal size cards 6" X 4".

(6) The top stub shall have a substance applied to it so that the card can be sealed when it is folded together for mailing.

(b) The original voter registration card shall be in the ~~following~~ form prescribed in Minnesota Statutes Chapter 201 and these rules:

VOTER REGISTRATION CARD

Read instructions before completing - Please type or print in ink

Name _____
Last First Middle

~~Mailing Address~~

Legal Residence _____
Street or Route No. (Do not use P.O. box ~~include county~~) Apt. No. (and rural box number)

_____
~~Village~~ City (and/or Township) ~~(if~~

_____
~~different from above)~~ County Zip

W. _____ P. _____

S.D. No. _____

OFFICE USE ONLY

Telephone Number (optional) _____

Previous Name (if changed since last registration) _____

~~Last previous registration (if any)~~ Most Recent Prior

Residence _____
Street or Route No. Apt. No.

_____
City ~~,-Village~~ (and/or Township) County State Zip

~~Address of last previous~~ Your Address at Your Most Recent Prior

Registration ~~(if any)~~ _____
Street or Route No. ~~Apt.-No.~~

_____
City ~~,-Village~~ (and/or Township) County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

I certify that I will be at least 18 years old on election day and the above facts are correct. I understand that giving false information to procure a registration is a felony punishable by not more than 5 years imprisonment and a fine of not more than $5,000, or both.

___/___/___ _____
Date Legal Signature of Voter

Be sure to sign the ~~duplicate~~ blue card

In the upper right hand corner of the card there shall be a 1-1/2" wide by 1" long box marked for "office use only". In the box there shall be: "W_____", "P_____", and "S.D. No._____". (These initials stand for "ward", "precinct" and "school district".)

(c) The duplicate voter registration card shall be in the following form:

DUPLICATE VOTER REGISTRATION CARD

Sign this card - DO NOT COMPLETE
The information will be typed by the voter registration office.

Name _____ | W. _____ P. _____
Last First Middle

~~Mailing address~~

Legal Residence _____ | S.D. No. _____

Street or Route No. (Do not use P.O. box ~~include county~~) Apt. No. (and rural box number)

_____ | OFFICE USE ONLY

~~Village~~ City (and/or Township) ~~(if~~

_____ | _____

~~different from above)~~ County Zip

Telephone Number (optional) _____

Previous Name (if changed since last registration) _____

~~Last previous registration (if any)~~ Most Recent Prior

Residence _____

Street or Route No. Apt. No.

_____

City ~~, Village~~ (and/or Township) County State Zip

~~Address of last previous~~ Your Address at Your Most Recent Prior

Registration ~~(if any)~~ _____

Street or Route No. ~~Apt. No.~~

_____

City ~~, Village~~ (and/or Township) County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

_____ / / _____

Date Legal Signature of Voter (for identification only)

In the upper right hand corner of the card there shall be a 1-1/2" wide by 1" long box marked for "office use only". In the box there shall be: "W_____", "P_____", and "S.D. No._____". (These initials stand for "ward", "precinct" and "school district".)

(d) The instruction card shall be in the following form:

~~INSTRUCTIONS-FOR-VOTER-REGISTRATION~~

READ CAREFULLY BEFORE REGISTERING

~~Eligible-voter-means-a-person-who-at-the-time-of-any-election:~~

~~(a)--Is-18-years-of-age-or-older,~~

~~(b)--Is-a-citizen-of-the-United-States-and~~

~~(c)--Has-resided-in-Minnesota-for-20-days.~~

~~The-following-persons-are-not-eligible-voters:-~~

~~(a)--Any-person-who-has-been-convicted-of-a-felony-or-treason, who-has-not-been-restored-to-his-civil-rights;~~

~~(b)--Any-person-who-is-under-guardianship-over-his-person;~~

~~(c)--Any-person-who-is-adjudicated-to-be-non-compos-mentis-or insane;-and-~~

~~(d)--Any-person-who-is-not-properly-registered.~~

~~GIVING-FALSE-INFORMATION-TO-PROCURE-A-REGISTRATION-OR-ATTEMPTING-TO REGISTER-WHEN-NOT-QUALIFIED-ARE-FELONIES-PUNISHABLE-BY-NOT-MORE-THAN-5-YEARS-IMPRISONMENT-OR-A-FINE-OF-NOT-MORE-THAN-$5,000,-OR-BOTH.~~

1. Print in ink or type all information requested on the white card.
2. ~~Your-telephone-number-is-optional.~~ Print or type your legal name -- Do not use nicknames.
3. ~~If-your-name-has-been-changed-through-marriage,-divorce-or decree-or-order-of-court-since-your-last-voter-registration or-residence,-print-or-type-your-former-name-on-the-appropriate line.~~ Your residence should be that place where you actually live -- Post Office Boxes cannot be accepted as legal residence.
4. ~~Last-previous-address -- Print-or-type-your-last-address-before-moving-to-present-address.~~ Print or type your most recent prior residence.

5. Address of last previous registration -- Print or type the address from which you were last registered to vote. If same as last previous address, print or type "same". If you have never been registered to vote before, print or type "none".

6. After the white card is completed, sign your full name in ink on the appropriate line on both the white card and the ~~grey~~ blue card.

7. The ~~grey~~ blue card must be signed in ink on the line where it is required, but do not fill ~~out~~ in the ~~grey~~ blue card. It will be typed in by the voter registration office.

8. After the ~~first~~ white card is completed and both cards are signed, seal using sealing tab attached.

9. Complete the address on the reverse of the white registration card by filling in the name of the county where you reside and the name of the city which is the county seat. Mail or deliver to the ~~auditor~~ office of the county auditor.

An eligible voter is a person who at the time of any election:

(a) is 18 years of age or older,

(b) is a citizen of the United States and

(c) has resided in Minnesota for 20 days.

The following persons are not eligible voters:

(a) any person who has been convicted of a felony or treason, who has not been restored to his civil rights;

(b) any person who is under guardianship over his person;

(c) any person who is adjudicated to be non-compos mentis or insane, and

(d) any person who is not properly registered, in areas that provide for voter registration.

(e) The reverse side of the original (white) registration card shall be in the following form:

first
class
postage

RETURN TO:

(here the county auditor shall supply the address)

(f) The reverse side of the duplicate (blue) registration card shall be ~~in the following form:~~ lined horizontally with lines of 1/4" wide and divided vertically into four sections to allow the judges of election to record the date of the election the voter voted.

(Diagram of the back of the duplicate card is repealed.)

(g) (Repealed.)

(h) (Repealed.)

SecStat 302 Printing and Distribution. Each county auditor in each county with voter registration shall cause to be printed and shall maintain an adequate number of voter registration ~~forms~~ cards in compliance with Minnesota Statutes Chapter 201 and these rules. Any election official who causes voter registration cards to be printed shall print the cards in a form prescribed by Minnesota Statutes Chapter 201 and these rules. The auditor shall ~~give~~ provide voter registration cards to any person or group who requests ~~in writing~~ a reasonable number of ~~forms~~ cards for the purpose of distribution. In those areas which have pre-election day registration, the auditor shall encourage pre-election day registration by making registration cards available to persons and groups for distribution.

SecStat 303-399 Reserved for future use.

CHAPTER FOUR: PLACES OF REGISTRATION

SecStat 401 Duties. Each county auditor in every county with voter registration shall designate a number of public buildings within the county where persons may obtain, complete and deposit registration ~~forms~~ cards. The county auditor or his designee shall be on duty in the building so designated and it shall be the duty of the person on duty to transmit completed registration ~~forms~~ cards within two working days after receipt, to the county auditor.

SecStat 402 Number of Buildings. There shall not be in any county with voter registration less than one building where voter registration ~~forms~~ cards may be obtained and deposited, for every 30,000 residents of the county or fraction thereof. The buildings shall be located throughout the county according to population distribution. The auditor may designate more buildings than are required by law.

SecStat 403 Polling Places. Procedures concerning election day registration at the polling place are covered in Minnesota Statutes Chapter 201 and Chapter Six of these rules.

SecStat ~~403~~ 404-499 Reserved for future use.

CHAPTER FIVE: ~~REGISTRATION~~ NOTIFICATIONS

SecStat 501 Properly Completed Registrations. When ~~the~~ a county auditor determines that a registration card is ~~not faulty or defective~~ properly completed, he shall separate the parts of the card.

~~The part of the card with instructions on it may be destroyed.~~ Using the information on the original card, the auditor shall complete the duplicate card. The auditor shall then file the original card in the original card file and the duplicate card in the duplicate card file. The county auditor shall maintain both files in an orderly manner. The county auditor shall cause the following form to be mailed to the newly registered voter:

Mailed Notice

You are hereby notified that your name and address appears on the original Voter Registration Card as shown on this card.

If your name and address are correct, your Registration is complete and you will be listed at the polling place shown on this card.

_____
_____
whose address is listed as

_____
_____
_____, Minnesota.

is registered to vote in the _____ (City

_____ of _____
or township)

Ward _____ Precinct _____

County of _____

_____ County Auditor

Check the information on the card and notify the County Auditor if your name or address is incorrect. In case you move, notify the County Auditor's Office in person at least 20 days before the next election so that you may change your registration to the proper polling place.

SecStat 502 Registrations Received Fewer than Twenty Days Before an Election. When an auditor receives correctly completed registrations during the period when registration cannot be accepted for an election,

the auditor shall notify the applicant that he must register on election day to vote at the upcoming election. Included in this notification shall be information to the voters concerning the manner they may register to vote on election day at the polls. The auditor shall notify the person of any additional election day registration procedures that may aid the voter in becoming registered and thus allowing him to vote. In the notice to the applicant the auditor shall explain that the registration form card received by the auditor makes the applicant an eligible voter at the next election following the upcoming election.

SecStat 503 Faulty or Deficient Registrations. When a person attempts to register prior to election day and the county auditor determines that the registration is faulty or defective, the auditor shall notify the person attempting to register that his registration was not correctly completed. The auditor shall attempt to ~~get~~ obtain the needed information by mail or by telephone. If a registration card is faulty or defective and the address or the telephone number cannot be determined, the registration card shall be removed from the files and maintained separately for one year. The applicant shall be allowed to vote only after correctly completing a registration card.

When the auditor notifies a person of an incorrectly completed registration, the auditor shall also notify the applicant of the dates on which registrations cannot be accepted for an election and of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the next election following the upcoming election.

When an auditor receives a faulty or deficient registration during the period when registrations cannot be accepted for an election, the auditor shall notify the applicant that he must register at the polling place of the precinct in which he resides on election day to vote at the election. The auditor shall also notify the applicant of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the election following the upcoming election.

SecStat 504 Wrong County. When a county auditor receives a registration card from a person who he has reason to believe is a resident of another county, he shall within two working days forward the registration card to the auditor of the proper county if it can be ascertained. The auditor shall notify the applicant of the action. Upon receipt of a voter registration card that is identified in Minnesota Statutes as not properly completed, filed with the wrong office, or filed during a period when pre-election day voter registration cannot by law be accepted, the following ineffective registration (mailed) notice shall be sent to the person requesting to become registered:

NOTICE OF INEFFECTIVE REGISTRATION

IMPORTANT INFORMATION ABOUT YOUR VOTER REGISTRATION

To: _____

Your Voter Registration cannot be accepted by this office for the following reason(s):

1. _____ Wrong county. Your registration has been forwarded to _____ County.

2. _____ Incomplete: _____

_____

_____

3. _____ Your registration was received fewer than twenty days before the upcoming election. It will be effective on ___/___/___. (day after next election.)

4. _____ Minnesota law provides that pre-election day registration for the upcoming ___/___/___ election
(Date of next election)

be received in this office by __/__/____ . You may register to vote at the polling place on election day by using either a valid Minnesota Driver's License; or a non-qualification certificate; or a current homestead property tax statement; or an apartment lease currently in effect; or by having a person who is registered to vote in the precinct witness your registration; or by presenting this mailed card at the precinct.

Your Polling Place is _____.

_____ County Auditor __/__/____
(signature) (date)

(SecStat 506 and 507 are repealed.)

SecStat 506 Auditors Notification Form. County auditors may use reproductions of the original registration card to notify the auditor of the county of former registration. When a registration is received by a county auditor and the person requesting to register indicates they were previously registered to vote the county auditor shall notify the county auditor in the county of previous residence that the voter has changed residency. The form for notification shall be in the following form:

To the Auditor of _____ County
County Courthouse
_____, Minnesota
(county seat)

The following person has registered to vote in _____ County. You are hereby requested to check your registration files and remove the person's name if it should appear in your file.

Voter's name _____

Voter's former address _____

_____

Auditor of _____ County

Copy of original voter registration card enclosed _____

(SecStat 508 through 511 are renumbered 507 through 510)

SecStat ~~512~~ 511 Name Omitted, Emergency Voting. When any voter who has registered prior to an election day is challenged because his name does not appear in the duplicate registration file of the precinct in which he desires to vote, he may register on that election day by following the election day registration procedures provided by Chapter Six of these rules; or if it appears upon examination that such name was erroneously omitted from the file, he shall be permitted to vote in the precinct, and an emergency voting card shall be signed by the applicant and the judges, containing ~~substantially~~ the following information:

EMERGENCY VOTING CARD

Ward _____ Precinct _____

Voter's name _____

Residence _____

_____

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

_____ _____
(Signature of Voter) (Judge of Election)

_____ _____
(Signature of judge calling auditor's office) (Judge of Election)

_____
(Judges of Election)

~~Authorized by~~

SecStat ~~513~~ 512-599 Reserved for future use.

CHAPTER SIX: ELECTION DAY REGISTRATION

SecStat 601 Residence. Any person otherwise qualified but not registered to vote in the precinct in which he resides may register to vote on election day at the polling place of the precinct in which he resides in areas with voter registration. To register on election day a person must complete and sign the original card, sign the duplicate card ~~, make the oath prescribed by SecStat 602~~ and provide proof of his residence. A person may prove his residence on election day only by presenting a valid Minnesota drivers license ~~,~~ or a valid non-qualification certificate issued by the Minnesota Department of Public Safety, a current homestead property tax statement, an apartment lease currently in effect or an "ineffective registration notice" mailed by the county auditor or by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the following oath:

I, _____, swear that I am a registered voter in _____

County City ~~, Village~~ or Township Ward

_____ and that I personally know that

Precinct

_____ is a resident of this precinct.

Name of person registering

_____

Signature of Registered Voter

Subscribed and sworn to before me

~~this _____ day of _____, 19____~~

_____

Signature of Election Judge

_____

Date

The above oath shall be printed on a 4" X 6" card by the county auditor. After every election day the county auditor shall file the oaths and maintain them for one year.

SecStat 602 Swearing to Residence. No person in a polling place as a challenger, pursuant to Minnesota Statutes ~~,-204.06~~ 204A.38, shall be permitted to swear to the residence of any persons attempting to register on election day. A registered voter, including an election judge, may swear to the residence of any person who he ~~shall~~ knows to be a resident of the precinct; provided, however, that a judge ~~shall~~ swears to ~~the~~ such residence before another election judge.

(SecStat 603 is repealed.)

SecStat ~~604~~ 603 Election Judges. One judge may both distribute ballots and register voters during the course of an election day, but one judge shall not perform both functions for the same voter. Persons wishing to register to vote on election day may determine whether they wish to fill out the voter registration card themselves or request the assistance of an election judge. The judges shall confine their questions to information necessary to complete the voter registration card and may only deviate from the information on the card to determine the qualifications of a voter to register and then only after the voter's right to register has been challenged as provided in Minnesota Statutes and these rules.

(SecStat 605 is repealed.)

(SecStat 606 is renumbered 604.)

SecStat ~~607~~ 605-699 Reserved for future use.

SecStat 703 Cost Determination. When a county auditor determines the cost of copies of ~~precinct~~ lists of registered voters, the auditor shall take into account only the costs of reproduction actually incurred by his office to fill the specific request. The auditor shall not take into account the general office expenses or other expenses which would have been incurred by the auditor's office even without the preparation of the request.

SecStat 704-799 Reserved for future use.

CHAPTER EIGHT: CHALLENGES

SecStat 801 ~~Form for Challenges.~~ Procedure. ~~A petition to challenge a registration shall be in substantially the following form:~~ Persons wishing to challenge a voter's registration pursuant to Minnesota Statutes 201.231 shall do so in the following form:

To the Auditor of _____ County
County Courthouse

_____, Minnesota
(County Seat)

I, _____, am a registered voter in
(Name of person making challenge)

_____, County, Minnesota. I reside at

_____
(Street or Route No.) (City ~~, Village~~ or Township)

I challenge the registration of _____
Name of challenged voter

whose registration lists his residence as _____
(Street or Route No.)

_____
(City ~~, Village~~ or Township)

The grounds for my challenge are: _____

_____
(attach additional sheets of signed statement if necessary)

CHAPTER SEVEN: COPIES OF ~~PRECINCT LISTS~~ LISTS OF REGISTERED VOTERS

SecStat 701 Request Form. Persons requesting copies of ~~precinct~~ lists of registered voters shall make the request in ~~substantially~~ the following form:

To the Auditor of _____ County
County Courthouse

_____, Minnesota
County Seat

I hereby request copies of the ~~precinct~~ lists of registered voters for the following precincts: _____

_____
(attach additional sheets if necessary)

My name is _____

I reside at _____
Street address City (or Township)

I certify that I am a registered voter in this county. I am aware that using the ~~precinct~~ lists of registered voters for purposes not related to elections, political activities or law enforcement is a violation of the law.

_____ _____
Date (signature)

SecStat 702 Lists in other Forms. A county auditor may make available ~~precinct~~ lists of registered voters in forms other than paper copies, such as duplicate computer tapes. The Secretary of State shall have the authority to review and determine satisfactory methods of reproducing lists of registered voters. This rule does not relieve the auditor of the duty to make paper copies of ~~precinct~~ lists of registered voters available.

____/__/____ _____

(Date) (signature of challenger)

The petition shall be accompanied by an affidavit of the challenger stating the basis for the challenge on personal knowledge.

SecStat 802-899 Reserved for future use.

CHAPTER NINE: ANNUAL REPORT

SecStat 901 Auditor's Duties. Each county auditor, in every county where there is permanent voter registration, shall file with the ~~commissioner~~ secretary of state by February 1 of each year a report of the conduct of voter registration and voting in the county for the period from January 1 through December 31 of the preceeding calendar year. The report shall be on a form provided by the ~~commissioner~~ secretary of state.

SecStat 902 Information on the Report. ~~The annual report shall contain the following:~~ In general election years the following information shall be contained on the annual report for the state primary and the state general elections:

I. (1) The number of registered voters.

(2) An ~~itemized~~ account of the cost of registering voters.

(3) The name of each governmental unit having pre-election day registration.

(a) The number of persons registered in each.

(b) The number of persons registered on ~~each election day~~ the days of the state primary and general elections.

(4) The name of each governmental unit having only election day registration.

(a) The number of persons registered in each.

(b) The number of persons registered on ~~each-election day~~ the days of the state primary and general elections.

II. (1) The number of persons voting ~~at-each-election-~~ in the state primary and general election.

(2) An ~~itemized-~~account of the cost of elections.

(3) The number of persons voting in each governmental unit having pre-election day registration ~~at-each-election~~ on the day of the state primary and general elections.

(4) The number of persons voting in each governmental unit having only election day registration ~~at-each-election~~ on the days of the state primary and general elections.

III. (1) The number of requests for copies of precinct lists of registered voters. The cost charged to each person making the request.

(2) The number of requests for voter registration ~~forms~~ cards for the purpose of general distribution. The number given for each request. The total number of ~~forms~~ cards given out for general distribution.

IV. (1) The number of persons eligible to register, whether or not registered in each governmental unit (estimated).

(2) A narrative description of any registration drives conducted in the county.

SecStat 903 Information on the Report Compiled During Years When There is No State Primary or General Election.

I. The total number of registered voters in the county.

II. The total cost of registering voters in the county.

SecStat ~~903~~ 904-999 Reserved for future use

CHAPTER TEN: ELECTRONIC OR AUTOMATIC DATA PROCESSING SYSTEMS

SecStat 1001 Approval by ~~commissioner~~ Secretary of State. Any county auditor may maintain voter registration records on electronic or automatic data processing systems; provided, however, that the auditor shall obtain the approval of the proposed system from the ~~commissioner~~ secretary of state prior to its implementation.

SecStat 1002 Compatible with State System. Any voter registration records maintained on electronic or automatic data processing systems and provided ~~to the state of Minnesota shall be provided in a format compatible with the state's computer system.~~ registered voters within the county shall include, and be limited to, in this order, horizontally across form and double spaced between entries: registrant name, address (including street or route number, city or township and zip code) and telephone number when provided by the registrant. Each entry in a precinct shall be arranged in alphabetical order by last name of registrant. Each precinct shall be entered in the municipality listing in numerical order by precinct number. Each municipality shall be entered in alphabetical order by municipality name within the county. Standards for data entry shall be compatible with secretary of state standards.

SecStat 1003-1099 Reserved for future use.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JOAN ANDERSON GROWE

SECRETARY OF STATE

In the matter of the Proposed Adoption of Rules of the Secretary of State for the Examination and Use of Voting Machines and Proposed Amendments to the Rules of the Secretary of State for Voter Registration

ORDER FOR HEARING

To effectively implement Minnesota Statutes Chapters 201 and 206 (1974), as amended, the Minnesota Secretary of State deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by Minnesota Statutes Sections 201.221 (1974) and 206.08 Subdivisions 1 and 2 (Supplement 1975).

NOW, THEREFORE, IT IS ORDERED this Fifth day of March, 1976, that a public hearing on the proposed rules captioned above be held in Room 83 of the State Office Building, St. Paul, Minnesota, on Tuesday, April 6, 1976, commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose.

STATE OF MINNESOTA
SECRETARY OF STATE

Joan Anderson Growe

JOAN ANDERSON GROWE
SECRETARY OF STATE

SOS Exhibit No. A
File No. SOS-76-001
Date 4-6-76

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

SECRETARY OF STATE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE SECRETARY OF STATE FOR THE EXAMINATION AND USE OF VOTING MACHINES AND PROPOSED AMENDMENTS TO THE RULES OF THE SECRETARY OF STATE FOR VOTER REGISTRATION

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. §15.0412 subd. 4 (1975 Supp.) in the above-entitled matter in the State Office Building Auditorium, Room Number 83, St. Paul, Minnesota, on Tuesday, April 6, 1976, commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to participate and be heard concerning adoption or amendment of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing and will be accepted for a period of twenty (20) calendar days following the close of the hearing.

Tables of contents of the proposed rules are attached hereto.

Copies of the proposed rules are now available and may be obtained by writing to the Office of the Secretary of State, 180 State Office Building, St. Paul, Minnesota 55155.

Notice is also given that under Minn. Stat. §10A.01 subd.11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, St. Paul, Minnesota 55155.

Dated: March 4, 1976

STATE OF MINNESOTA

SECRETARY OF STATE

Joan Anderson Growe

Joan Anderson Growe
Secretary of State

505 Exhibit No. B
File No. 505-76-001
Date 4-6-76

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the Secretary of State Governing Registration of Voters and Certification and Experimental and General Use of Voting Machines

CERTIFICATE

I hereby certify that the attached 472 labels and one sheet constitutes the complete list of persons, associations and other interested groups who as of 11:00 a.m. this 4th day of March, 1976, have requested pursuant to Minnesota Statutes Section 15.0412 Subdivision 4, (1971) that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearings on proposed rules on the subject captioned above.

Joan Anderson Growe
Joan Anderson Growe
Secretary of State

By Neil Dion

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the Secretary of State for Voter Registration and Rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines

AFFIDAVIT OF MAILING

Jeanne McGree, being first duly sworn, deposes and says:

That on the 4th day of March, 1976, at the city of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Jeanne McGree

Subscribed and sworn to before me this 4th day of March, 1976.

Steven Lindroth

STEVEN LINDROTH
Notary Public, Dakota Co. Mn.
My Commission Expires
May 19, 1981

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

SECRETARY OF STATE

505 Exhibit No. D

File No. 505-76-001

Date 4-6-76

In the matter of the Proposed Adoption of Rules of the Secretary of State for the Examination and Use of Voting Machines and Proposed Amendments to the Rules of the Secretary of State for Voter Registration

STATEMENT OF NEED

The above-captioned rules governing voter registration are amendments to existing rules of the Secretary of State.

The need to adopt the amendatory rules arises because Minnesota Statutes Chapter 201 (1974), as amended, provides for the registration of voters and Minnesota Statutes Section 201.221 (1974) mandates that the Secretary of State adopt rules to implement Chapter 201, facilitate the execution of federal and state election laws in an orderly manner, assist local election officials by establishment of uniform forms and procedures and provide uniform regulations governing the maintenance of voter registration records on data processing systems.

The rules of the Secretary of State governing registration of voters were adopted October 23, 1973, and were amended November 5, 1974.

The above-captioned rules governing voting machines are not amendments to existing rules of the Secretary of State.

The need for the rules arises because Minnesota Statutes Chapter 206 (1974), as amended, provides for security, capacity, durability, efficiency, accuracy, uniformity and election integrity in the use of voting machines to register the will of electors. Minnesota Statutes Section 206.08 Subdivision 1 (1975 Supp.) permits the Secretary of State to adopt rules implementing Chapter 206 and relating to standards for examination and general use of voting machines, and Minnesota Statutes Section 206.08 Subdivision 2 (1975

Supp.) permits the Secretary of State to adopt rules implementing Chapter 206 and relating to experimental use of voting machines.

STATE OF MINNESOTA
SECRETARY OF STATE

Joan Anderson Growe

JOAN ANDERSON GROWE
SECRETARY OF STATE

SOS-76-001-JG

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE OFFICE OF THE SECRETARY OF STATE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE SECRETARY OF STATE FOR)
THE EXAMINATION AND USE OF VOTING)
MACHINES AND PROPOSED AMENDMENTS TO THE)
RULES OF THE SECRETARY OF STATE FOR)
VOTER REGISTRATION.)

REPORT OF THE ACTING
CHIEF HEARING EXAMINER

WHEREAS, hearings were held on April 6, 1976, before James R. Gowling, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matters in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Reports of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, were issued to the Office of the Secretary of State on May 28, 1976, and June 11, 1976; and

WHEREAS, the Office of the Secretary of State has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Office of the Secretary of State has submitted said rules to the Acting Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Acting Chief Hearing Examiner finds that there are no substantial changes in said rules as originally proposed.

NOW, THEREFORE, upon receipt of this Report, the Office of the Secretary of State has the responsibility of submitting the complete hearing records and the rules as adopted by the Office to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 29th day
of July, 1976.

Duane R. Harves

DUANE R. HARVES
Acting Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JOAN ANDERSON GROWE

SECRETARY OF STATE

In the matter of the Proposed Adoption of Rules of the Secretary of State for the Examination and Use of Voting Machines and Proposed Amendments to the Rules of the Secretary of State for Voter Registration

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Robert C. Hentges, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

ROBERT C. HENTGES
Special Assistant
Attorney General

Dated: June 30, 1976

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JOAN ANDERSON GROWE

SECRETARY OF STATE

In the matter of the Proposed Adoption of Rules of the Secretary of State for the Examination and Use of Voting Machines and Proposed Amendments to the Rules of the Secretary of State for Voter Registration

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Secretary of State of the State of Minnesota on the Sixth day of April, 1976, at 9:30 a.m. in Room 83 of the State Office Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes Section 15.0412 Subdivision 4 (Supplement 1975) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW THEREFORE, IT IS ORDERED that these rules identified as SecStat 101, 102, 201, 202, 301, 302, 401-403, 501-507, 511, 512, 601-604, 701-703, 801, 901-903, 1001, 1002, 3101-3104, 3201-3205, 3301-3304, 3401-3409, 3501-3503, 3601-3604, 3701, 3702, 3801, 3802 and 3901-3907 are adopted this Thirtieth day of June, 1976, pursuant to authority vested in me by Minnesota Statutes Sections 201.221 (1974) and 206.08 Subdivision 2 (Supplement 1975).

STATE OF MINNESOTA
SECRETARY OF STATE

Joan Anderson Growe

JOAN ANDERSON GROWE
SECRETARY OF STATE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JOAN ANDERSON GROWE

SECRETARY OF STATE

In the matter of the Proposed Adoption of Rules of the Secretary of State for the Examination and Use of Voting Machines and Proposed Amendments to the Rules of the Secretary of State for Voter Registration

FINDINGS OF FACT

I adopt as my Findings of Fact in the above-entitled matter the Findings of Fact in the Reports of Hearing Examiner James R. Gowling dated May 28, 1976, and June 11, 1976.

Changes between the Rules as Proposed and the Rules as Adopted are pursuant to the Reports of the Hearing Examiner. In addition, I made the following changes in the Rules as Adopted:

1. SecStat 301(g) and (h) are not repealed. Testimony indicates an explanation of the layout of the voter registration card remains useful.

2. The last sentence of proposed new language in SecStat 603 is deleted. Minn. Stat. § 201.231 (1974) does not permit challenges of voter registrations at the polls on election day.

3. Election officials shall supply the names and rotation of candidates in a primary to programmers five days after certification of the names by the Secretary of State instead of 10 days after filings close. Minn. Stat. § 203A.22 subd. 4 (Supp. 1975) does not require certification of the names until 32 days before the primary.

4. The last sentence in SecStat 3801(d) is deleted. Recounts are regulated by statute.

5. A requirement of serial numbering for ballot envelopes and cards when write-in votes are cast is added to SecStat 3802(a) to reflect Minn. Stat. § 206.185 subd. 1 (Supp. 1975).

6. Chapter 10 is deleted. Canvassing board activities and recounts are regulated by statute. SecStat 4006 was redundant.

I accepted all specific recommendations in the Reports of the Hearing Examiner. I carried out the suggestions of all comments noted in the Reports except the following comments in the Report of June 11, 1976:

1. Page 4, line 27. SecStat 301(c). Signature should be placed on top of duplicate voter registration card instead of bottom. Election judges search the names on the tops of duplicate registration cards on election day in order to remove the cards from the duplicate file one at a time; written names would make the task more difficult.

2. Page 4, line 33. SecStat 301(c). Add a large screened arrow to the voter registration card to indicate the blank for signature on the duplicate card. Several directions to the location make an arrow unnecessary.

3. Page 6, line 33. SecStat 502. Election officials should no longer be required to advise citizens who attempt to register to vote within 20 days of an election how to register on election day. Some citizens would not vote because they would not know they could register at the polls.

4. Page 6, line 39. SecStat 503. Defective or faulty voter registrations should no longer be kept for a year. The requirement is necessary to provide means to check conduct of registration officials.

5. Page 6, line 41. SecStat 503. No longer require explanation of how to register on election day to citizens who tender defective or faulty registrations. Some citizens would not vote due to lack of information.

6. Page 7, line 9. SecStat 503. No longer require explanation of election day registration when citizen tenders defective or faulty registration card within 20 days of an election. Some citizens would not vote.

7. Page 7, line 12. SecStat 504. No longer require registration officials notify citizen that voter registration was tendered to wrong county and has been forwarded. Some citizens would be unregistered when they arrived at the polls and not know why.

8. Page 8, line 38, SecStat 601. No longer require election judge who is swearing to residence of citizen for voter registration on election day to do so before another election judge. Minn. Stat. § 201.061 subd. 3 (1974) requires signing of oath before a judge; the rule does not compel appointment of additional election judges, because Minn. Stat. § 204A.17 subd. 3 (Supp. 1975) mandates three judges in each polling place.

9. Page 8, line 44. SecStat 603. Permit citizens to ask election judges to help with completion of voter registration card only if citizen has physical infirmity. Assistance of judge speeds registration on election day.

10. Page 9, line 31. SecStat 703. Rule should provide additional standards applicable to costs charged for lists of registered voters. Rule sets the standards that Minn. Laws 1976 ch. 223 § 3 permits.

11. Page 11, line 12. SecStat 1002. Permit lists available to public of registered voters to include "date last voted." Minn. Laws 1976 ch. 223 § 1 prohibits inclusion.

12. Page 11, line 38. SecStat 1001. Adopt Hennepin County computer program as state standard for storage of voter registration information. Adoption would be premature.

Modifications made in the Rules as Proposed after the hearing do not go to a different subject matter nor result in any rule fundamentally different from the rules referred to in the Notice of Hearing. The modifications are in keeping with the spirit and intent of the rules presented at the hearing.

The Rules as Adopted are in keeping with and will help carry out policy of the State of Minnesota as expressed in its election laws.

STATE OF MINNESOTA
SECRETARY OF STATE

Joan Anderson Growe

JOAN ANDERSON GROWE
SECRETARY OF STATE

BEFORE THE OFFICE OF HEARING EXAMINERS

OF THE STATE OF MINNESOTA

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE SECRETARY OF STATE FOR THE EXAMINATION AND USE OF VOTING MACHINES AND PROPOSED AMENDMENTS TO THE RULES OF THE SECRETARY OF STATE FOR VOTER REGISTRATION.	Docket No. SOS-76-001-JG

Room 83
State Office Building
St. Paul, Minnesota
Tuesday, April 6, 1976

Met, pursuant to notice, at 9:30 o'clock in the forenoon.

BEFORE:

JAMES GOWLING, Hearing Examiner

APPEARANCES:

JOAN ANDERSON GROWE, Secretary of State, appearing on behalf of the State of Minnesota, Office of the Secretary of State.

STEVEN LINDROTH, Election Procedures Advisor, appearing on behalf of the Office of the Secretary of State.

(Continuation of Appearances)

VERN JANOWIEC, appearing on behalf of the City of Minneapolis.

ROBERT HENTGES, Special Assistant Attorney General, appearing on behalf of the Office of the Attorney General.

ARTHUR W. JENSEN, appearing on behalf of the City of Bloomington.

COLLEEN NORRGRAN, appearing on behalf of the St. Paul Election Bureau.

FLORENCE HALLBERG, appearing on behalf of the City of Edina.

CLARENCE B. KAMMERER, appearing on behalf of the Ramsey County Election Office.

JOHN C. ROSHOLT, Attorney, appearing on behalf of the AVM Corporation.

MARY ANN MC COY, Supervisor of Election Procedures, appearing on behalf of the Office of Secretary of State.

MARY WALDO, appearing on behalf of the League of Women Voters of Minnesota.

BETTY POULIOT, appearing on behalf of the City of New Hope.

ARTHUR J. STOCK, Attorney, appearing on behalf

(Continuation of Appearances)

of the AVM Corporation.

EVELYN OXLEY, appearing on behalf of the City of Coon Rapids.

MARVIN CHRISTENSON, appearing on behalf of the Information Systems Division, Minnesota Department of Administration.

GERRI FLEMING, appearing on behalf of the City of Maple Grove.

SHIRLEY A. HAAPALA, appearing on behalf of the City of Fridley.

EXAM. GOWLING: Good morning. The record should reflect that it's now approximately 9:30 a.m., and today is April 6th, 1976. We're in room 83 of the State Office Building in the auditorium, and that we're here pursuant to the Notice of Hearing with respect to the rules concerning two separate matters both under the Office of the Secretary of State, State of Minnesota. Record should reflect that we have a hearing in the matter of the proposed adoption of rules of the Secretary of State for the examination and use of voting machines and proposed amendments to the rules of the Secretary of State for voter registration. We also have in the matter of the proposed adoption of the rules of the Secretary of State for voter registration the rules of the Secretary of State for certification and experimental and general use of voting machines. Before we proceed with the hearing and before I discuss the guidelines, the agenda and the format for this proceeding, I'm going to call upon the Secretary of State, of the State of Minnesota, Joan Anderson Growe. We are pleased to have her here, and she is going to make a few introductory remarks and will also introduce for you the members of the panel from the agency, those who will be participating on behalf of the proponents of the rules, the Office of the Secretary of State.

Ms. Growe.

MS. GROWE: Thank you. I'd like to welcome you and thank you for your interest in attending this hearing. Can you not hear?

UNIDENTIFIED: No.

MS. GROWE: Okay. Those mikes don't go out to the back of the room, I don't think, which is going to be a problem. These are microphones for taping, and I know that's a problem in this room, and we though we had a microphone system that would work. But, we don't.

EXAM. GOWLING: Is there anyone that we can contact --

MS. GROWE: I would --

EXAM. GOWLING: -- perhaps a --

UNIDENTIFIED: I'll put on my hearing aid. That shouldn't be in this room. People should be able to hear without an hearing aid.

UNIDENTIFIED: If that's -- that's close to you, I think, Secretary, it's live. If it's close to you you'll be -- they'll be able to hear you. They're live.

UNIDENTIFIED: It is live.

MS. GROWE: Is that a live mike. Oh. Okay. Very good. Well the State of Minnesota has a new

procedure now for holding pulic hearings. And, this is our Department's first experience with this new procedure and with the Hearing Officer. I'm sure it's probably the first experience for many of you. But, the proposed rules and regulations have been drafted by the staff of the Elections Division in my Office. They are the result of suggestions, comments, criticisms that we've heard either by phone or by letter or by many of you in person. Part of the proposed rules and regulations are also the result of 10 to 12 informal hearings and meetings that I've held around the State, asking people at that time for their comments and suggestions. I'd like to introduce to you the people who will be answering questions today and presenting the rules. Mary And McCoy is the Supervisor of our Elections Division. Steve Lindroth is and Election Procedure Advisor, he will be answering questions. On my direct left is Bob Hentges of the Attorney Generals Office, and the gentlemen at the end of the table is Marv Christenson, who is an Information Systems Manager with the Department of Administration. So, let me thank you again for being here and tell you we appreciate your interest and certainly will take your comments into consideration.

EXAM. GOWLING: Thank you. My name is

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James R. Gowling. I'm a Hearing Examiner with the State Office of Hearing Examiners and to my right is Steve Mihalchick who is also with that office and I'm going to at this time explain for you the general rules and the agenda which we will be following with respect to the hearing of the rules which are now under consideration. I'm associated as I indicated to, you, with the State Office of Hearing Examiners and in that capacity I am conducting that hearing. I am not an employee or representative of the agency in this matter and, I wish to point out that I will strive, do my utmost to provide a fair and impartial hearing concerning these rules. After hearing the evidence and testimony and the statements and arguments that are presented I will consider all of these matters together with the rules and will prepare findings of fact, conclusions and recommendations which I in turn will submit to the agency, in this case the Secretary of State's Office. The agency, in this case the Secretary of State's Office, will then make certain findings and after waiting at least 10 days, during which time they have in possession the findings of fact, conclusions and recommendations which I will put forth in my report. They will make a determination as to whether to adopt, modify or reject the proposed rules that are now under consideration. In

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this regard if you wish to be notified when these findings are available, please indicate by contacting me either at a recess or a break or by perhaps contacting our Monitor, Ms. Gardner, who is seated in the front row and who you probably met or she probably greeted you as you came in the door and signed the register. And, in so doing please indicate your name, your address, the agency or body that you are representing, and also please include your telephone number in case there's any need to contact you with respect to these matters. Now the agenda that we will follow will be basically this, after the introduction of the agency panel, which we have accomplished, and after my explanation of the procedure, we will then receive the jurisdictional documents. After that is completed we will then proceed with the presentation by the agency, explaining and setting forth the statement of need and providing such other testimony and explanation as is required. In this regard, I'm going to explain that the format that we are going to follow in the hearing, because there are two separate proposed sets of rules, is to hear first the presentation and to consider the matter of the proposed adoption of the rules of the Secretary of State for -- or perhaps better stated, the amendments to the rules of the Secretary of State for voter

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registration. This will then be followed with consideration of testimony, public input, concerning the election, the use of experimental devices and machines with respect to vote tabulation. So, we will have these separately, it will be a bifurcated hearing, so to speak. We will proceed completely with one and then we will proceed on to the next one. Following the presentation by the agency, we will have questions and statements by legal counsel or any attorneys present representing any interested party, and this will be followed by questions, statements or argument by any other interested persons. So, until the matter is completely and fully heard. Incidentally if any person is particularly inconvenienced by the agenda, he should indicate that to me -- myself as the Hearing Examiner so that we may consider suspending the rules to meet with special or accomodate special circumstances. The guidelines with respect to the hearing are as follows: we request, require everyone attending the hearing to sign the register as you enter. The registration cards that Miss Gardner has which many of you I'm sure have already signed, indicating your name, address, and the interest or group that you represent. And, as indicated previously if you wish to be notified as to when my report containing the findings of fact, conclusions and recommendations

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is issued please indicate that, to either myself or Mr. Mihalchick to my right. The purpose of this hearing is to consider whether the proposed rules, in each case should be adopted and given the force and effect of law. As if they are adopted they will have the effect as if the legislature itself had nacted a rule or regulation in this State. In this regard, the agency must document in it's presentation the specific statutory authority to take the proposed action. It must show that it has fulfilled all of the relevant substantive and procedural requirements of law or rule, and it must demonstrate the need for and reasonableness of its proposed action with an affirmative presentation of facts. All persons wishing to express views will have an opportunity to do so at this hearing. When the hearing examiner affords you the opportunity to testify, please step to the area which is in the center of this horseshoe shaped configuration of tables to the -- table in the center with the microphones, and before testifying, please identify yourself, stating your full name and, for purposes of our preserving the record, please spell your last name. Also, and incidentally, any time any technical term is used or any unusual term please spell it as we are recording this by means of electronic recording equipment and in order for the record to accurately reflect the testimony we must have

the spelling on some of the more difficult terms or names. All witnesses testifying subject themselves to questioning by representatives of the agency, the Hearing Examiner and others who may be present and involved in the hearing. If a written statement, or other matter reduced to writing is desired to be introduced in evidence, it should be presented to the Hearing Examiner. I have received many of those and those will be received and are part of the record of this matter. Written statements may be introduced at the time an individual offers or gives oral testimony or presents argument in the matter, or may be, as many have already done, submitted prior to or, in fact, after the oral testimony. The right of the agency or others to examine the individual presenting the written statement extends to the content of the statement offered in the written form. This hearing, is being recorded by use of a recording device and subsequently a transcript the entire proceeding will be prepared and will be available. If you wish to have a copy of this transcript, for which there is a charge, please notify either myself or Mr. Mihalchick so that those arrangements may be completed. In order to construct the proper record, I request that we follow the following general guidelines or rules: only one person will be allowed to testify or speak at one time; all statements must be verbalized.

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In that regard, as I indicated the recording device will be used in preparation of the record and of course it cannot record a nod or a gesture or anything of that nature, so, we ask that any response, any question or any statement of any kind or nature be verbalized, and again please spell any technical terms or proper names; attorneys or persons unfamiliar with the administrative practice should be aware that the emphasis will be on informality throughout this hearing; exclusionary rules of evidence will be interpreted liberally in this case and in all presentations; exceptions to any rulings of the Hearing Examiner are unnecessary. The Hearing Examiner will determine what weight should be assigned to the evidence and the findings and recommendations will be based only upon substantive evidence, which is produced and introduced at this hearing and through the submittals, and documents which are part of the record. It should further be noted that anyone who desires to submit a written brief or written comments bearing upon the rules may do so within 20 days following the close of this hearing. And, in that regard, assuming that the hearing does close at the close of -- within today, those will be required to be submitted on or before the close of the business day on April 26th, 1976. The material should be submitted to me as Hearing

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Examiner, that is James R. Gowling, it's spelled G-O-W-L-I-N-G, in care of the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104. Again I wish to emphasize that in order to be considered, any materials, any comments, any written arguments or briefs must be received within the 20 day period, in order to be considered. You're further advised that under Minnesota Statutes, Section 10A.01 Subdivision 11, any individual representing persons or associations attempting to influence administrative action, such as the promulgation, adoption of these rules must register with the State Ethics Commission as a lobbyist within five days from the commencement of such activity by that individual. Those are basically the guidelines and the format which we will follow in each of these hearings, and as I indicated previously we have two separate ones and will proceed upon receipt of the jurisdictional documents initially with the hearing concerning the amendments to the Secretary of State Rules Concerning Voter Registration. And, may I have at this time the jurisdictional documents. May I have them introduced for the record.

MR. HENTGES: My name is Robert C. Hentges, H-E-N-T-G-E-S. I'm a Special Assistant Attorney General and an Attorney for the Minnesota Secretary of State. I'd like to offer the following documents. First the

Notice of Hearing in this matter, dated March 4th, 1976, and signed by Joan Anderson Growe, which has been marked as Exhibit A. Second, a certificate that the addresses and names of 472 persons, associations or groups. All those on the Secretary of States list as of 11:00 a.m. the 4th day of March were provided to the Secretary of State. This document is signed by Ceil DeOwne and marked as Exhibit B. Third the affidavit of mailing in which Jean McCrey states that on the 4th of March she placed in the mail in St. Paul notices of this hearing addressed with proper postage to the 472 persons, associations and groups on the Secretary of State's list. This is notorized by Steven Lindroth and has been marked as Exhibit C. Fourth, the Statement of Need for these proposed amendments and rules, signed by Joan Anderson Growe, and marked as Exhibit D. Fifth, the proposed amendments to the rules of the Secretary of State for voter registration, marked as Exhibit E. Sixth, the proposed rules of the Secretary of State for certification and the experimental and general use of voting machines, marked as Exhibit F.

EXAM. GOWLING: In respect to the exhibits, I'm going to ask whether there are any objections. I'm going to refer to each one of these as they've been introduced. First, with respect to Exhibit A,-- pardon

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me -- A, the Notice of Hearing, is there any objection to receipt of this document. There being none, Exhibit A is received into the record.

(Exhibit A
received in evidence.)

Exhibit B, consisting of a one page certificate, certifying that the Secretary of State's list of persons, or associations or other interested groups has been received and that it accurately reflects the names of persons entitled to notice. Do we have any objections to this document being received?

UNIDENTIFIED: Was that item listed as No. B?

EXAM. GOWLING: Pardon me, B as in boy. Is there any objection. There being none, Exhibit B is received.

(Exhibit B
received in evidence.)

Exhibit C, is the affidavit of mailing, indicating in substance that those persons entitled to notice and having registered a request to receive notice have been mailed a copy of the proposed rules. Is there any objection to Exhibit C? There being none, Exhibit C is received.

(Exhibit C
received in evidence.)

Exhibit D, is the Statement of Need with respect to the rules. Is there any objection to Exhibit D? There being none Exhibit D is received into the record.

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(Exhibit D
received into evidence.)

Exhibit E, is the proposed amendments to the rules of the Secretary of State for voter registration as explained by counsel. Is there any objection to the receipt of Exhibit E? There being none, Exhibit E is received.

(Exhibit E
received into evidence.)

Exhibit F, is the proposed rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines. Is there any objection to receipt of Exhibit F? There being none, Exhibit F, is received.

(Exhibit F
received into evidence.)

Incidentally the record should also reflect that there are ample copies of the proposed rules, amendments and any other pertinent documents available at the front of the hearing room and for notification of all those present that if you do not already have copies they are available at the front of the room. There are adequate copies supplied for all persons.

The jurisdictional documents having been received, we are prepared to proceed with the presentation concerning the amendments to the rules concerning voter registration. And, I'm going to at this time, call upon

Mr. Lindroth, Election Procedures Advisory, the Office of Secretary of State, to proceed with that presentation, if you will.

MR. LINDROTH: Ladies and gentlemen. My name is Steve Lindroth, L-I-N-D-R-O-T-H. I'm employed as an Election Prodedure Advisor in the Office of the Secretary of State. I am submitting that these proposed amendments to the rules of Secretary of State for voter registration. The need to adopt the amendatory rules arises because Minnesota Statute, Chapter 201, 1974, as amended provides for the registration of voters, and Minnesota Statute, Section 201.221, 1974, mandates that the Secretary of State adopt rules to implement Chapter 201, facilitate the execution of Federal and State Election laws in an orderly manner, assist local election officials by establishment of uniform forms and procedures and provide uniform regulations governing the maintenance of voter registration records on data processing systems.

The purpose of these proposed rules is to add clarity to existing rules. Omit those provisions that are no longer applicable. Revise some of the voter registration forms, and expand the means by which a voter may prove their residency on election day. The Office of the Secretary of State has had an ongoing interest in seeking comments from those local officials who work with elections

15 as well as from voters themselves. These proposed amendments are a product of the types of comments we have received.

I would like to turn your attention to the addenda of the proposed amendments that have been prepared for this hearing. These are in effect amendments to the proposed amendments. Many parts of Chapter 3, dealing with the voter registration card, and Chapter 5, dealing with notifications, have been amended in the addenda. I would recommend you check the addenda to see if our Office has clarified any of those questions you may have had concerning the proposed amendments.

Beginning with Chapter 1, of the proposed amendments of the Secretary of State, for voter registration, most of the -- well all of the changes are for clarity. We inserted the word voter and Sec. Stat. 101 to identify what types of registrations, and Sec. Stat. 102 we inserted the words Secretary of State in replace of Commissioner, to provide for a uniform identification of the person who is -- of the Commissioner of Voter Registration.

EXAM. GOWLING: Incidentally, and what I'm going to ask that we do, for purposes of an orderly hearing, is, with respect to each chapter of the proposed amendments and rules that we are considering here today, I'm going to ask that the presentation be made and then if there is comment or question with respect to any

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matter contained within that chapter, that those questions be interposed if it appears that those questions or comments should be made at the time. I'm going to say along with this that anyone wishing to make a statement concerning the entire rules or with respect to a number of the chapters, may reserve that right and make those comments in one presentation at the conclusion of the presentation by the agency of its rules and reasons for the adoption and explanation of those rules. So, that my admonition would be, if you can avoid asking a question at the time that the presentation is being made with any one chapter, if you can wait and have it as part of other comments it may facilitate a more orderly hearing. If it's something that goes to a misunderstanding or question or you require some clarity, perhaps the time to ask is the time that they're being -- that they're consideting that chapter. So, if we can proceed along those lines, I think, we will be able to move through with the greatest efficiency. Pardon my interruption.

MR. LINDROTH; Are there any questions or comments concerning Chapter 1?

EXAM. GOWLING: Sir, please. Before -- before making any statement or question if you will step to the table and identify yourself, speak into the microphone and direct your question to the panel.

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MR. SMITH: My name is Ed Smith, S-M-I-T-H. I live at 3518 Edmond Boulevard in Minneapolis. I just wanted to ask if the committee would call out the name of the proposal of the sheet, and I note that some of them do not have numbers on them. He might say on page one or page two or turn over the page. This supplement to the proposed rules of Secretary of State certification, experimental and general use of voting machines. There are not page numbers on them. This is the first time that I ever attended a hearing and I'd like to be able to turn to the right sheet at the right time. Thank you very much.

EXAM. GOWLING: Sir, before -- and perhaps to clarify for you Mr. Smith, we are now proceeding with the amendments to the rules of the Secretary of State for voter registration. I believe you mentioned you were having difficulty in finding it with respect to the certification and experimental and general use of voting machines rules. We are not proceeding with that portion of the hearing until after we have concluded the presentation on the voter registration matters. Mr. Lindroth.

MR. LINDROTH: Okay. Chapter 2, Sec. Stat. 201 has been removed because it is no longer applicable. It provided for the transfer of the original cards to the County Auditor's Office when the voter registration law

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first went into effect. As a result of its being deleted Sec. Stats. 202 and Sec. Stat. 203 have been renumbered.

EXAM. GOWLING: Are there any questions or comments with respect to Chapter 2 of the proposed amendments of the rules to the Secretary of State for voter registration? There being none, please proceed to Chapter 3.

MR. LINDROTH: In Chapter 3, voter registration cards, Sec. Stat. 101 has been revised after our initial proposed amendments and you will see that revision in the addenda. Excuse me Sec. Stat. 301 is in the addenda. I would like to point out for your benefit some of the differences from the original initial proposed amendment and the addenda. The apartment number has been added to the legal residence on the second line of the original voter registration card. The word initial after the middle name has been taken out. Rural box number has been inserted below street or route number. Previous name if changed since last registration has been added after the telephone number. And, the date has been inserted in its proper place next to the legal signature of the voter. The duplicate registration card in the initial rules we had removed all the information following the legal residence. In the addenda we have reinserted that information and the information is identical to that that's included on the original voter registration

card. In the instructions to the person who is filling out the voter registration card, section 5, which was initially revised has been reinserted as it -- as it was -- as it was before the proposal of these initial amendments. All of these changes have come about as a result of information we have received from local people, local red voter registration offices.

EXAM. GOWLING: Are there questions or comments with respect to Chapter 3 of the proposed amendments to the rules of the Secretary of State for voter registration? Anyone? There being none, please proceed to the next chapter.

MR. LINDROTH: Chapter 4, Places of Registration, there are no changes in the addenda, that I note -- that a -- deal with chapter 4. So, the initial proposal as was sent to you is the proposed rec -- is the proposed amendments. The words, in every county with voter registration, have been added to section 401, because not all areas now must have voter registration. The word, registration forms, has been changed to registration cards. So that, everyone is clear that we're referring to the voter registration cards. The word county has been added before the word auditor. So that, there is clarity as to what auditor we are referring to. We wanted to indicate and add a new Sec. Stat. 403, Polling Places because the polling places are a place of voter registration and to

elaborate -- we've elaborated on polling place on election day registration at the polling place in Chapter 6 of these rules. However, we wanted to make -- make some type of -- bring some type of visibility to the fact the polling places are places of voter registration and that's reason for the insertion of Sec. Stat 403.

EXAM. GOWLING: Are there questions or comments concerning Chapter No. 4 entitled Places of Registration?

(Pause.)

There appear to be none, and, incidentally, perhaps again to clarify, if there's anyone who wishes to make question -- or pose a question or make a comment, you may either rise and approach the front of the room or signify by raising your hand so that I may identify you and then recognize you. Mr. Linroth, if you would proceed to the next chapter, I believe it's number 5 containing amendments.

MR. LINDROTH: Okay, Chapter 5, Notifications. The first sentence has been revised to make it a positive statement. Instead of saying basically, when the County Auditor determines that a registration is not faulty or defective, it's been revised to say when a County Auditor determines that a registration is properly completed. And, I think that's just a clarification, there. We've taken -- we have removed the sentence, the part of the card with

21 instructions on it may be destroyed. I guess that's more or less a self-explanatory thing. The mailed notice has been included. The number 1 by the Mailed Notice, if you will note in your addenda, we do have some corrections on Chapter 5 on the Notification Section. Sec. Stat. 501 the mailed notice has been included to bring visibility to what this card is supposed to look like. In the past it was not included in the rules, and the information that is no longer supplied -- excuse me, that's something else. Basically, the addition in 501 is the clarification in the first paragraph and the addition of the mailed notice card that the County Auditor sends to a voter who -- when he receives a properly completed voter registration card. Sec. Stat. 502 we have included a sentence that allows the or that requires the County Auditor to include information to the voter concerning the manner in which they may register to vote on election at the polls, if he has a received a voter registration card that is not properly completed. And, that the person -- and this is to allow the person or give the person the information on how they may go to the polls and register on election day. The Auditor may also notify the person of any additional information that may aid the voter in becoming registered and thus allowing him to vote on election day. That's also a new section that we have included in 502. Sec. Stat. 503 the word get has been changed to obtain. And, Sec. Stat. 504 wrong county, we have included

a new form. And, this new form is on the last page of the addenda and it is called the Notice of Ineffective Registration. And, this card is -- this the -- this card is the proposal that we're making in the amended rules.

EXAM. GOWLING: Does everyone find that. It's the last page of the addendum. Pardon my interruption, please proceed.

MR. LINDROTH: There have been no change -- there's no change in Sec. Stat. 505. Sec. Stat. 506, the Auditors Notification Form, the form that the auditors send to another county in Minnesota, has been revised to reflect that language that the County Auditor receives from the voter. In the past they had things like age and birth date and things like that of the voter and that was no longer supplied to the County Auditor. So that's been revised to reflect that.

Okay, the reason -- going back to the Notice of Ineffective Registration Card, there are two basic reasons for the inclusion of this card. One, is to provide many means by which -- well, one is to eliminate some of the many forms that the County Auditors are now responsible to send out to -- for voters who tried to register to vote and there either is incomplete or it's the wrong county or they registered -- tried register fewer than 20 days before an election or it's just simply incomplete. And, this form would combine all of those forms. This form would be mailed. And, the second function of this card is that it would be mailed to the voter.

It would have to mailed to that voter's address. And, the person who receives this card may then present it at his precinct on election day as proof of residency. It would have the same force and effect as the mailed notice. If you sent out a Mailed Notice Card and it came back to the Auditors Office, the voter registration in effect would be challenged. This would have the same effect, because when the voter received this through the mail that would prove that that voter did live at that mailing address. So, that's the second function of the Ineffective Voter Registration Card. That will probably aid many voters who tried to register to vote fewer than 20 days before the election.

Not really sure where I was right here, was it 50 -- 507. Okay 507,508, 509, 50 - 10 have all been renumbered. 511 the word substantially has been removed so as to allow for uniform emergency voting card. On the Emergency Voting Card, the word voters and the word on have both been added for clarification.

EXAM. GOWLING: Are there any question or comments with respect to Chapter 5, Notifications, under the proposed amendments to the Secretary of State's rules on voter registration?

(Pause.)

Gentlemen, if you would please state your full names, spelling your last and giving us your address.

MR. JANOWIEC: William Janowiec, City of Minneapolis, J-A-N-O-W-I-E-C. Now if I can find what I wanted to ask you. This is reference to the verification postal. And, you keep referring to the County Auditor. Now, when that's delegated to the Municipal Cle -- Clerks, does -- can the Municipal Cle -- or should the Municipal Clerk mail out the verification postal?

MR. LINDROTH: Hennepin County has the, as I understand it, is this the way that it's handled in Hennepin County?

MR. JANOWIEC: Yes.

MR. LINDROTH: Well, we have to remain consistent with Minnesota Election Law when we have these -- when we have these amendments and when we propose these amendments. Minnesota Election Law states that the original du -- the original registration card should be on file with the County Auditor. If that's not on file with the County Auditor, I guess I can't answer that question.

MR. JANOWIEC: Mostly, what I'm saying is a new registration comes through, we now normally in the City send out a verification saying you vote here, whatever your card. You call it a mailing notice. We call it verification postal. We st -- tell the voter where he is to vote. He is register now you shall vote at this polling place. Now we send this out. Here your telling the County Auditor to do

this. And, I just wondered if that's what you want.

MR. HENTGES: Mr. Janowiec, the -- the rules are designed so that responsibilities are given to the County Auditor. Any of those responsibilities that can be delegated by Statute can be delegated and at that point the word Auditor becomes City Clerk. The only responsibility that cannot be delegated as you're well aware is the responsibility to keep the original file and to prepare, distribute the precinct lists. All other responsibilities may be delegated.

MR. JANOWIEC: All right. Because we have another section here somewhere it's states that the County Auditor shall be responsible for duplicate cards getting to the polling place. Again, that's delegated to us. We wo -- as we have in the past, right? Thank you.

EXAM. GOWLING: Does that answer your question, sir?

MR. JANOWIEC: Yes.

EXAM. GOWLING: Thank you. Any other questions or comments concerning Chapter 5?

(Pause.)

Being none, please proceed with the next chapter.

MR. LINDROTH: Okay. Chapter 6, Sec. Stat. 601, once again we have made amendments for clarification at-- inserting the words in areas with voter registration, because

26 not all there is at the State have to have voter registration. We have removed the oath described by the Secretary of State Sec. Stat. 602. And we have added -- we have --

MR. GOWLING: May I just interrupt you for a second, so that we may change the tape for we are getting close to the end. Pardon my interruption. And when we get back on the record that perhaps you start 6 again. I'm sorry for the interruption.

EXAMINER GOWLING: The members of the panel, off the record, that when you do hear this beeping noise it means that means we have approximately 30 seconds left and perhaps we can halt at that point. We're prepared and we're back on the record. If you would please commence your explanation concerning Chapter Six from the beginning.

MR. LINDROTH: OK. Election Day Registration. We have inserted the words "in areas with voter registration" in Sec. Stat. 601 to illustrate that not all areas of the state now have voter registration. We have removed the oaths prescribed by the Secretary of State in Sec. Stat. 602 because he have removed the election day registration oath. And, you may notice on the front page of the addenda, Sec. Stat. 601, I have two recommended amendments. On the tenth line insert the word "homestead" between "current" and "property" and on the eleventh line following the word "or" insert "ineffective registration notice mailed by the County Auditor". And we are adding, we're adding these three forms of means to iden -- for a voter to identify their residency on election day. A current property tax, a current homestead property tax statement, or an apartment lease currently in effect, or an ineffective registration notice mailed by the County Auditor.

EXAMINER GOWLING: Please identi -- dentify yourself by stating your name and --

MR. JENSON: I'm Arthur W. Jenson, City Clerk from Bloomington. We're quite concerned with the additional methods of proving residence that are included in this proposal. Perhaps there is a necessity for some additional things to be added but these don't appear to be too applicable to us. We feel that the two that are proposed should be deleted. They're not really reasonable proof of residence in as much as a person may own property in any one of the 87 counties in Minnesota and have a tax statement available. This is modified somewhat by the requirement that it be a homestead statement as proposed now. In addition to which property tax statements payable in the current year are for property actually owned in the previous year so all this homestead statement is going to prove is that the person owned or lived at that property on January first of the year prior to the year in which the election is being conducted. Apartment leases currently in effect are also not very good proof of residence in as much as many times persons sublease apartments that they have rented and have moved out during the course of a pre-existing month and still have these -- leases which do appear to be valid. There's really no simple method of proof of validity of apartment leases as specified in the rule. The three methods of proving residence presently in the law have proved to be entirely adequate for us in Bloomington during the course of previous

election day registrations. We've registered approximately 5,000 persons at the poll since this law came into effect. And, we've had maybe a half a dozen individuals who have objected strenuously to providing one of the three proofs presently specified.

EXAMINER GOWLING: Is there a comment? Perhaps you'll want to remain at the microphone. Is there a comment by the agency?

MR. LINDROTH: Well, we have reviewed several recommendations that people who work with elections have submitted to us. These two and the third one which was a creation of the agency have seemed to us to not only be able to expand the number of persons who would be able to register to vote on election day but, also to retain the integrity of the voter registration system.

MR. JENSON: I certainly have no objection to the third one that you're proposed in the addenda today, but, I do object to the first two.

MR. LINDROTH: OK, thank you.

EXAMINER GOWLING: Thank you for your comments. Are there any further questions or comments concerning this Chapter? Record will reflect that Mr. Vern Janowiec who has previously testified is again at the microphone to pose a question or comment.

MR. JANOWIEC: I think I would like to have an

additional identification means available. And that is the old registration card of a person who moves within the precinct that they can use their old registration card as identification. I think this would help it somewhat.

MR. HENTGES: Excuse me Mr. Chairman. How would that show --

MR. JANOWIEC: Identify em.

MR. HENTGES: -- a present residence?

MR. JANOWIEC: No. His present residence wouldn't he would have -- the only thing we can go by is his signature of his past and he'd give us his old address. But, I think what we're doing is verifying his signature is what we're primarily interested in and making it easier for this person to vote. He wouldn't have his present address on, but, by virtue of his admitting that he has moved, don't you see.

EXAMINER GOWLING: Thank you.

MR. HENTGES: Yes, thank you.

EXAMINER GOWLING: Are there -- if there is a further question or comment if you would approach the microphone table and identify yourself by stating your full name and spelling you last and providing us your name and agency or organization that you represent.

MS. NORRGRAN: Colleen Norrgran. N O R R G R A N. From the St. Paul Election Bureau. And I just want to comment on what Mr. Janowiec said. If a person lives in the same

precinct but has moved from one place to another he should be, and his old registration card is in the files, he should be allowed to vote using that signature on the old registration card instead of having a drivers license or someone swear that he lives there. And on this -- these two or three, I guess it is, new proofs of residence I can in the future see someone with an apartment lease going to Insti-prints and having fifty of them made changing the name and address on each, it's a method that I just don't think would be effective. It's too subject to fraud.

EXAMINER GOWLING: Any comments?

MR. HENTGES: Excuse men may I ask Mr. Janowiec, did you mean your additional form of identification?

MR. JANOWIEC: Additional form, yes.

MR. HENTGES: To apply only to those persons who move within a precinct?

MR. JANOWIEC: That's the only time you could really use them. If either you polling at the same polling place. Wouldn't you see? He's applying from the same place he normally votes. He couldn't go back to his old place and do this. I think while I'm up here I'd like to ask a question too. We didn't receive clarfication so much from you people. On a person newly registered can that newly registered person turn around and atest for the second person who is registering? I'd like clarification on that. Chain -- chain atesting so

to speak. Daisy ballot or daisy atesting. In other words I register and I turn around and register for my wife. I have my drivers so to speak, right, I identify myself, I register. My wife who does not have, say, a drivers license, can I turn around, and I'm newly registered, atest for her? We do this and we have ruling from you in the past that this could be done, but, I would like clarification whether this has been changed or not. Because there has been some talk that it's going to be changed, I don't know.

MR. HENTGES: Mr. Janowiec I know of nothing in the statute that prohibits that.

MR. JANOWIEC: All right. Well it does state a registered person it doesn't say preregistered. I wanted that clarified.

EXAMINER GOWLING: Thank you. Further comments or questions. Please before making a statement or asking a question state your full name spelling your last and giving us your address in addition any name of any group or organization that you represent.

MS. HALLBERG: Florence Hallberg, City of Edina, 4801 West 50th St., 927-8861. Hallberg is spelled H A L L - B E R G. And I'd like to endorse the statements of these other people that have been up here. I feel very strongly about it. I also wanted to have a clarification on whether a receipt for a drivers license or a nonqualification card

would serve as an identification. I think it should. People could have moved into a house within a few weeks of an election and wouldn't have had time to get these documents back.

MR. HENTGES: I don't think it does under that present or proposed rules. Would you agree with that?

MS. HALLBERG: That's right. But, I think it should be included.

MR. JANOWIEC: We didn't hear the question of the (unintelligible)

MS. HALLBERG: I'd like to make the rules show that a receipt for a nonqualification certificate or a drivers license could also be used as identification on election day.

EXAMINER GOWLING: Did everyone understand that? Thank you for your comments. Are there further questions or comments with respect to this Chapter?

MR. HENTGES: Mr. Examiner?

EXAMINER GOWLING: Certainly.

MR. HENTGES: May I ask Mrs. Norrgran and Ms. Hallberg whether they have any reaction to the third additional form of identification. The ineffective registration card?

MS. HALLBERG: I think that's excellent.

MS. NORRGRAN: If somebody has already registered and their name is not in the precinct file the election judge has called our office and we look to see that he has registered or she, and if they have they make out an emergency voting card.

EXAMINER GOWLING: We're having some difficulty in picking up that comment. Could I ask that you repeat it at the microphone table and for purposes of the record the affirmative statement that preceeded this speakers comment was by Mrs. Hallberg.

MS. NORRGRAN: Colleen Norrgran. When somebody comes to the polling place and says they are registered, their card is not in the file, the election judge calls our office and we determine whether the person is registered or not from our master files and other ways. And, if this person is registered the election judge makes out an emergency voting card so the ineffective card wouldn't --

MR. LINDROTH: No. I think Bob's question was do -- do you feel as though that would be beneficial for someone who is trying to register to vote on election day and was not registered because that their -- because their card had been sent in and it was incomplete or it was incorrectly filled out.

MS. NORRGRAN: Well, we -- we make it a point to have them register before. If their card is incomplete we call them or write to them long before election day.

MR. LINDROTH: Well, for instance, if their signature was not on the card and they'd sent it --

MS. NORRGRAN: We bard the card and say -- and note on the duplicate card that we do have the signature on the

original card and ask the judge to have the person sign the card at the polls.

MR. HENTGES: OK. Thank you.

EXAMINER GOWLING: Thank you. Any further question or comments with respect to this Chapter? There appearing to be none, proceed.

MR. HENTGES Mr. Examiner, it seems to me that Mr. Lindroth had dealt with 601 and had not dealt with changes in the remaining rules in that Chapter.

EXAMINER GOWLING: That's correct that -- you are correct. I stand corrected. If you would proceed from that point under Chapter Six with the changes following Sec. Stat. 601.

MR. LINDROTH: Sec. Stat. 602, swearing to residence. We have changed the Minnesota Statute No. to reflect the recodifcation of the election laws the other changes in 602 are simply language and clarification changes. Sec. Stat. 600-602 the election day registration oath has been removed. In 603 registration cards received on election day has not been changed. The reason why we did remove the election day registration oath is because a person who registers to vote on election day signs a voters certificate and also signs the original card and the duplicate card and we in the past we had him that election day registration oath card and all the information contained on the election day regis-

tration oath card had already been signed and sworn and atested to by the voter. So, it was a redundant form and not necessary. Sec. Stat. 604, we have included language to clarify and identify the information that is necessary for the judge to, the judges of election on election day, to request of the voter. Sec. Stat. 605 and 606 have been deleted because they are no longer applicable.

EXAMINER GOWLING: Perhaps with respect to Sec. Stat. 605 and 606 and because they are not contained in the published materials, you could provide us with just a brief statement as to the matters which are covered or would be pertinent provisions which are being deleted under the proposed amendments.

MR. LINDROTH: 605 indentified the fact that the Secretary -- that the -- that the local government people could pay the election -- one election judge $25 a day to register voters and that money would be reimbursed by the state. Secretary of State no longer receives funding to reimburse local government or election day registration judges. Sec. Stat. 606 -- Sec. Stat. 606 dealt with registration cards received on election day and it is -- it's no longer necessary that the system of putting the cards in the file after an election has already been maintained by the 1974 general election, primary and general election, and this simply told them that they were supposed to put the cards

in the file after a voter registered to vote on election day. And, that's, that' already being done so it's no longer necessary.

EXAMINER GOWLING: Thank you for that clarification. Are there questions or comments in respect to Chapter Six? The record will reflect that Mr. Vern Janowiec has returned for comments or questions.

MR. JANOWIEC: This is a picky -- this is a picky little thing here. But it says here that the cards shall be filed, referring to election day registration, shall be filed in the same file and the same manner as registrations received prior to election day which would mean under filing. Shall. the only reason I had some question is shall, because we do retain our election day registrations, we file them in front of the file cards so we can pick them up to be put on the computer on a runoff. And if their in the file it means it would have to go through all of our cards trying to pick out these cards. So, we put them in front of the file so we can be picked up for input into the computer. So that shall I guess, is throwing me a little bit Bob.

EXAMINER GOWLING: Any comment with respect to that or anything further? Further questions or comments concerning Chapter Six.

MS. NORRGRAN: Colleen Norrgran, St. Paul Election Bureau. The cards are not filed in the filing box in the

first place, they're still all folded up and their just set in the back of the box in our area and we pick them up. We have to process them we can't go through the file and pick them out one at a time and we don't want the election judges tearing them apart and probably missing one or the other of the cards. We want them to remain whole and just placed in the back of the registration cabinet.

MR. LINDROTH: The Secretary of State has pointed out that the word, that it says "shall" but it doesn't say when they should be placed in the original file.

MS. NORRGRAN: OH, Oh.

MR. LINDROTH: So it says they shall be but it doesn't say they have to be, you know, that minute.

EXAMINER GOWLING: Does that satify your inquiry?

MS. NORRGRAN: Yah.

EXAMINER GOWLING: Thank you. Any further questions or comments concerning Chapter Six? There being none--

MS. NORRGRAN: I have some comments on voter registration forms, cards, but, I thought I would talk on a lot of things but I'm talking about the other things as they come along. So, after we're through could I talk about the cards then or would you like to hear it now?

EXAMINER GOWLING: I'm going to be at the disposal of the agency panel. Perhaps if you're talking to several topics that cover differing -- differing Chapters --

MS. NORRGRAN: Well, this is why I was going to wait til the end but I have spoken as each one has come along so far except for the voter registration card.

EXAMINER GOWLING: I have no objection whatsoever We could hear it at this time as long as you're at the podium.

MR. LINDROTH: You're referring to earlier Chapter.

MS. NORRGRAN: Yes, I am. I thought I'd wait til the end and give all my comments at once but I have been giving comments about each thing as it comes along. Well what I had written out to tell you has all been changed because the voter registration, the addenda has changed quite a bit of the registration card. I like the blue color to begin with and I would like to see legal name put on the registration card instead of asking not to use a nick-name in the middle of the card. I think the middle of the card gets wordy enough. If you put legal name at the beginning of the registration card that would eliminate the part of the middle. Legal residence is very good. It's much better than mailing address that we had before. When telephone number was first put on these cards I thought it was rather presumptuous but, we have used that so many times because with post card registration, sometimes thats the only legible thing on the card. If we do have a telephone number we can get in touch with the person. What is your address or what is your name, whatever we need. Previous name if changes

with -- since last registration. That's what I had hoped it would be. Most recent prior address is not necessary for us or for anybody else that I can think of. I see no reason for it on the card at all. We don't use it. What we want is your former registration address. We don't care where you lived before other than where you were registered before. It isn't on the list that goes out to the candidates, so, they have no use for it and we have no use for it at all. I have submitted a voter registration card that I have designed. And I've submitted it again today. Changing the oath on the bottom of the card, or the certification I should say. To say "I certify that I am a citizen of the United States, have lived in the state for 20 days and have my civil rights. I also certify that the above facts are correct" and further on about felony and $5,000, but, there is no way to certify anything but their name and address and telephone number on the card. They're told that they can't -- cannot register if they don't have their civil rights in the middle, in the directions of the card. But, they don't certify to it at all, or that they're a citizen. One other thing I want to mention again, we need the birthdate on the registration card. We've just gone through another election in St. Paul and the election judges have been calling in. I didn't think it matters to them, where a mother and daughter perhaps have moved so they've registered the same day both with the

same name, different signatures but it's so hard to identify only with the signature. And, also, father and son who don't use Junior and Senior which happens often. We just -- we need that birthdate. I've been told that the law says that you can't use the birthdate, but, the constitution of the state of Minnesota also says that you have to be a citizen for 90 days before you can register and that isn't even on the card so I don't see that law has any effect. We need a birthdate very badly.

EXAMINER GOWLING: Comments or further questions by the agency or anyone.

MR. LINDROTH: I just wanted to mention that the most recent prior residence was one area that we had -- that we had considered removing from the card until we noticed that it was required in the law to be on the card. But, our feelings initially were that we concurred with you on that. The birthdate was removed by the legislature from the card and in doing so they also removed other information like social security number, age and so it is the feeling of our representative in the Attorney General's Office that that information cannot just arbitrarily be placed back on the card by the Secretary of State. It would be not in keeping with the intent of the legislature.

MR. HENTGES: Mr. Examiner if I could make two points. One, perhaps the record should show that the comments

of the previous witness were directed to Rule 301, I believe. And second, perhaps just for clarification, the Secretary of State and other administrative officers, as I understand the law, cannot determine for themselves that the Constitution may require something that the Statutes do not. An administrative officer has no course, no proper course other than to follow the Statutes until the court determines that those Statutes violate the Contitution.

EXAMINER GOWLING: Any further comments on that particular point before we recognize the gentleman at the podium? Sir if you state your full name spelling your last and giving us your address and the name of any group that you may represent.

MR. BLAKE: OK. My name is Francis Blake. B L A K E. And I'm from Minneapolis and I guess, the group I'm representing would be two state delegates who were elected in the 57th district convention. We are putting on a voters registration drive in the Native American area. And I guess, we would like to make it more convenient and more -- and eliminate some of the bureaucracy that the lady who was just made prior to me coming here. What we would like probably from the state, some indians who would be notary public about 25 maybe 30 in the voters registration drive. I guess what I really wanted to do is get away from the paternalism. Let us register our people and let us do it our way.

EXAMINER GOWLING: Do you have further comment?

MR. BLAKE: Well, no I don't.

EXAMINER GOWLING: Is there a comment from the agency panel.

MR. HENTGES: I might comment that I don't understand the law to required voter registrations to be notarized. It seems to me that you or any other group can go door to door or have a store front or in some other way make voter registration cards available to unregistered voters and help them fill out those cards and then simply drop those cards in the mail or have one of your group take them down, in your case to Mr. Janowiec in City Hall in Minneapolis. That voter registrations, as I understand the law do not have to be notarized.

MR. BLAKE: Well, I guess, what prior to coming up here is if a gentleman asked if he'd registered to vote if he turn around and recognize and be recognized to register another person. And I guess we're trying to get away from registering at the polls and we what to get the whole community, you know, (unintelligible) two would be registered.

MR. HENTGES: Yes, sir. And I think that can be done and is being done and can be done very simply as I say by obtaining blank cards and helping unregistered voters in the community fill those out and then taking them or somehow in some manner seeing that they are delivered to

the election officials. I think both the Secretary of State, certainly, if you were to stop by her office after this -- before you leave today, would be glad to go through the steps of how you do that. And I would guess that Mr. Janowiec in Minneapolis would be willing to help you with such concerns as the blank cards to use.

MR. BLAKE: Well, I think another -- another thing what we need out here in the indian community is an election law -- election laws handbook. And we don't have this and we don't have the money because of the economics of the group of people that, you know, we are.

MR. HENTGES: Yes, sir again, the Secretary of State, at least, has copies of the laws and explanations and is in the process of printing even more materials explaining how to vote and how to register. And, makes these available free. Either calling her or writing her or stopping by her office upstairs before you leave or at any other time.

MR. BLAKE: Yah. I hope so, because it's, you know, our economic situation is -- and thank you.

EXAMINER GOWLING: Thank you sir. Mr. Janowiec.

MR. JANOWIEC: I would like to respond to Mr. Blake. We encourage you to come down. We'll give you the cards and we'll brief you as to what is to be done properly. We want this-we don't turn anyone down. There is one drawback we've found when we give out cards to people. And we had this

situation here at the State Fair last year. A group of registering voters, possibly had 500 or so, the group did not turn those cards in until after the primary election. So, I do feel that there should be limitation. There's a two days, it says here somewhere, that- we -- cards should be returned to -- back to the proper place. I think, this is what we try to do when people do come in for cards, we try to brief them on this. Try to explain that they must return the cards. They are responsible. This State Fair affair really threw us. We were criticized for not having the card. Yet we had no jurisdiction over it, don't you see. But we do encourage people to come and we'll be more than happy to help them out. And that's Room One, Mr. Blake, City Hall. Myself, or any of the other girls will be very happy to help you.

EXAMINER GOWLING: Thank you, sir. Any further question or comments. The record will reflect that Colleen Norrgran, representing the St. Paul Election Bureau returned for question or comment.

MS. NORRGRAN: One of the things, I think, I wanted the Secretary of State's Office to recommend to the legislature this change of the birthdate. But, here is another recommendation that in line with what the former fellow was talking about, and that is according to the law you can take registrations, different places throughout the city, but, you

cannot go door to door and I believe that's still in the law, am I right? That should be changed or course.

MR. HENTGES: No, Mrs. Norrgran I don't understand that to be the law. There was under the prior law which required registrations to take place at the City Clerk's Office

MS. NORRGRAN: Well, that part has been deleted now or is it still in, I though it was still in in the last law book I received.

MR. HENTGES: The law as I understand it, the previous law, as I recall it, required that regis -- voter registrations could only occur at the City Clerk's Office, with some exceptions in the last few days before the election. There was an Attorney General's opinion in the early '60's that interpreted that Statute to prohibit door to door voter registration. The requirement that voter registration occur at the City Clerk's Office is now out of the law, as you know, and has been replaced by post card registration and election day registration. And, it would be my under -

MS. NORRGRAN: That part of the law has been deleted.

MR. HENTGES: It would be my understanding that that Attorney General's opinion prohibiting door to door registration would no longer be applicable. And, I see nothing in the law now that prohibits door to door --

MS. NORRGRAN: I don't think it's right. That isn't yah --

MR. HENTGES: -- registration.

MS. NORRGRAN: I thought it should be changed but I had -- I had thought it was still in the law in the last law book we had received.

MR. HETGES: I don't believe so.

MS. NORRGRAN: Maybe I'm wrong.

EXAMINER GOWLING: If you will just briefly identify yourself for purposes of the record again.

MR. JENSON: Arthur W. Jenson, City Clerk from Bloomington. I think the clerks as a group would like to encourage the Secretary of State's Office to attempt to propose legislation, putting the birthdate back on the registration card. It is very important to us. If she doesn't feel that she can go this far with such a proposal perhaps she could use an optional method such as she's presently using for telephone number, and perhaps require the date and month of birth without requiring the year. This will then protect the feminine gender.

EXAMINER GOWLING: Thank you. Any further comments or question. Mr. Janowiec.

MR. JANOWIEC: Bear with me please.

EXAMINER GOWLING: The record will reflect Mr. Janowiec is returning for question or comment.

MR. JANOWIEC: Again, I should say I understand the birthday ruling, however, last year, not '74, we had

four cases of people with the same name the signatures were pretty darn identical, we're not handwritting experts, we're about to turn them over to the Attorney Gen -- or the County Attorneys for investigation. Well, further checking by birthdate we were able to distinguish the two. We find, also, with the drives, where we hand out cards in schools usually, like to conduct their own drives, high schools. We found about 20 cards of kids that were not 18. Birthday wise we were able to check it out. Without the birthdate you're not going to find it, don't you see. So, I realize, I'm trying to impress, I guess, how important the birthdate is to us. And, not only month and date, but year. It's a setback for ERA is it.

UNIDENTIFIED VOICE: It's the men who object.

EXAMINER GOWLING: Further comments.

MS. HALLBERG: Florence Hallberg, Edina. We think that just the year, the month and the date should be sufficient for identification because some people do feel that it's an invasion of privacy and we think that should help. The other thing we'd like to have is both the original and the duplicate registration card indentical. We feel that it's a waste of time to have to go to two files in case one card is misfiled it gives us a backup with the information that we need. I'd also like to ask if the little box in the righthand corner could be enlarged to include information that the -- Hennepin

County has requested. They want us to put our municipality number and the voter ID number up there in that corner. Also, they ask us to indicate whether a person -- the last date a person has voted and whether or not he has voted. So if that little box could be enlarged to include that we wouldn't have to write over the rest of the card and make it slightly less legible.

EXAMINER GOWLING: Thank you. Further question or comment. I see none and looking at the hour I'm going to suggest we take a brief ten minute recess at this time to stretch and relieve the tensions. We'll reconvene in ten minutes.

(Whereupon, a short recess was taken.)

EXAMINER GOWLING: May the record reflect that we are now reconvening the hearing with respect to the proposed amendments to the rules of the Secretary of State for voter registration. And, in the event that anyone has entered the room or has become a participant in this hearing since we recessed I'm going to again explain that we are requiring that each person register by completing one of the registration cards available at the head table. Further I would like to again remind you that should anyone wish to submit a written brief or written comments or argument having a bearing on any of the proposed rules they may do so within 20 days of the close of the hearing and that these materials are to be

submitted to me, James R. Gowling in care of the Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota, 55104. And in that regard I must again emphasis that your written statements or comments or argument, legal briefs, anything in the nature of a presentation concerning these rules must be received, that's not post-dated of any other form, must be received in that office by that date. And the deadline date again would be April 26th, 1976. I'm going to return now to the presentation, Again, we are considering the proposed amendments to the rules of the Secretary of State for voter registration. We have completed the presentation with respect to the first six chapters of the proposed amendments, and I'm going to ask at this time that we commence consideration of the next amended chapter which I believe is Chapter Seven. Mr. Lindroth if you would proceed.

MR. LINDROTH: Chapter Seven, copies of list of registered voters. In all instances in Chapter Seven and in Chapter Ten, where reference is make to precinct lists we would like to reidentify those as lists of registered voters. To clarify what they are lists of. The -- that -- those are the only changes in 701. In 702, addition gives the Secretary of State the authority to review and determine satisfactory methods of reproducing precinct lists. This is to provide for uniform precinct lists and uniform information contained on precinct lists. Sec. Stat. 703, the word "the"

has been added before the word "general" simply for clarification.

EXAMINER GOWLING: Are there questions or comments with respect to Chapter Seven of the proposed amendments to the rules of the Secretary of State concerning voter registration? There being none would you please proceed to the next amended Chapter, Mr. Lindroth.

MR. LINDROTH: Chapter Eight challenges the wording has been changed for clarification. Sec. Stat. 801. In the form for the challenges the word "village" has been removed under the residence vote of the person challenging and the person who is being challenged because there are no longer any villages in the state, there are only cities and townships.

EXAMINER GOWLING: Are there any questions or comments with respect to Chapter Eight, Challenges? Mr. Janowiec you're recognized and may proceed with your question or comment.

MR. JANOWIEC: Thank you. I guess what I'm in doubt about is election day we've had instance where a person wanted to challenge a persons registration election day. Bob can you give me any insight on this?

MR. HENTGES: No.

MR. JANOWIEC: You see I think there should be some clarification on that. Whether you can challenge a person on election day who registered. I think that you cannot,

my way of thinking is that you cannot challenge their registration but you can challenge him before he votes. Don't you think that would be the recourse on that?

MR. HENTGES: That would be my understanding too. It seems to me that the requirements for challenging a registration make it as a practical matter impossible to challenge one on election day. As you point out there are procedures for challenging the right of a person to vote.

MR. JANOWIEC: OK. But then you would be in agreement with me that you cannot challenge the registration at a time when the registration is being taken -- taken, but you can challenge that voter before he votes.

MR. HENTGES: Without claiming any great certainty, I'd agree with that.

EXAMINER GOWLING: Incidently the record will reflect that there's a typographical error in the next to the last line of Sec. Stat. 801. the spelling of the word "challenger" the a and the h are transposed as being an insubstantial change and obviously a typographical error would be corrected as such. Any further question? Any further question or comment on Chapter Eight? There being none, Mr. Lindroth would you proceed with the next amended Chapter.

MR. LINDROTH: Chapter Nine, Annual Report has been amended to reflect that information that's on file in the County Auditor's Office. At the present time not all

local election returns and local election information is on file in the County Auditor's Office and that auditor must take the time to pursue the local election officials, the township people and the city clerks to obtain that information. So, the annual report now will reflect that information that is on file with the County Auditor's Office and that the County Canvassing Board has the responsibility to certify. Those -- these will be countywide elections. So, in Sec. Stat. 902 refers to the general election years the following information shall be obtained, contained on the annual report for the state primary and the state general elections. These would be in even numbered years, years such as 1976. We, on Item Number One we're no longer requiring an itemized account of the cost of registering voters. Simply the cost of the county for registering voters. Item B, under Part Three, the number of persons registered on the days of the state primary and the state general elections. Item Four the same -- is the amendment.

EXAMINER GOWLING: If we can interupt you for just a moment while we change the tape. Pardon our interuption. We're back on the record and I'm receiveing and indication that some of the members of the public in the audience are having some difficulty in hearing and I'm going to ask that each of us try to speak in a voice such that a person seated in the last row could hear us without the aid of the ampli-

fication devices. If wecan all speak up, I think, it'll be more meaningful for all of us. And incidently, anyone in the audience who's having difficulty in hearing, please just raise your hand or make a jesture by putting your hand to your ear. Sometimes we forget and our tones lower and we don't realize it. Certainly we don't intend not to communicate with you. You can proceed.

MR. LINDROTH: OK. Roman numeral No. II the same amendments have been made to reflect the fact that we are interested in the voter registration information for the state primary and the state general election. Roman numeral No. III the word "forms" has been changed to "cards" in both instances where it appears in Item Number Two. To clarify that we are referring to voter registration cards and not just any form that's used for voter registration. There's a new Sec. Stat. 903 which indicates what information we would like to have the auditors certify to the Secretary of State in those years when there is not a statewide general or primary election. And that's just the total number of registered voters in the county and the total cost of voter registration.

EXAMINER GOWLING: Are there questions or comments concerning Chapter Nine as presented? Seeing none, Mr. Lindroth would you proceed with the next amended chapter which appears to be Chapter 10.

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MR. LINDROTH: Chapter 10, Electronic or Automatic Data Processing, word "Commissioners" change the "Secretary of State", in both instances where it appears in Sec. Stat. 1001. Sec. Stat. 1002, Compatible with the state system, the words "The state of Minnesota shall be provided in a format compatible with the state's computer system" has been deleted. The words "registered voters within the county shall include and be limited to in this order horizontally, across from and double spaced between entries, registrant, name," that's a typographical error, "address including street or route number, city or township and zip code and telephone number when provided by the registrant. Each entry in the precinct shall be arranged in alphabetical order by last name of registrant. Each precinct shall be entered in the municipality listing in numerical order by precinct number. Each municipality shall be entered in alphabetical order by municipality name within the county. Standards for data process -- data entry shall be compatible with the Secretary of State's standards." This is simply to expand and better identify the manner of which this electronic or automatic data processing list will be maintianed.

EXAMINER GOWLING: Incidently, with respect to the typographical error appearing in the seventh line of Sec. Stat. 1002, administrative notice is taken of the typographical error and spelling of registrant and the orignal has been

corrected. So as to correctly spell registrant.

MR. JENSON: Art Jenson, City of Bloomington. I object a little bit to Sec. Stat. 1002, that particular paragraph. The provisions of it appear to be too restrictive. A number of other items of information should be provided in the listing of registered voters. These might include for instance, the ward and precinct number, the house and legislative district, the school district, individuals birthdates if provided and the date last voted. Perhaps these items shouldn't be provided to persons who request the listing from the County Auditor but they very definitely must be included in the overall program for the use of the auditor or the particular election jurisdiction during the conduct of elections. This appears to limit what can be included on the data file. It also states that you can only list the entries in alphabetical order for each precinct. There also are capabilities within the computer whereby the registrations might be provided to a candidate in street address order, for instance, and make it a lot easier for him to use. I just think it's too restrictive.

EXAMINER GOWLING: Comment from the agency, if any. Any further question or comment with respect to Chapter 10 Electronic or Automatic Data Processing, the proposed amendments? There appearing to be none, and this having concluded the chapter by chapter presentation concerning the proposed

amendments to the rules concerning voter registration. I am at this time going to entertain any speaker's comments or general questions which anyone may wish to make. At the onset I did indicate that persons could make a presentation following the entire presentation by the agency and I'm going to call upon those persons to step forward and to present their comments, viewpoints, arguments or whatever from the podium stand. When recognized, you may step forward and in each case as in the past under our procedure please identify yourself spelling your last name, stating your address and indicating the name of any agency or group which you represent.

MR. KAMMERER: My name is Clarence Kammerer, the last name is spelled K A M M E R E R. I am here as a representative of the Ramsey County Election Office in the Courthouse in St. Paul. I believe up until now I probably have been the only person who has made comments on any of these proposed changes who has been representing a county office. We've heard a number of comments from people who are representing municipal clerks. It's true the duties of these two offices probably are similar, but, then there are a lot of duties that are peculiar to a county election office as compared to a city election office. I, when I received this list of changes from the Secretary of State's Office, I went through it and marked in red the copy that I have before me here of things that I wanted to make comments on and because

I am going to make comments on more than one of the chapters I've saved my feet in running back and forth here and am going to do it all at one time. We've been working with this voter registration law since 1973, and I think, that we have, can speak from the experience that we've had with it for these several years. I also, numbered the pages on this set of proposed changes and I'm going to make reference to these paragraphs by the numbers that I have put on the pages on the bottom here. The first thing that I would like to make a comment on is Chapter 3 and in my notation it is Page Two. Up until now the voter registration form has been printed on white paper with black ink and the duplicate voter registration card has been printed on a gray tinted form. Now in some of the forms that were printed I'll admit that the distinction the color distinction between the top card which is the original voter registration card and the bottom card which is the duplicate, the gray tint probably hasn't been as pronounced as would be, so that it would be easier to work with. But I would like to make a comment on one of the proposals here on Chapter Three and that is No. Four. It says the duplicate card shall have a very light, they lined out gray and put in blue screen. Now, I'm sure that the Secretary of State is very much aware of the fact of what it costs to print these forms. We had an experience when we printed our first batch of 10,000 voter registration

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forms in October of '73 and they are expensive, and I'm sure the Secretary of State will agree that when she had the forms printed that they were expensive even with printing all on -- with black ink. Now here, this proposal is that the duplicate card shall have a very blue screen. Now, I'm sure that you realize that when a card or any paper is run through by a printer more that once where you're going to have a second color, you're going to add considerably to the cost of printing these forms. And, I don't know if you people are aware of it, we are in the auditors office because we received notice from the Secretary of State's Office that the Secretary of State is no longer going to print these voter registration forms but, each county auditor is going to have to print these forms as they need them. Now, if the County Auditor is going to have to print these forms as we need them, and in Ramsey County I think, that in the year of 1976 we will have used no less than 100,000 of these forms and if we're going to have to print these forms with a second color which is indicated here by this proposal that instead of making it a light gray the way it's been in the past, to make it a blue tint, that this is going to increase considerably the cost of printing these forms because they're going to have to have a second color of ink by the printer. I know that there was a comment earlier that they would like another color, regardless of whether, what color you print it, if it's a color other than black, which is used in printing

the rest of the form it is going to be expensive. I flipped over now to my Page Four and, I think, it still is under Chapter Three, the voter registration card. When I first got this summary of changes, of course, the information as to the most recent prior residence and the most recent prior registration address, I'm glad to see that this is going to be reinstated on the form. I'm pleased to see that this is going to be reinstated instead of deleted the way it was originally sent to us. I just have one little thing here in No. Six on the bottom of my Page Four. It reads, "After the white card is completed sign your full name in ink on the appropriate line on both the white and the blue or gray card." I think that something should be added there that the date is also important on both cards when the person signs it. I think it's important, because, when these cards, if it's only put on the top and when these cards are separated if the voter registr -- if the date that the person filled out the voter registration card is not put on the duplicate card I think we've lost some valuable information. I would just like to make another statement, add to comments that have been made by three or four other people who've spoke earlier, and that is there is a definite need, a very definite need, to have something on the voter registration card to identify it to one certain individual. Now, I don't want to belabor this because you've heard this from other people,

but I just want to add my statement that I think that is very necessary to have something on there to identify a voter registration card for one individual person. Whether it's a birthdate, the full birthdate, or whether it's the month and the day, or whether it might be a social security number or something. I think it's very important that we have something on the card. I flipped over now to my, the way I've got numbered, and that is Page Five and on the top there I've also added in Seven and Eight that in addition to the person signing the card that he fill in the date on both cards, because the date is important. I've flipped over now to Page Six and it has to do with printing and distribution of voter registration cards. At the present the law provides that the auditor shall provide voter registration cards to any person or group who requests in writing a reasonable number. I think that it's good the way it was. In writing a reasonable number, but, it seems that they've deleted the words, " in writing" and I'm wondering why this was deleted. I don't think there's anybody at least I haven't heard from anybody here representing a County Auditor's Department, County Election Department, but, we in the County Auditor's Office, we have the responsibility of handing, of giving out these voter registration cards. And, we felt that it's good to have a person who wants a quantity of these cards for use, that he put it in writing, and we've made -- we've

asked and we've received from anybody who wanted these cards, we've asked them to give it to us in writing, telling us who they are, how many cards they want and how they're going to use them. Because I think that by having them put it in writing we have some evidence as to who these people are and what they're going to do with these cards. Now, another thing is what is a reasonable number? Just recently in connection with the City Primary Election in St. Paul, I had one candidate who was running in the City Primary Election, and He came to our office at least five times, or maybe six times, and asked and he got a total number of cards from us of 3,000 cards. Now, is that a reasonable number of cards. And, I asked the man the last time that he came in , I says, what are you doing with these cards. And, he says, well I'm giving them to this candidate and to that candidate and I told him that it was not his job to get cards from us to give to other candidates. So, there again it stressed the importance of having these people put in writing what they are going to do with these cards. and, I hesitated to give this man t e last batch of 500 cards and he threatened to go down to the newspaper and write up an article on the Ramsey County Election Department, that they refused to give him voter registration cards. And, I didn't want to get any adverse publicity towards myself or the Election Department or towards my boss, so I gave him another batch of 500 cards. I don't know what

he did with them, but, of the 3,000 cards that we gave him he only brought back 12 to put on our counter. So, I think that -- that you would be doing us a favor if you would leave in the regulations on the distribution of voter registration cards, to leave in the works, "in writing" and probably give us a little better interpretation of what a reasonable number of cards is. I think that it kind of puts us on the spot as to what is a reasonable number. I'm sure that a few hundred isn't bad, that's reasonable. But is 3,000 cards a reasonable number of cards to give out? I've -- I have flipped over now to my Page Eight, and it's Chapter Four, and it has, this one has been amended by this section that we got but I thing that the wording is still pretty much the same. And that is a mailed notice. And, on Page Eight out to the right it says in case you move notify the County Auditor's Office in person at least 20 days before the next election so that you may change your registration to the proper polling place. I think the wording there is wrong. I don't think that a person can change the registration. I think that this should be, if we -- if it's going to be anything at all, I think we have to put a statement there that if you change your residence you have to reregister. You cannot change a registration, you have to reregister. So, I think, that -- that consideration should be given to changing the wording in that particular statement on this mailed notice. I have

flipped over now to my Page 10 and I think it still is part of this particular Chapter, and I'm on Page 10 and the last says the Auditor shall notify the applicant of the action. Now, I think that this was changed by this addenda that we have here whereby we've got to notify a person when we send, -- when he sends us a card with the wrong county on it. Now, we in -- in Ramsey County and in St. Paul, and I'm sure they experience the same thing in Hennepin County and in Minneapolis. We get a lot of voter registration cards whereby a person says that he lives in St. Paul and where St. Paul is close to Washington County, it's close to Dakota County, and sometimes we have a little trouble finding out what particular county this person lives in. And, we get on the telephone and I think that the best way that we have when a person gives us a street address and says he lives in St. Paul or Ramsey County the best method that we have of -- when we -- know that the person doesn't live in Ramsey County is to call a postal station to find out if this particular address is in Washington County or Dakota County or maybe even Anoka County we get them. And when we do that and find out that the person lives in this other county what we do is send the complete voter registration cards that this person has filled out, and sent to us, and we send them to the County Auditor. Now, if we are going to have to make up a special notice to this person telling

him that we have sent his card to Washington County that is going to put an added burden of work onto us when we are going to have a great amount of work prior to a county and district primary or county and district general election. I think that the County Auditor if he goes to the trouble to find out what particular county this person lives in, I think, that that would suffice. If we take this voter registration card and send it to the auditor of that particular county, I think, that that is doing a job for the voter and I do not think that we should be asked to notify the person that we have sent his voter registration card to the county auditor of Washington County, Anoka County or Dakota County or whatever county it might be. And, we have a lot of that. I have flipped over now to my Page 13 and that is Chapter Six, Election Day Registration. This is Sec. Stat. 601 and that is the -- you've heard several comments already on this and I agree with the comments that were made in particular by the gentleman from Bloomington, and anybody else who made comments on adding any other things that might be used for identification purpose, for a person who wants to register and vote on election day. Now, it's been proposed that a current homestead property tax statement or an apartment lease currently in effective -- in effect be accepted as evidence of a person living in that particular house. The gentleman from Bloomington I think, stated that

very well when he said that he pers -- that a homestead property tax statement would not -- should not be accepted as a valid evidence of residency. At our November 1974 general election in Ramsey County we had over 14,500 people who registered and voted on election day using the three methods for identifying a voter so that they could vote. And I'm sure your all familiar with what they are. And ten percent of the people who voted in Ramsey County at that election, I think, we had, I don't know, 114,000, -- 14,000 we had over 14,500 people who registered and voted on election day and I don't think it presented any problem to any one of those to bring to the judges of election one of the three methods that are currently in the law insofar as furnishing evidence of residency in a given precinct. I have flipped over now to Page 19 and that's the last page. And that is a Sec. Stat. 1002, Compatible with State System, and there they've -- the -- they've deleted a few words and they've added quite a bit. And there again, I would agree with the comments made by the gentleman from Bloomington on the information that is on the precinct list. Now, if we were only to put the information on the precinct list that you have outlined here it wouldn't give much information. On our precinct list as cited by the gentleman we put the ward and precinct, we put the legislative district, we put the county commissioner district, we put date of birth, we ask

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it's not required but we ask that the data processing people enter this on their records but not added to any list that is given out because it is not required any longer by the present law, but, we ask data processing to keep it on their magnetic tape, hoping that sometime in the future the law will be changed whereby a person's date a birth will become a part of the record, and if that is true we will have this information on a lot of our cards already. There's one thing that I did underline in this paragraph of 1002, and that is registered voters within the county shall include and be limited to in this order, horizontally, across form and double spaced. Now, at the last elections in 1974 we had probably 50 requests from candidates or members of political parties whereby they asked for copies of precinct lists. And our precinct lists as of now are single spaced. And, I think, that everybody that gets one of these lists is well pleased with it. It's single spaced, but, now, if we're going to double space this, there again, going back to my comments earlier about adding another color to printing the voter registration card, if we're going to have to double space every item on these voter registration lists that we sell to candidates or political parties that's going to double the cost of the paper that we have to use. Now, whether that's an important enough item to take into consideration when we're discussing something like this I don't know. But I'm sure

that we should all be concerned about conserving things and we probably should start with government in conserving things. And, if we can do anything that is going to conserve paper which is derived from our natural resources I think we ought to stick to it instead of putting something in a proposed amendment where we're going to double the amount of paper that we are going to use. Whether that's important or not I don't know, but, I think it's something that is worthy of consideration. I'm on Page 19 and I'm all through. Thank you.

MR. HENTGES: Mr. Kammerer, Mr. Examiner, could I ask a couple questions. One you said you would like the date, you feel it's important to have the date put on the duplicate card, apparently by the voter, as well as on the original card, Can you elaborate on the reason for that?

MR. KAMMERER: That's the -- that's the date -- the date that the person fills it out. It's not required now.

MR. HENTGES: Why is it necessary that the voter put it on --

MR. KAMMERER: Well, for instance --

MR. HENTGES: -- rather than someone in your office? That's what I'm having trouble understanding.

MR. KAMMERER: Well, it's probably better if the voter puts it on himself, he puts it on on the top part,

and it's just as well if he would put it on the bottom part when he signs his name.

MR. HENTGES: The alternative to that is for someone in your office to put that on.

MR. KRAMMERER: Well, I suppose that' right. But, the date -- the date on this card is important, regardless who puts it on, it is important because it is one thing that is taken into consideration by the municipal clerk or the county auditor or whoever does it, and that is to pull out a card of a person who hasn't registered or who hasn't voted once in the past four years. And, maybe one of the deciding things on that is what day did the person register. And, I think it's something that the person should put on instead of somebody who is processing the card. It's not too important but, I think that as long as you are going to ask the person to sign the card I think that it would be just as easy for him to put a date on it.

MR. HENTGES: The other question I had is. Do you have any suggestion as to, when you talk about some guidelines as to reasonable number of cards. Do you have any suggestions as to what those guidelines might be?

MR. KAMMERER: I don't. I don't. But, there should be some, there should be, -- I should have some protection. Or not me but the department should have some protection, when a person can come in and at six different

times and demand 500 cards at each time and if you kind of hesitate to give it to him you shouldn't be subject to a threat of some newspaper article saying that that man in that office wouldn't give me any cards. And, I don't know what a reasonable number is. But, maybe we can't clarify that, but, I would very much like to see a statement in writing kept in the law, because at least we're going to have some statement from this person as to who he is what he's going to do with these cards and how many he wants. And, there, I think, we would be able to control just a little bit the number of cards that some of these ask for. Now just the other day, yesterday I believe it was, there was somebody came and he said he wanted some cards and I told him that he would have to fill out a request for cards. I says how many do you want, well, he says give me fifty, I says that's fine I'll give you fifty and then he says can I have 200. So, right away he jumped from 50 to 200. And, well, I says let's compr@mise, I says I'll give you 100 and he was satisfied with 100. I don't know what he's going to do with them. But, there again, if we have these people put it in writing , I think they're just going to be a little bit more considerate and probably a little bit more conservative as to the number of cards that they're going to ask for. And, like I say, these cards, to have them printed the way they are designed with a gum seal on the top, they are expensive. And, I think, that if

we can control the distribution of these just a little bit, I think, it's going to be good for all of us.

EXAMINER GOWLING: It's now approximately 12 noon and I'm going to suggest that we recess until 1 o'clock sharp, to reconvene for the purpose of taking further comment and testimony concerning the proposed amendments to the rules of the Secretary of State for voter registration. Before recessing I'm going to remind those of you that are here that you may indicate, by either talking to myself or Mr. Mihalchick, your desire to receive a notice of the filing of the report of the Hearing Examiner which will cover the Findings of Fact, Conclusions and Recommendations concerning the matters that have been heard this morning. And, just simply by giving us your name,anddress and the group that you represent you'll be provided with that. We will reconvene at 1 o'clock sharp. We now stand in recess.

(Whereupon, a recess was taken at 12 noon)

AFTERNOON SESSION

(Reconvened at 1:00 p.m.)

EXAMINER GOWLING: The hearings with respect to the proposed rules of the Secretary of State for proposed amendments to the rules of Secretary of State for voter registration and for the rules of the Secretary of State for certification and experimental and general use of voting machines, is reconvened. I'm going to again ask anyone who was not present this morning, who may have come to the hearing after our recess for lunch, to please register. There are registration cards available at the front table and it's required that all persons attending do register, and particularly any persons making statements or presenting their viewpoints, be registered. I'm going to briefly, again for the purposes of anyone who may have joined us late, cover basically the guidelines of the hearing and I'm going to, before getting to that, I'm going to indicate to you that there has been a change with respect to the agenda. As you recall I indicated that anyone whose schedule was particularly inconvenienced by the agenda would be allowed to request of the Hearing Examiner permission to speak out of order, or that the agenda be suspended for the purposes of accomodating that person. There have -- there have been two requests in that regard, and one of them involves Mr. Rosholt, representing the AVM Corporation, who wishes to speak on the second proposed set of

rules. Those are the rules with respect to certification and experimental and general use of voting machines. I'm going to allow him to testify and to present his statement as soon as I cover the guidelines. Following that I'm going to allow Mary Waldo representing the League of Women Voters of Minnesota to testify. Again, the guidelines are basically that each person attending the hearing is required to sign a registration form, they're available at the front of the room. We request that each person upon testifying or presenting his views step to the microphone table and that that person identify himself, stating his full name spelling the last, providing his address and also indicating the group or organization, if any, that he or she represents. Incidently, all witnesses testifying subject themselves to questioning by a representative of the agency the Hearing Examiner and other persons who are present. Nonagency interested persons may refuse to consent to questioning by other non-agency persons, of course. If a written statement or other matter reduced to writing is desired to be introduced in evidence it should be presented to me as the Hearing Examiner and it will then be marked as an Exhibit and offered. Written statements may be introduced at the time the individual offers an oral statement. The right of the agency or others to examine the individual presenting this written statement extends to the content of the statement offered. Now, further

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I have indicated that this proceeding is being taped by use of electronic device, I'm going to ask that you follow the guidelines as best you can in presenting statements. The rules are rather simple. We simply require that only one person speak at any one time. Secondly, that any comments or any statements be verbalized as the recording device, of course, cannot record a jesture or a nod or anything of that nature. And, thirdly, as I've indicated previously with respect to any terminology that's technical in nature or any proper names that we request that those terms or names be spelled so that the typist transcribing this record will have the benefit of the correct spelling and so that there will be no error in the transcription. Again, I want to remind each person that they may receive notice of the filing of my report which will contain Findings of Fact, Conclusions and Recommendations. This can be done by indicating to myself or Mr. Mihalchick to my right, your name and address you will then receive the notice of that report and you may then, if you wish, order a copy of that or you may take steps to examine the copies on file. Any written statements, arguments, legal briefs or other matters may be submitted by forwarding them to my attention, I'm James R. Gowling, in care of the Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota. In order to be considered these written submitals must be received within 20

days of the close of the hearing. Again, assuming that this hearing will be completed today those documents must be received on or before the close of business day, April 26th 1976. And, I emphasis the word received. It does not mean that they must be postmarked or placed in the mails on that date but must actually be received to be considered. You're further advised that under Minnesota Statute Section 10A .01 Subdivision 11, any individual representing persons or associations attempt to -- attempting to influence administrative action such as the promulgation of the rules must register with the State Ethics Commission as a lobbyist. This must be done within five days of the commencement of such activity. With those guidelines and a refresher with respect to the ground rules I'm going to ask Mr. Rosholt, if he will, to step forward and, again, as I indicated we are suspending the agenda for the purposes of allowing him to make his statement and provide his comments in that he does have a pressing commitment at 2:00.

UNIDENTIFIED VOICE: Mr. Examiner, excuse me. Can I -- are you all through with the voter registration?

EXAMINER GOWLING: No, we aren't, we're at the point, pardon me for not explaining that further. We are still considering and will receive, as soon as we return to the agenda, comments, statements and questions concerning the proposed rules or proposed amendments to the rules concerning

voter registration. We are moving on to the proposed rules for certification and experimental and general use of voting machines solely to accomodate Mr. Rosholt at this moment, who has views and who indicated to me this morning that he did have a pressing commitment that requires that he testify no later than at this moment. So at that I'm going to allow him to proceed and then we will return to consideration of those comments on the voter registration. Mr. Rosholt.

MR. ROSHOLT: Thank you, Mr. Gowling. My Name is Jack Rosholt. I represent -- I'm a lawyer in Minneapolis and I represent AVM Corporation of Jamestown, New York. AVM is a manufacturer of mechanical voting machines, and I think that most of the mechanical voting machines in the state are manufatured by that company. With the advent of mechan cal mean -- or rather electronic means of counting votes, AVM has been working on a system for processing votes, electronically. They have recently developed a system --

EXAMINER GOWLING: May I interupt you, I'm sorry, we must turn the tape.

MR. ROSHOLT: Sure.

EXAMINER GOWLING: If you just --

EXAM. GOWLING: We're back on the record. Pardon the interruption, Mr. Rosholt, please continue.

MR. ROSHOLT: Okay. Ah, as I was explaining they've developed an electronic system, which has two features. First of all, they believe that they've eliminated the chad problem. That is the problem of an imperfect perforation in a card ballot. Second of all the AVM system provides an inexpensive way of cal -- of tabulating ballots in the precinct. It is without taking the ballots to a counting center. The system is very much like the punch system except that with either a pen or a pencil a mark is recorded on a card ballot. In the precinct, after all of the marks have been made, after all of the voting is done, it's possible with an inexpensive sorter, which can read the marks on the card, to sort out the ballots for any of the races that you want to count. For example if, oh if there are five contests and at the precinct level you wanted to know how -- how the contest for Alderman came out, you could feed the cards through the system and sort them out and then put the cards back and sort them out for a different race. And there are some other advantages. It's not necessary of course to count cards at the precinct level, after -- you can count then at the precinct level and then take them to a counting center and, and essentially do the same thing again, as a double check. In any case AVM believes that there system

has no chad problems because there's no perforation made in the card. Now, I've read Chapter 206 and that it seems to me is broad enough to permit an electronic voting system which doesn't use a punch, but uses a mark rather than a punch. And, I -- I've read the rules and it seems to me also that there are references in the rules to marks which suggest that the proposed rules also would permit the AVM system. I might say that the AVM system has been certified in 20 states. It's recently been used in the Florida and North Carolina Primaries and will be used in the Georgia Primary on May 4th. I guess, I'd like to pose a question, if I could to the panel, and that is this, do the proposed rules permit the use of marking as opposed to or as well as punching as a system for recording votes on a card to be tabulated?

MS. MC COY: For the record my name is Mary Ann McCoy, M-C C-O-Y, and I'm Supervisor of Election Procedures in the Office of the Secretary of State. In response to the question posed by the -- the representative from AVM Voting Machines, it is our intent that these rules would be general enough to test the specifications of different types of voting machines or voting devices and that the one that you described could be tested and if it met the specifications could be used. Would there -- would a -- Bob Hentges would you like to comment on this? Do you -- no. Thank you.

MR. ROSHOLT: Members of the panel, I note that -- that -- oh, at various places in the proposed rules the wording is such that there's a reference to a punch but there's not necessarily any reference to a mark. Just for example, perhaps on page 18, Section 3301, H or rather I5. It's toward the top of page 18, paragraph 5. It says the computer program shall ignore punches in a ballot card and so on. I take it then that the reference to the word punch in that provision wouldn't -- or might be interpretted or would be interpretted, I suppose I should say, as referring also to a mark?

MS. MC COY: In that instance, this is instruction to computer programmers. It seems to me that the device that you describe to us does not require computer program for tabulation.

MR. ROSHOLT: The --

MS. MC COY: Does -- is there a computer program involved with this?

MR. ROSHOLT: Ah, yes there is.

MS. MC COY: Then to answer your question, it has been our intent, as I stated, that these rules be applied quite generally. So, that we -- I -- I would have no problem in inserting a mark or punch. In other words, wherever punch appears and it's appropriate to meet the intent of these rules that word could be -- mark could be

also inserted. I would ask the Attorney Generals representative, do you see a problem in using those two together? The Statutue makes reference to both in the same -- in several places and, for the purposes of these proposed rules we did not make a dual reference. But, it was not the intent to screen out reference to marks rather than to punches. Does that answer your question?

MR. ROSHOLT: Yes, thank you. There -- I just might point out some other places in the proposed rules where that seems to be the case; Section 3406; Section 3501 following the designation of the inscription - Stop, Wrong Side - Turn Card Over; Section --

MS. MC COY: Could I comment here, that in that instance, there is a State law that requires that precinct identification be punched onto the card. There might need to be some adjustment of the law in that instance.

MR. ROSHOLT: I see. I just have scanned this and whenever I saw the word punched I wasn't ah --

MS. MC COY: Yes. In that instance that is required by the Statute.

MR. ROSHOLT: Also I direct your attention to Section 3502 H, the sentence reads, the ballot cards shall then be examined to insure that each received a clear punch. Presumably that lanquage would also contemplate examination to see that each card received a clear mark.

MS. MC COY: I -- I would assume that if it is legally possible to substitute those two words wherever it's practicable that that would also apply.

MR. ROSHOLT: I -- I think the same is true of Section 3602 E, where a description of the testing procedure is outlined. It would seem that a demonstration card for a marking device should be marked and run through the system rather than punched. And, then in G, paragraph G of that Section there's a check to be made of the stylus, presumably a pen or a pencil should also be checked.

EXAM. GOWLING: Pardon me, under what subdivision was that?

MR. ROSHOLT: That's also under Section 3602.

EXAM. GOWLING: That would be Sub. G under that, is that correct.

MR. ROSHOLT: That's correct.

EXAM. GOWLING: Thank you.

MR. ROSHOLT: And then under Section 3801, paragraph -- I guess paragraphs F and G, discuss what happens if chad is found. It would also seem appropriate to make some reference or description of what should be done in the very unlikely event that there should be some stray mark or defective mark. The AVM system of couse doesn't -- doesn't-- would not have any chad problems at all. In that context I think that Section 3903 paragraph C, might be an appropriate

place for, for some discussion of -- of a defective mark. Mr. Gowling, I -- I haven't -- haven't looked through the proposed rules thoroughly and I'm sure that there may be other sections where a reference to a punch is made without a reference to a mark. If I might, I'd like to take advantage of the opportunity of submitting later, within the 20 day period, an outline of any other places in the -- in the proposed rules where that occurs.

EXAM. GOWLING: I think that would be exceedingly helpful. Especially in light of Mary Ann McCoy's comments concerning the intent in the promulgation of the rules and we certainly will receive that. And, would be most appreciative of your efforts in bringing to our attention all such references that concern you.

MR. ROSHOLT: Thank you. There's another point that perhaps I should mention. The AVM system permits ballots to be counted in the precinct level. There -- there's no reason why it has to be done at the precinct level. The ballots could also be taken to a central tabulating center. It's my observation in -- in reading the rules, perhaps scanning is a better word, that -- that the proposed rules require that -- that cards be taken directly to the tabulating center. It may be the case, but in some election for some purposes or in some Municipalities that counting in the precincts, perhaps followed by a scheck in a tabulating

center, would be a better procedure. I don't know. In any case it -- it was my observation that it seemed that the proposed rules didn't permit that sort of flexibility. Whether that flexibility is desired or not, I don't know. But, if it is, I'd just mention to the panel that this system provides -- provides for that flexibility.

MS. MC COY: Mr. Examiner, may I comment on this.

EXAM. GOWLING: You certainly may.

MS MC COY: The -- these rules as proposed deal with an implementation of a statute that speaks to the conduct of procedures at a counting center. Where the -- there are other statutes that are cited in Chapter 206 which deals with voting machines, stating that where the law is silent on specific procedures the procedures to be followed with the electronic voting systems are those, as far as applicable, as deal with paper ballots. And, of course, paper ballot provisions are include the tabulation at the precinct. And, I think this would cover your question. Do you have a comment on that Mr. Hentges?

MR. HENTGES: No.

MS. MC COY: Thank you.

MR. HOSHOLT: As a -- that was -- that was some -- spose I was confused what -- what they AVM system will have is really a -- what looks like a computer card.

Looks exactly like the punch card. I take it that -- that the word paper ballot would describe -- or the phrase paper ballot would describe a computer punch card that isn't punched but rather marked, is that--?

MS. MC COY: We have defined in the rules in the ballot card as a computer type of ballot and this is a -- a definition that we have -- is also present in the Minnesota Statutes and is present in our rules in the definitions. Paper ballot is not defined in these rules but it is used in the terms in which it's used in other parts of the statutes which does not define it as a computer card. Does that answer your question?

MR. ROSHOLT: Is the definition broad of paper ballot, broad enough to include a rectangular rather hard computer card that is marked rather than punched?

MS. MC COY: It is my understanding that the definition as proposed in our rules is that broad. Do you have a comment? A legal comment on this.

MR. HENTGES: No, but, it seems to me that what -- what--. Correct me if I'm wrong, Mary Ann. It seems to be what Mary Ann McCoy is saying is that if the ballots are not to be counted at a counting center then the rules applicable to counting centers do not apply to the counting of those ballots. They're counted rather under the provisions for counting paper ballots even though they themselves are

not paper ballots. She's not saying that a ballot card is or must be a paper ballot in order for the paper ballot provisions to apply.

MR. ROSHOLT: I see. I guess I don't have anything else, unless, there are questions.

EXAM. GOWLING: Any further questions or comments with respect to the presentation or responses, again, narrowed to the matter that we have just considering since our lunch and recess. Seeing none, thank you. And, we will anticipate receipt of your further statement in written form.

MR. ROSHOLT: Thank you.

EXAM. GOWLING: As I indicated previously, we are now going to return to our agenda. We are returning to consideration of the Proposed Amendments to the Rules of the Secretary of State for Voter Registration. For those of you who may have joined us following the lunch and recess, we have gone through those proposed amendments, chapter by chapter. The presentation has been completed. We are at the stage where we are now receiving statements, testimony, comments or questions going to the amendments as proposed and presented. And, as I also indicated, we have another person who has indicated that she has a commitment and we 're going to call upon, at this time, the representative

of the League of Women Voters of the State of Minnesota, to make her presentation or make her comments.

MS. WALDO: I'm Mary Waldo, W-A-L-D-O, I am representing the League of Women Voters of Minnesota. I'm a Director of that organization. My statement has been distributed to the panel and to the Hearing Officers. The League of Women Voters of Minnesota supports the amendments to the Rules of the Secretary of State for Voter Registration. Many league members as direct observers of the election process, have seen the need for standardized procedures. In 1971 the League of Women Voters of the United States, began a study of the administrative obstacles to voting. At that time, it was found that many a election officials had not established structures and procedures which would insure uniform interpretation and administration of state election laws throughout each state. Minnesota's efforts in this regard have been commendable. The provision for notifying the newly registered voter as to the status of his registration, that's Chapter 5, and the location of the polling place is an important one. Registration is a crucial first step in the voting process. When people register they are more apt to vote. We do question the deleting of the word itemize in Chapter 9, regarding the County Auditors annual reports. Itemized accounting of how money is spent in registering voters seems to offer one of several ways to measure effectiveness. Expanding the number of ways people may offer

proof of residence for election day registration, further eliminates an obstacle to qualifying as a voter. These proposed amendments clarify the rules, and further standardize procedures. Are there questions?

(Pause.)

EXAM. GOWLING: Thank you. Any further questions, comments or statements with respect to the proposed Amendments to the Rules of the Secretary of State for Voter Registration as presented?

(Pause.)

The record will reflect that Mr. Vern Janowiec, is addressing the body. He has previously identified himself and may proceed directly to his statement.

MR. JANOWIEC: I'm going to reiterate somewhat of what Mr. Kammerer from Ramsey County. The great cost of printing. We found this out first hand back in '73 when we instituted this system, that any other color, we wanted blue too at that time, would have been time consuming plus expensive. So, that's why we went for this gray screening, at that time. We have again, I think a written request for registration cards is in order. There's one item here that, I'm a little bit confused now, election day registrations doesn't state anywhere here that we must send out a verification or mailing notice to the person who registers election day. Do you think that might be?

MR. LINDROTH: I believe the law says that upon receipt of a properly completed voter registration the Auditor sends that notice, and it doesn't distinguish between election day registration or registration any other way.

MR. JANOWIEC: Okay. Because I see it says your place shall be, polling place -- I would guess we're just acknowledging that -- when we take election day. Okay. But, on that card in addition to what you have there, on our -- reserve side or the mailing side, address side, we do have the statement, do not forward, return postage guaranteed, other than that you won't get your cards back. The post office will not return your card. You might want that on there. And there is a question raised, by one of the people here, that your form is somewhat different from ours, from mine anyway, I don't know how much different from the other persons, but, you on your mailed notice, you state here, you are hereby notified that name and address appears on the original voter registration card as shown on this card. We state as shown on the opposite side of this card, to eliminate typing the name over again. That's a small thing, but kick that around. And, then your registration is complete and you'll be listed at the polling place shown on this card. We state, your registration is complete and you'll be listed at the above ward and precinct and the polling place is there as well. Now, it says -- again as I'm getting back to that

shall be instead of substantially it's shall be, and we would like to have a little bit of leeway on that, becuase we do save ourselfs' some typing if we can lump --show the name and address on one side where the mailing side is rather than have to repeat it again on the statement side.; Follow me on that?

MR. LINDROTH: Could I ask that you leave that card as part of your written testimony?

MR. JANOWEIC: Sure. Then --

EXAM. GOWLING: In fact, I'm -- pardon me.

MR. JANOWIEC: Pardon?

EXAM. GOWLING: I'm going to as' that perhaps I just mark it and make it an exhibit, at this time. Pardon me for my interruption.

MR. JANOWIEC: On this drivers license bit. I think Colleen from St. Paul brought this up. That the drivers license receipt shall be used as identification, and that is a valid drivers license. And, that's a good way for all of us who are working election day for those people who do not have last change of address, that is a way out for us to tell them to go and change your drivers license. So that they use that receipt for identification and that is acceptable. We have check on this previously. And I do stress that receipt of drivers license, in the process of getting a new one. And one other request, it's getting a little -- getting somewhat

14 away from this main idea here. But, we would like the Secretary of State's Office to help sponsor a publicity drive for preregistration. It'll carry a lot more weight than if we do it. Okay.

UNIDENTIFIED: (Unintelligible - in the background.)

EXAM. GOWLING: Thank you Mr. Janowiec. Incidentally, and for purposes of the record the Voter Registration Card referred to in this witness' testimony was marked and received as Exhibit G.

(Exhibit G
received in evidence.)

EXAM. GOWLING: Any further comments, statements, questions?

(Pause.)

The record will reflect this is Florence Hallberg. She's previously identified herself and is representing the City of Edina.

MS. HALLBERG: And, I just wanted to say that Duke Addicks asked that the record show that the League of Minnesota Municipalities will be submitting comments in writing.

EXAM. GOWLING: Thank you. Any further?

MS. POULIOT: I'm Betty Pouliot, P-O-U-L-I-O-T, City Clerk Treasure, City of New Hope, speaking. I would like to speak on the same point that Mr. Janowiec just spoke on

from the City of Minneaplis, and that is in respect to Chapter 5, Section 501, relative to the mailed notice to the people, telling them that they -- we have accepted their registration and where their voting place would be. The City of New Hope was just perhaps unlucky enough to have printed about 20,000 cards, so that we would be able to notify our people of where to vote in anticipation of some heavy registration this year. We use a form, as -- from what understood as to what the City of Minneapolis uses, and I do happen to have a copy of this card here. I -- we say to the person whose name and address appears on the reverse side of this card. I don't feel that it's a little matter. I feel it's a fairly sizable matter when it comes to typing time to send these out to these people. And, then we provide for simply a stamp saying you are registered, for instance in princinct one polling place located at Sunny Hollow School, with the address of the polling place, and so forth. And, I guess I would like to support very much Mr. Janowiec's comment that if nothing else, this rule say in substantially the following form. So, that we would be able to use this card or else that consideration be given to -- to incorporating some of this into the card as recommended by the Secretary of State.

EXAM. GOWLING: Thank you. Would there --

MR. LINDROTH: Could I ask that you leave

that card as evidence, too.

MS. POULIOT: Sure will.

EXAM. GOWLING: Perhaps I could mark it as an Exhibit, please, and I'm going to mark it as Exhibit H. Thank you very much.

(Exhibit H
marked for identification.)

Any further statements, comments, questions with respect to the Proposed Amendments to the Rules of the Secretary of State for Voter Registration.

(Pause.)

Seeing none, I'm going to at this time, in returning to the agenda, move onto the presentation with respect to the Proposed Rules of the Secretary of State for Certification and Experiemental and General Use of Voting Machines. And, before asking Mary Ann McCoy to make the presentation on behalf of the Office of the Secretary of State, I'm going to again remind those of you in the audience that this matter is being conducted by myself as a Hearing Examiner, associated with the State Office Hearing Examiners. I want to again point out that I am not an employee nor associated with the Secretary of State's Office and have not discussed the merits of this matter with anyone from that office or from any other concern directly involved in the proposed rules as promulgated. The hearing today will

result in testimony, viewpoints, comments being taken. And, following the conclusion of the hearing, I, as Hearing Examiner, will prepare a report which will cover findings of fact, conclusions and recommendations. The Secretary of State's Office will then make its decision after reviewing the report, considering it for at least 10 days. At that time it will determine or decide whether to adopt, modify or reject the proposed rules. And, incidentally, any person who wishes to have notice of the submission of the report which will include the findings of fact, conclusions, and recommendations may indicate so by either contacting me or Mr. Mihalchick, who is seated on my right. I grant that it -- for a number of you who have been here the entire you day, you heard some repetitous comments, concerning the procedure and the guidelines; but, I must advise you that I am required to make the statements that I am making and to at all times attempt to have everyone knowledgeable as to the proceedings and the manner in which we are to proceed in considering each of the sets of Proposed Rules. Our guidelines will be the same as I explained earlier, and upon our returning after lunch and recess as far as testimony, presenting of the viewpoints of any interested party. At this point I'm going to call upon Mary Ann McCoy, who is the Supervisor

of Election Procedures, the Office of Secretary of State and will make the presentation of the Proposed Rules concerning Certification and Experimental and General Use of Voting Machines. Following her presentation, which will again follow a chapter by chapter format; and incidentally, so that it's clear, anyone having a question or comment following her presentation as to any one chapter may do so by approaching the speakers table, which is situated in the center of the U shaped configuration of tables here and you will then be recognized for purposes of addressing the panel. I would like wherever possible, if there are statements that are general in nature or if a member of the audience wishes to speak to more than one particular chapter that those comments perhaps be preserved until the conclusion of her chapter by chapter presentation, so that it may be presented at one time. I'm speaking particularly with respect to comments which may go to one or more chapter or which may relate to one or more chapters and which may be more orderly to present at the summation of her presentation. And, with that I'm going to turn it over to Mary Ann McCoy, Supervisor of Elections, Secretary of State's Office for her presentation.

MS. MC COY: Thank you, Mr. Examiner. My name is Mary Ann McCoy and I would like to present the following

statement of need. The need for the rules that we are proposing today arises from Minnesota Statutes, Chapter 206, 1974, as amended, this provides for security, capacity, durability, efficiency, accuracy, uniformity and election integrity in the use of voting machines to register the will of electors. Minnesota Statutes, Section 206.08, Subdivision 1, of the 1975 Supplement, permits the Secretary of State to adopt rules implementing Chapter 206, and relating to standards for examination and general use of voting machines. Minnesota Statutes,, Section 206.08, Subdivision 2, 1975 Supplement, permits the Secretary of State to adopt fules implementing Chapter 206 and relating to experimental use of voting machines. In addition to this need expressed in statutues, we have local jurisdictions in Minnesota which have been conducting elections under, elections for a decade, under provisions for the experimental use electronic voting systems as provided in Chapter 206. We have made an attempt to find out what their experiences have been, during this decade of experimental use. We have observed the operation election procedures including training of election judges, precinct activities during election day and at the closing of the polls, and activities at the counting center in this State and elsewhere. We have conducted public hearings throughout the State, at which these proposed rules have been the subject of diccussion, inquiry and comment by local election officials, computer experts, election judges,

and the public. Several national studies have been prepared to review the problems that have been encountered in the use of electronic voting systems. One of the most recent of such studies addressed the effective use of computing technology in vote tallying, and was written after a year's investigation by the Information Technology Division of the Institute for Computer Science and Technology, of the National Bureau of Standards, Washington D.C. The State of Michigan studied use of electronic voting systems over a four year period, interviewing clerks, election inspectors, counting center personnel, computer programmers and voters. A very serious problem in 1973 in an election in Detroit using electronic voting systems, produced additional studies and suggestions for improved technological and administrative procedures. We have paid attention to Michigan's findings and their present rules for use of electronic voting systems. The purpose of these proposed rules is to minimize doubt about the procedures involved in the use of voting machines to record and tally the intent of the voter. The goal is to minimize questions about whether the process really will work on election day. To accurately and efficiently register the will of the electors with sufficient durability and capacity to be utilized in a full scale election. These proposed rules have been available for review beginning March 5th, 1976. Comment in writing and in public meetings throughout the State since that date, is reflected in the proposed amendments

to those proposed rules. Copies of the amendments have been distributed to you today for purposes of exposition we shall treat the rules as amended. Any renumbering necessitated by changes indicated in our proposed rules, will be accomplished as and editing task and will not be noted in the hearing today. Please check this supplement to see if questions raised in the proposed rules as originally distributed have been clarified.

In Chapter 1, Sec. Stat. 3101 through 3105, reference procedures authorized in Chapter 206, generally, as well as Minnesota Statutes 202 A, 203 A, and 204 A. This chapter is the general chapter relating to an overview of the procedures. Reference to numbers of voting machines per numbers of voters in precincts is as stated in Minnesota Statute 2002, Subdivision 25, and Minnesota Statutes 206.11. The time reference in Secretary of State -- in Sec. Stat. 3103 is based upon Minnesota Statutes 206.17, providing a similar time for related procedure. Training required by Minnesota Statute 206.19 and 206.195 is implemented by Sec. Stat. 3104 as well as aid to voters which is required by Minnesota Statutes 204 A,34 and Minnesota Statutes 206.19 Subdivision 2. Sec. Stat. 3105 contains reprints of some definitions which appear also in Minnesota Statutes 206.01. They're reprinted here for purposes of clarification in use of these rules. There are other portions -- there are definitions that appear in 3105 which are also referenced in

22 other portions of the general chapter on voting machines, Chapter 206. In addition other definitions are supplied for terms used in these rules, in the interest in uniformity in application. Specifically referring to Sec. Stat. 3105, No. 21, we are aware that Minnesota Statute 206.20, Subdivision 1, provides that actual names and offices and/or propositions in that election are required to be on the demonstration model by which voters are instructed in the use of the machine. This appears to be in conflict with the electronic voting system regulations for experimental use, adopted September 5, 1968 by the Attorney General, I,2, paragraph 2. This reference is on page 144 in the 1974 Minnesota Election Laws Book. We propose to continue with the latter, becuase as implemented over the past decade in Minnesota and in other states, the procedure has proved effective. Sec. Stat. 3105, No. 49, the original electronic voting systems law enacted May 5th, 1965 required that transfer cases be capable of being sealed. Indicating, intent that security by such means in the transfer of ballots to counting centers be provided. Because, in Minnesota Statute 206.08 reference to the authority to adopt rules for the use of voting machines is referenced and because in Statutes within Chapter 206 on Voting Machines reference several -- these reference several different kinds of machines or systems for vote recording and votettallying; the use of the term voting machine in the Statutes is -- appears to be

interchangeable with electronic voting systems. Taking this into consideration we propose the definition in Sec. Stat. 3105, No. 58, to define voting machines for the purpose of these rules. Since Statutes do not differentiate entirely among the several types of machines and or systems, we felt it inappropriate to attempt this deliniation in the rules proposed under Minnesota Statute 206.08. Mr. Examiner, this concludes my statement in regard to chapter 1.

EXAM. GOWLING: All right. Do we have questions, comments or any statements with respect to Chapter 1, as presented.

(Pause.)

Mr. Jensen, who has previously identified himself and who as I recall is representing the City of Bloomington.

MR. JENSEN: Yes, sir, that's correct. I'd like to make a couple of statements. First off, I want to read a statement. The City Clerks of Hennepin County who use the electronic voting device is presently under temporary certification have held two meetings to discuss the proposed rules that are the subject of today's hearings. Several Clerks from Anoka County who use the same system were also present as well as representatives from Hennepin County and the Anoka County Auditor Offices. In addition, there were representatives at our second meeting from the Secretary of

States Office. We appreciate the fact that that representative did make good use of the input in that meeting in preparing the addenda that showed up here today, and the supplement. We appreciate it very much. We'd like to commend the Secretary of State for undertaking a comprehensive rewriting of the admittedly inadequate rules presently in force. Final certification and rules for operation of the system which has been in operation for 10 years on a temporary certificate, are long overdue. In order to provide an overview of this situation, I'd like to submit a copy of the paper embodying the collective thoughts of the City Clerks, who were present at those meetings. There are a number of them present in the audience today. Perhaps you'd like to have them identify themselves.

EXAM. GOWLING: Certainly. Perhaps they could during the period of time while I'm marking that written exhibit, which I assume you wish to have placed into the record as an exhibit. Those individuals identify themselves for purposes of the record if they wish to.

MS. POULIOT: Betty Pouliot participating in the Hamel --(unintelligible).

MS. MULLEN: Margaret Mullen from Minnetonka, City Clerk, and Kay Kettwig our Election Clerk.

EXAM. GOWLING: In that regard, could I ask

for purposes of the record that she spell both of the last names?

MS. MULLEN: Margaret Mullen, M-U-L-L-E-N, and Kay Kettwig, K-E-T-T-W-I-G, our Election Clerk.

EXAM. GOWLING: Thank you.

EXAMINER GOWLING: Incidently, the document referred to in the testimony of Mr. Jenson has been marked Hearing Exhibit I, and has been received. Do you have any further comments, sir?

MR. JENSON: Mr. Wes Long was also here earlier this morning he also participated in these deliberations. He's from Brooklyn Center, city clerk in that location, however he had to leave before this came up.

EXAMINER GOWLING: There's another lady.

MS. HEYMAN: My name is Barbara Heyman. H E Y M A N, from Mound and my assistant Harriet Moen, M O E N.

EXAMINER GOWLING: M O E N?

MS. HEYMAN: Right.

EXAMINER GOWLING: Thank you.

MR. JENSON: Then I have a second statement which relates my own views as far as the City of Bloomington is concerned. All the individuals concerned with the operations of elections in Bloomington have thoroughly reviewed the rules proposed by the Secretary of State regarding the use of electronic voting devices, in general we agree wholeheartedly with the principle of providing clear and concise instructions on the use of various voting systems within the state in order to insure uniformity and accuracy in any election. It would appear that broad general language must be used in the certification section of the rules in order to allow for

any future advances in technology and also to permit the use of some of the presently existing systems. However, it appears to us that a more specific approach would be desirable in those sections dealing with the use of any particular system.. As presently written those sections also attempt to use broad general language to describe the specific procedures necessary to conduct an election. We would suggest it might be more advantageous if the Secretary of State were to promulgate a set of rules for operation of each system at such time as she grants a certificate for use of that system within the state. This procedure would remove any ambigutities which exist under the general language approach and would be considerably easier for any election jurisdiction to understand. So, I do have another set that I'd like to submit. They're to voluminous to go through and read each items.

EXAMINER GOWLING: This document is being marked, and for identification purposes will be Hearing Exhibit J. And, I take it there will be no objections and it will be received into the record.

(Hearing Exhibit J is marked for indentification and received.)

EXAMINER GOWLING: Are there any further questions or comments with respect to Chapter One?

MS. POULIOT: Betty Pouliot, City Clerk of New Hope. I am concerned with the definition of voting machine. This concern really came to my attention yesterday when I

received a letter from Senator Mel Hansen. And, Senator Mel Hansen points out that the -- "To the best of my knowledge," he says, "there is no way that the voting machine can be set up in a party block. It fits admirably for the office block mandated by state statute for our paper ballots and like the paper ballot, has a very low amount of falloff in comparison to lever machines." He starts this letter out by referencing Senate file 1999, which he says was passed by both the House and the Senate and he concludes by saying that, "If this law, as passed, really relates to our voto-matics and we would not be able to design our --set up our machine to comform with this new law." I don't think any of the clerks, as of today, have had the opportunity to view this law as passed. So, we do consider it quite serious if that be true that there be some differentiation in this set of rules. And, under 58, voting machine also includes an electronic voting device. Not being an attorney, of course, and I feel perhaps like I shouldn't be addressing myself to the statutes, but, in looking at Chapter 206, it seems to me that there is a distinction between voting machines and the electronic voting systems, utilizing a marking device. While a voting machine is not specifically defined in Chapter 206 in the definition portion. Section 206.02 provides in part that the governing body of any municipality may provide for the use of voting machines in any one or more precincts.

And then it goes on further in the section, "No such machines shall be adopted or used unless it be so constructed and operated as to insure the secrecy of each vote and automatically register and count all votes given, and to conceal the number of votes for each candidate, et cetera." Certainly our electronic devices are not capable of automatically registering and counting all votes given. As you look at Section 206.01 Subdivision 14, defines a marking device as follows, and this particular definition is also included almost verbatim into the rules as proposed by the Secretary of State. "The term marking device means either an apparatus in which ballots or ballot cards are inserted and used in conjunction 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." You can look at other definitions within the section such as, when they are talking about operating levers, defining that. "That 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 as one reads that it's quite obvious that they're referring to the big lever machine where you swing the handle to close the curtain and to activate the machine. Further in Chapter 206 there are specific sections that are said to relate to the electronic system as well as to the voting machine system and so, it would seem to me,

that from the above definitions and statutory references it appears that the legislature did intend to differentiate between a voting machine and the electronic voting de -- system utilizing a marking device. And, I think, if these rules could also differentiate that would seem to me quite important to us especially in the light of the letter that I received yesterday from -- from Senator Hansen. It seems that there's confusion at this point up until the point that I read these proposed rules I never looked at the statute without looking for the electronic voting system instead of trying to read for what relates to the big lever machine. And, I guess, any consideration that could be given within these rules in differentiating between the lever machine and the electronic voting system with it's marking device would certainly be helpful to city clerks or anyone else concerned with trying to properly administer an election. I didn't have time to get that statement in writing, because, as I say, that letter arrived yesterday afternoon and I -- if anyone cares I could put the comments into typewritten form.

EXMMINER GOWLING: Thank you, Any comments or questions. Are there any further questions or comments with respect to Chapter One as presented? Seeing none I'm going to ask that we proceed with the presentation. Ms. Mc Coy.

MS. MC COY: Thank you, Mr. Examiner. Chapter Two pertains to the examination of voting machines for certification

for experimental and/or general use in elections in Minnesota. As autorized in Chapter 206.08. In Sec. Stat. 23201 reference to testing maximum number of precincts, offices and issues, candidates per office, is according to Minnesota Statute 206.075. It is essential to the accuracy of the election that the capacity of voting system be determined prior to it's certification for use in a jurisdiction. Security of voting procedures is inherent in Chapter 206.

EXAMINER GOWLING" Are there any comments or questions at this point with respect to Chapter Two which is entitled Certification? I have one question under Sec, Stat. 3201, the third line where it discusses storage requirements. Does that mean, or is requirements there to mean capacity or what is the intent in that line?

MS. MC COY: I will attempt an answer here and then I will defer to Mr. Christenson with the Information Systems Division. This is the requirements that are necessary for the storage between elections of the actual equipment, also the requirements for the electronic systems that are involved. The use of , the term storage here is a rather multipurpose use. Their need to be specific -- certain equipment may have certain specifications for protecting it from moisture, from cold, from a combination of moisture and cold, the sorts of conditions that it requires to be stored in should be demonstrated so that jurisdictions considering purchase

may take this into consideration and it may be known to them through the testing process what is involved in the requirements of the particular system. Mr. Christenson would you like to comment further on the use of the word "storage".

MR. CHRISTENSON: I'm Marvin R. Christenson.

C H R I S T E N S O N. I'm the systems manager for the Information Systems Division of the Department of Administration. The word "storage" in this situation is referencing the capability of the, in parenthesis, the reference is hardware and software. In terms of hardware the computer devices or the machine itself, it's referencing the capability of the installation to be able to handle the demands placed on it by the quantity of data that will be presented in terms of -- in a mechanical sense in the machine readable devices sense. As opposed to the software which means the computer programs. There it is referencing storage in terms of the design of that program and its capability to handle the, again, the quantity of data that would be presented to those programs. It's a test of the capability of the data to be stored in both the machine sense and the computer program sense.

EXAMINER GOWLING: And I take it that the requirements and -- or a term synonymous as is used here would be capability or capacity with respect to those. I think that was the sense of my question, was more determining the meaning of requirements in that phrase and I think you've explained

it very well. I appreciate it, thank you. Any other questions, comments, statements of any kind concerning Chapter Two, Certification? There being none I'm going to ask Ms. Mc Coy to continue with her presentation moving on to the next Chapter.

MS. MC COY: Chapter Three, pertains to preparation to computer programs prior to use in specific elections. In Sec. Stat. 3301 reference to punched precinct identification is authorized by Minnesota Statute 206.06 Subdivision 2, with other references in 206.026, 206.07, Subdivision 5, 206.075, 206.09, 206.17. Reference is made in Sec. Stat. 3302 to Minnesota Statute requirements in Minnesota Statutes 206.075 in that the intent is to test the maximum numbers that may be expected to be involved in actual election operation. To remove doubt about whether the system can take the volume and the values involved. In Sec. Stat. 3301B, in the last sentence, in keeping with the intent of these rules that problems in computer program and operation be addressed when header cards are used as additional precinct identifiers instructions to the computer operator should note that should no two identical cards appear an error is present. The fact that no counting of ballots for that precinct shall take place is part of the intent of these rules that when errors are noted they must be explained before the procedures may continue. I wanted to explain that as an additional, a question had been raised in regard to that matter. In Sec.

Stat. 3301D backup tapes for all informations retained on disc and magnetic tapes are an important part of the plan for elections referenced in Minnesota Statutes 206.185 Subdivision 3. When computer technology is utilized in vote recording and vote tallying. In Sec. Stat. 3301E there is reference to programmers in this rule. This is not intended to infer that a totally new program is to be written for each election. A general program written for an election jurisdiction can be adapted to individual elections by input parameter which operators utilize. Operators could be substituted for programmers in this rule and still maintain the intent in keeping with Minnesota Statute 206.075 Authority. In Sec. Stat. 3302N this proposes that fifty blank cards be required to be run before the test deck is run to indicate that there is nothing in the program that will count blank ballot cards as though they were voted for any office or any proposition. This is authorized as part of the general testing of the program under Minnesota Statutes 206.075 and those blank cards will be run as is stated there, just once prior to the running of the test deck. In Sec Stat. 3304 reference is made to the authority in Minnesota Statute 206.17 to conduct public accuracy tests. Sec. Stat. 3304-O, in this it would appear that in in the question of whether the county auditor may delegate authority to a designee to fulfill the storage and security responsibility here such

a proposal might be included in the plan proposed under Minnesota Statute 206.185 Subdivision 3, for review by the Secretary of State. Again, as in other parts of these proposed rules the intent is to speak to public confidence in procedures to reassure concerns that programs in security might develop if these procedures were not followed. That concludes my presentation.

EXAMINER GOWLING: Are there questions, comments or statements with respect to Chapter Three as presented? There appearing to be none I'm going to ask Ms. Mc Coy to proceed with Chapter Four.

MS. MC. COY: All right. Chapter Four. There are requirements in Minnesota Statutes 206.17 which are addressed to the security of the program and the tested program, and these are incorporated in various sections of this chapter. According to recommendations in the National Bureau of Standards Report cited above, or cited earlier in my testimony. It seemed appropriate to pull together such basic security suggestions in one chapter within these rules.

EXAMINER GOWLING: Are there comments or questions with respect to Chapter Four as presented? Then we will proceed to discussion and presentation concerning Chapter Five.

MS. MC COY: Chapter Five pertains to general

preparation of election supplies with the intent that the authority in Minnestoa Statutes 206.185 Subdivision 3 be implemented in uniform as well as timely procedures. Precinct identification in Sec. Stat. 3501 is according to Minnesota Statutes 206. 026 Subdivision 2. Write in provisions reference authority in Minnesota Statutes 206.026 Subdivision 3. Sec. Stat. 3502 implements Minnesota Statutes 206.09 by providing for uniform procedures, many of which are recommended by national studies and by state and local jurisdictions which have experienced problems in computerized elections. Minnesota Statutes 206.17 is also referenced in Sec. Stat. 3503 as well as in 3501 and in 3502. Sec. Stat. 3501B. Since ballot envelopes are to be of a type and form approved by the Secretary of State, blank envelopes for primary and write in spaced ones for general elections would be part of the plan required by Minnesota Statutes 206.185 Subdivision 3, to be submitted to the Secretary of State for approval before July 1, of every general election year. There's no need to reference these envelopes further in these rules. Sec. Stat. 3502E provides, there is a -- there's reference there to a flat-- to a seal that would seal the ballot assembly. Our research indicates that a flat seal called a leadwire seal is available at a cost of about two cents apiece with a number on it and that would meet the specifications here. Security of the ballot page is essential to the goals of these rules and such

need is referenced in Minnesota Statutes 206.19 Subdivision 3 and Minnesota Statutes 206.026 Subdivision 4. And I have with me one of those seals which, Mr. Examiner would you like to have that entered as part of the evidence?

EXAMINER GOWLING: I think --

MS. MC COY: This is a question that has been raised as to whether this is available but, perhaps the fact that it is and I have a copy of it is sufficient.

EXAMINER GOWLING: That's -- it may be entered into the record either way if you wish to have it entered as an Exhibit in the hearing we certainly can accommodate you on that in that regard.

MS. MC COY: Pause a minute, I'll find it here. This has been supplied to us by the Secretary of State's Office in the State of Michigan. And, this is the seal that is used in the State of Michigan and has been used since they encountered difficulties with the procedures that I mentioned in my opening remarks. This seal has been used in a diagram which explains how it can be used is also entered in evidence.

EXAMINER GOWLING The lead seal that as referred to in the presentation of Ms. Mc Coy is going to be marked as Hearing Exhibit K and unless there is an objection it will be received.

UNIDENTIFIED VOICE: Can I see that please?

EXAMINER GOWLING: Certainly, I will mark it and then pass it out just before ruling it -- ruling upon it's admission. For purposes of the record I'm referring now to a two page document. The cover or front page being, and the letterhead of the Michigan Department of State and attached to that face is a wire with a lead seal bearing a series of numbers and attached to the second page is a one page legal sheet which appears to indicate the manner in which the lead seal is used. And, this is going to be passed among the members of the audience and I will await their receiveing that until anyone who has a question or comment or possible objection has an opportunity to look at it. I'm going to call at this time for any questions or comments that you have with respect to Chapter Five which is entitled Preparation of Elections Supplies. There being no questions or comments and while the Exhibit K is passing through the audience, because of the length already of your presentation, I'm wondering if it might not be appropriate to take a short recess. Is that --

MS. MC COY: It's -- it's -- it's a --

EXAMINER GOWLING: Do you require one?

MS. MC COY: I don't require one, but, if -- if it would be usefull to other people it certainly is fine.

EXAMINER GOWLING: Well I'm --

MS. MC COY: The Secretary of State, I think, has

a comment or a question.

EXAMINER GOWLING: Sure.

MS. GROWE: Do you want to take a recess or do the members of the audience or the panel --

EXAMINER GOWLING: I thought that perhaps it would convenience Ms. Mc Coy, she has been making a lengthly presentation, but, it she does not require one --

MS. MC COY: No. I'd be happy to continue.

EXAMINER GOWLING: We will continue then.

(Hearing Exhibit K is marked for identification.)

EXAMINER GOWLING: Is there any objection to the receipt of the Exhibit marked K? There appearing to be none it will be received.

(Hearing Exhibit K is received into evidence.)

EXAMINER GOWLING: And, there appearing to be no further comment or question concerning Chapter Five we will proceed to presentation of Chapter Six.

MS. MC COY: Chapter Six pertains to general election -- general duties of election judges before the polls open. And, it's based upon provisions of Chapter 206 as well as Chapters 202A, 203A and 204A, where applicable. The goal is to provide the environment for voting in which the secrecy of the ballot is maintianed, and in which each voter is aided in exercising his right to vote no matter how new the methods

may be to the voter. In Sec. Stat. 3604 there is a reference I make a cross reference here to the matter I mentioned earlier in regard to whether or not the demonstration model may have on it the names of the actual offices and actual propostions. And, I pointed out the apparent conflict between the statute requirements and the requirements of the rules of the Attorney General, the regulations of the Attorney General adopted in 1968 under which elections had been conducted. I just thought that I needed to reference that again since the demonstration model is referred to in Chapter Six.

EXAMINER GOWLING: Are there any questions or comments pertaining to Chapter Six which is entitled Election Judges Duties Prior to Opening of Polls, or with respect to any matter included in the presentation of Ms. Mc Coy. There being none we will proceed to consideration of Chapter No. Seven.

MS. MC COY: Chapter Seven continues the authorities cited in Chapter Six, Statute references, which I shall not repeat because they're part of the record. Provisions in Sec. Stat. 3702 for absentee ballots have authority additionally form Chapter 207 as well as the section Minnesota Statute 206.20, I wanted to point that out. Their suggested applications herein are based upon observation of techniques in use presently in Minnesota as well as recommended procedures in other jurisdictions and identified in studies of use of

computing technology in vote tallying. Sec. Stat. 3701H touches an important part of the Australian Ballot System referenced in MS 205.04 and in insuring the secrecy of the ballot, reference which is in Minn. Stat. 204.14 also Minnesota Statutes 204.10 and 204.11. We do not seek to embarrass judges or voters by this rule. We seek a means to remind voters that their voted ballot card which cannot be folded inward to conceal marking as in paper ballots is to be screened from view by the ballot envelope provided. Sec. Stat. 3701L Minnesota -- in this Minnesota Statute 206.20 Subdividion 1, provides that the voting machine be inspected after every voter is finished voting this rule conforms, this rule as proposed conforms to this law by encouraging frequent checking. However, requiring a check at least every half hour may make the task more practicable recalling the provisions of Minnesota Statute 206.026 Subdivision 5. And, I think, that concludes my presentation of Chapter Seven.

EXAMINER GOWLING: With respect to Chapter Seven I see that Mr. Jenson representing the City of Bloomington is at the speakers table and is prepared to make comments. He's already identified himself on the record and he may proceed with those comments or questions.

MR. JENSON: Only one comment Mr. Examiner. On Sec. Stat. 3701 Sub. I. In those instances where a ballot card number does not compare with the ballot card number at

the ballot box this does not indicate what position or what action the judges in the precinct should take at that stage. If we are to follow this to its truest extent it would appear then that individual attempting to submit such a ballot card is perpetrating a vote fraud, and therefore, maybe we should be specifically instructed to bring this to the attention of the County Attorney following the election.

EXAMINER GOWLING: Do we have comment from the panel?

MS. MC COY: Yes. I'd be pleased to comment of this and I thank you for pointing this out. This provision referenced in I in this particular chapter refers to a practice called chain voting or chain balloting which is a vote fraud which has been identified in the use of paper ballots in several states and state laws in those states have referenced this. In the adaptation of an attempt to prevent a similar kind of vote fraud happening with the use of another card or paper, piece of paper that could be used in that way, this is incorporated in laws -- in rules to continue that kind of security. For the record may I describe chain balloting?

EXAMINER GOWLING: Certainly, I think it's appropriate in light of the comments, it's very material.

MS. MC COY: Thank you. The way in which chain balloting has been perpetrated in the use of paper ballots is that the first voter approaches the registration desk, registers, I mean registration desk, signs the certificate

receives a paper ballot, goes into a voting booth, remains an appropriate time, retires from the voting booth without depositing the ballot. The ballot is concealed on the voters person unmarked. The voter then retires from the polling place entirely and meets with a confederate, who is outside the polling place who them marks the ballot appropriately, according to the fraud that is intended in that particular instances supplies the marked ballot to the next person who then walks in with the marked ballot concealed on his person, fulfills the requirements and receives a blank ballot, goes into the voting booth and does not mark that blank ballot, conceals that blank ballot on his person and deposits the previously marked ballot folded correctly hands it to the voting election judge and its dropped in the ballot box. This can proceed unless it's interrupted until the number of votes that had been contracted for by the conspirators are accomplished. In a similar way a computerized card could be employed in this kind of way. You can visualize how the first voter would receive a blank card would not -- would not deposit this would retire somehow from the voting area with the blank card concealed, the person who was perpetrating the fraud would then appropriately mark this in -- outside of the polling place and the same thing could be done. The -- a way to remedy this without going through the procedures that has been proposed in these rules

would be that the jurisdiction would be willing to certify that no person left the voting area with a ballot card concealed on his person. I think, that this is something that we may need to be -- we certainly wish to hear comments about this, but, I'm submitting this for the record because it has been mentioned in public discussion about this particular rule. And so, you will see that then it would constitute a fraud whereby someone would indeed not be casting his own ballot but would be part of a chain which was perpetrating ballot fraud.

MR. JENSON: My present judges instructions require of my judges that a ballot be submitted into the ballot box from each individual who comes out of the voting booth. They're not permitted to leave the polls until the ballot is deposited. The other thing that perhaps could occur with the punch card system would be that an individual would place two -- one, two, three or more cards inside the ballot with stubs already removed, which your judge at the ballot box would not necessarily see. This then of course you wouldn't discover until the evening when you start counting the ballots. And, this hasn't done us any good.

MS. MC COY: No. That doesn't speak to that.

MR. JENSON: Well we do think that perhaps if this is to be considered a fraud we ought to be intsructed to pursue it.

EXAMINER GOWLING: Further comments or questions with respect to Chapter Seven. Ms. Pouliot.

MS. POULIOT: Betty Pouliot, City of New Hope. I did, when I came in this morning, present a written statement relative to my feelings on Paragraph I of Sec. Stat. 3701. Since that has been submitted I don't really think it's necessary that I read it all. I do feel quite strongly about the time and the confusion that this will take at the polling place. For instance, in the City of New Hope we use from 10 to 12 marking devices in each of our precincts. From four o'clock to the closing of the polls it is quite busy. The booths are in constant use. People don't all take the same amount of time marking their ballot, therefore, as they come back out of the booth they would not necessarily be coming back out to turn in their card in the same rotation that the card would go -- that the card would have been given out. I see then the need of perhaps an additional judge there at least during those hours to be checking the number on the top of that stub to see that it is the same one that has been written onto the certificate. I do see this as adding to the confusion at the polling place in addition to registering at the polling place as well as the lines that we have normally trying to process them from four to eight o'clock I do see it as being a confusing factor. I listened with interest to Mary Ann's comments on chain voting. I do think that there's

something in the law right now though, where it is a, I don't recall, whether it would be a misdemeanor or a gross misdemeanor for anyone leaving the polling place with a ballot. And, I think, it's when your talking about paper ballots that when you run into that. It's been some time since we've dealt with paper ballots, so I don't quite know the section they'd be concerned with.

MS. MC COY: This would appear then to reenforce the fact that to commit this kind of fraud, this as already part of the statutes for an imporper act in regard to voting in Minnesota.

MS. POULIOT: Yes. But, I would still say that I would, I would feel, like Mr. Jenson stated, that we have instructed our judges that they must receive that ballot back from the person and therefore I don't feel that this type of thing really be necessary at the polling place. I think it would serve to the detriment of the voter coming in and trying to cast his ballot.

EXAMINER GOWLING: Further comments, questions, statements concerning Chapter Seven. Yes, sir.

MR. STOCK: My name is Arthur Stock, and I'd like to make a citizen's comment in respect to Ms. Mc Coy's references on I of 3701. I would concur with her that it's desirable to have a system, Mr. Examiner, that would provide for this checking. Yes, it does have a -- it does -- is is

a way to control and early detect the chain voting. The interesting thing about chain voting is that it doesn't have to be the voter that takes that first ballot out. What it really needs is some system once your outside the polls where that -- where that is successful. And, structurally, or environmentally as far as the precinct is concerned the places that are most viable for that sort of arrangement is where the voters through the same door or the same passage ways the voters enter. Cause you end up an -- a good operational system being able to pass those ballots through on that type of an arrangement. And if you don't have a number control system such as what is suggested here it could very well get passed you without ever being detected. However, I think, right now there isn't any way or any system that we really know to detect what might be an inadvertent error or slip up or confusion whth something which was a deliberate organized program of premarking ballots outside of the precinct. So, I think maybe if you left I alone without presuming the -- that as an act of fraud and see what your experience is I think it would be all right. I'm inclined to suggest, Mr. Examiner, to hold off and simply assume that because those, in that that discrepancy occures in the numbers that you therefore have a fraud. You might just have a confusion in your -- in your election judges procedures.

EXAMINER GOWLING: Further questions or comments

concerning Chapter Seven as presented, There being none I'm going to ask Ms. Mc Coy to proceed with her presentation concerning Chapter No. Eight.

MS. MC COY: Chapter Eight continues Statute references cited generally above in dealing with election judges duties after the polls close. And, specifically, it references Minnesota Statute 206.185 pertaining to the canvass of electronic voting systems results. In this chapter as well as in others in the rules various forms of certification of information are referenced. It is our opinion upon review of these requirements that four of the nine forms that would be involved are single purpose forms. One other form would serve three functions the remaining two forms are multi-paged logs. Sec. Stat. 3802 takes authority from Minnesota Statute 206.185 Subdivision 1. And, is introduced to provide uniformity in procedures to insure that the intent of the voter be ascertained as far as possible. In Sec. Stat. 3801G according to Minnesota Statutes 206.08 and Minnesota Statutes 206.075 and Minnesota Statute 206.03 our regulations were adopted in 1968 by the Attorney General in Roman Numeral III it references chad hanging by one corner. It is, has been-- this has been in operation since those rules were promulgated and we see no need to change this recommendation so our definition that -- our -- our description there in G referencing G in 1 and in 2 is in keeping with the duly promulgated regulations

enforced since 1968. H under 3801, this reference is to the definition of defective ballots in Minnesota Statutes 204.22K This does not make reference to the definition of defective ballots in Minnesota Statutes 204.23 which differs from the ones cited earlier. Defective ballots by the latter definition are handled by computer program as outlined in Chapter Two and Chapter Three of these proposed rules. Please see the amendment to Sec. Stat. 3903E proposed in the amendments referenced and distributed today. Since this further comments on the use of the term "defective ballots" in these rules. That concludes my presentation for Chapter Eight.

EXAMINER GOWLING: Are there questions or comments concerning Chapter Eight as presented? There is a question or a comment. Please approach the speakers table and if you will identify yourself by stating your name, spelling your last, giving us your address and identifying the group or organization you may represent.

MS. OXLEY: I'm Evelyn Oxley, O X L E Y, Coon Rapids. And I'm the head of the DFL election judges out there, and have been an election judge for 10 years. And, I have exception with number D.

EXAMINER GOWLING: There have been requests that you speak in a little bit louder voice, the members of the audience are having difficulty in hearing you.

MS. OXLEY: I'm taking on number D. If the ballot

shall be in excess of the number of the electors voting and you cannot reconcile it that you can put it into the box and draw out the numbers that are over. I feel that's to cast a lot not a ballot. And in the Votomatic there is no way with our system of checking as with the tabs that we tear off and with the voter registration card that we ever should come out more than the ballots. I would be appalled if I was a voter going in to vote and not knowing if my ballot was going to count. I think that should be taken out there shouldn't be an election judge in Minnesota that ought to be able to this.

MS. MC COY: I would like to refer this to the Attorney General's representative because there is a statute for paper ballots from which this is drawn. Would you like to comment of that Mr. Hentges? Oh, I'm saying that there is a statute -- oh, excuse me.

MS. OXLEY: It's Page 112, 20420, but I think it's wrong in the paper ballots too. I think it's wrong for an election judge, that's her full duty to be there, if there are enough election judges, they are responsible for that day and that day only. And, I -- I just think it's unfair to the voters in my precinct to ever feel that their ballot might be pulled out. because, we have an over abundance of ballots. There never should be this. I don't think this should be in here.

MR. HENTGES: How would you deal with this situation where you have more ballots than voters.

MS. OXLEY: We would be there til 12 o'clock reconciling it. We have a white slip that is followed down to the girl that gives out the votomatic card, tears off the top tab with the number on, that person goes into that booth, comes out with the tab showing, we tear that tab off and verify that that's Mr. Brown with No. 10 and our precinct No. on it. Those are stapled together. That ballot goes in there the voter never puts his own ballot in the box, only the election judge. The voter stands there and makes sure that the ballot goes into the box. There is no reason being an election judges for 10 years, there is no reason to come out with an excess of ballots. I can't -- I just can't imagine anybody coming out with this. Unless there would be fraud.

MR. HENTGES: What would you do if there were -- if there were more ballots and it could no be reconciled. What would be the alternative --

MS. OXLEY: I don't know, over 10 years we have never had that.

MR. HENTGES: -- to throwing some out by lot.

MS. OXLEY: Over 10 years with the votomatic we have never had that. We have at the computer center and that is because when the people at the center have remade defective ballots somehow they have all been put into the

pile that's gone into the computer room so we've come out with one or three over, but, if that defective ballot is marked on the bottom with a felt point pen we can just take that out. They can be --

EXAMINER GOWLING: Before further comment I'm going to ask that we take a moment to change the tape. Thank you we're back on the record, are there any further comments or questions on either one side or the other? Thank you

MS. OXLEY: Thank you.

EXAMINER GOWLING: Are there any further questions or comments with respect to Chapter Eight as presented? Ms. Pouliot.

MS. POULIOT: In respect to comment just offered I do believe that it is necessary to leave a provision in those rules to relieve, to pull out a ballot or two ballots whatever the case might be if there is an excess number. there is definitely the possibliity that someone could bring in a card without a stub in it and slide it in the back of that envelope and no matter, recording numbers or not, the judge checking the number against whatever is written on the voters certificate would not disclose the fact that there was more than one ballot in that envelope. If we're concerned about fraud I'm sure this would be one of the easier ways to perpetrate a fraud just like one might bring in an extra paper ballot and fold it inside the original ballot and that

thing would wind up in a ballot box. I do think it is necessary to leave it there. I have seen it happen once with the ballot cards and the judges at the particular precinct involved certified that they did firmly believe that two cards had been handed to a voter during the course of the day, that they were stuck together.

MS. MC COY: Thank you.

EXAMINER GOWLING: Thank you. Further comments or questions relative to Chapter Eight as presented. There being none, I'm going to ask that we proceed to the discussion and presentation of Chapter Nine.

MS. MC COY: Chapter Nine relates to the proceedings at the counting center should this be a part of the approved plan referenced in Minnesota Statute 206.185 Subdivision 3. And, it is authorized by other subdivisions of that same statute. I would point out here in reference to the question raised earlier before we went into our presentation that I would like the record to show that our rules do not require that the tabulation be done at a counting center but they do provide rules which could be referenced for conduct of tabulation at a counting center. Sec. Stat. 3904 through Sec. Stat. 3907 reference authority in Minnesota Statutes 204.29 Subdivision 4 are, and are included with ihe intent that uniformity be afforded for this procedure. Sec. Stat. 3903C. The use of the word "damaged" there refers to the

definition of "damaged" ballot contained in Minnesota Statutes 206.185 Subdivision 4. I have made specific references and I should like to have the record show that we have had concern expressed about the apparent interchangability of several words which seem to have similar meanings. But, my references have been tied to statutes which make specific use of these terms. Such as "damaged ballot" "defective ballot" in specific ways, and I have hoped to point these statutory references out for the assistance of people who may be considering this report of this hearing. That concludes my remarks on Chapter Nine.

EXAMINER GOWLING: Thank you. Are there questions or comments pertaining to Chapter Nine as presented, Procedures at the Counting Center? There being none, I'm going to ask that we proceed with the presentation and explanation of Chapter 10.

MS. MC COY: Chapter 10 deals with the canvass of elections. Authority for the canvass of votes is stated in two chapters which are referenced in these rules, Minnesota Statute 204A40 through 204A54, and also, Minnesota Statutes 206.185. Reference is made also therein to the same authorities cited earlier in the preparation of computer programs and security of the voting system as required by Minnesota Statutes 206.08, 206.06 Subdivision 2, as well as 206.026, 206.07 Subdivision 5, 206.075 and 206.09. Also, referred in Minn-

esota Statutes 206.17. The overall intent of these rules is that concern for how voting machine systems may be operated to insure accuracy and integrity in elections is clearly operative throughout the provisions of Chapter 10, as these concerns are adapted to the canvass and recount procedures already operative in Minnesota Statutes cited above. That concludes my remarks on Chapter 10.

EXAMINER GOWLING: With respect to Chapter 10 are there any questions or comments to be heard? There being none with respect to that Chapter and that being the last chapter in the chapter by chapter presentation, I'm going entertain at this time any comments, statements pertaining to the rules considered as a whole or as to any comments which have been reserved to this time for presentation by any member of the public here present. Are there any such comments. Mr. Jenson. The record will reflect that Mr. Jenson has previously identified himself. I believe he is representing the City of Bloomington.

MR. JENSON: I guess some of our major concern with the proposals that are included in these rules have to do with the magnitude of the test deck required to be used under the rules. In many previous elections in Minnesota a test deck of somewhere in the vicinity of 100 cards, using a vast variety of different methods of voting were used in order to test the capacity of the system, in many instances

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these same 100 cards were run through each precinct within an election jurisdiction in order to get a larger sampling. This appeared to those of us who work with it, to do an adequate job of testing the computer program. It was pointed out to us prior to the last election that that is not ihe way the existing rules read, that we should be having a test deck somewhere in the vicinity of the number of votes we expected to be cast. I have done this the last couple of elections and used as many as 20 or 25,000 cards in a test deck. There are additional costs involved in providing a deck of this size, inasmuch as there's considerable labor involved if your doing it manually, which quite likely is the way most of the smaller municipalities would have to proceed under these rules. I expect that probably in my situation we will have a computer program generated by my in house programers to prepare such a test deck and in such a way hold down the labor cost of preparing a deck. However, if I'm going to go into a presidential election I may have to run a deck of say 45,000 cards, not only in the preparatory testing before we get to the public test, but, in my instance I would probably use the entire deck in doing the public test deck test also rather than using only certain precincts out of it. This does then extend the time required to conduct that test. Present testing situations have, we've been able to accomplish the public test in a period of appoximately

an hour to an hour and a half, using up to 20,000 cards. If we have to double the number of cards we probably won't actually double the total time involved but, I expect it might take two and a half hours to do. Then when it gets to election night we have to zero out the computer run a full listing of the precincts indicating that all counters are at zero before we start the program we then would have to run this total test deck again. Running through a two and a half hour period before you start counting ballots which means you probably would have to open your computer center somewhere in the vincinity of 5 o'clock in order to accommodate everything that has to be accomplished. That's not to bad. We can do that, but, you also have to go through and do the entire program again, the test deck, after the election is completed. So you then have your unofficial returns ready to be sent down to the County Auditor but you can't bring them down until you have -- until after you've completed running this test deck again, which runs you another two and a half hours. At the last general election my unofficial returns were ready to be turned in about 3 o'clock in the morning. This means then we would've had to add on to that this extra two and a half hours it would be 5:30 in the morning before those unofficial returns were down. And this is not very palatable to the politicians who are waiting for the count to get in. So, this is one of the things

that the large size test deck does create problems for us. In some instances perhaps if we have some problems during the counting we're going to be running over into regular working hours the following morning trying to clear out the computer. The rules require that we use a dedicated computer there can be nothing else on that computer other than the election during the course of this. This means that your normal operations that you have on a computer whether it be rented or whether it be in house are going to have to be held off until you complete that election regardless of how many extra it may take. So we are somewhat concerned with the size of the test deck.

EXAMINER GOWLING: Comments --

MS. MC COY: Thank you.

EXAMINER GOWLING: -- Ms. Mc Coy.

MS. MC COY: Yes. I shall be pleased to refer these questions to Mr. Christenson who will speak to these from the standpoint of a computer expert.

EXAMINER GOWLING: Thank you. Mr. Christenson you're recognized to comment if you wish.

MR. CHRISTENSON: One of the things about this acceptance testing is that the procedures to be followed will vary from program to program depending upon the coded logic. The -- and only those people who really are intimately familiar with the computer programs themselves can truely know

the best procedure to follow in order to accomplish the objective which is to ascertain that that program will in fact handle what is going to be presented to it. The -- a means or by which those programs can be tested could be to test the maximum for a single precinct and there -- and use a smaller quantity of ballots for the other precincts. Thereby testing all precincts and testing the maximum capacity of the program. However, that's an example and the only way you can really tell whether that particular procedure I've just described is applicable to more than one situation is to really be able to examine that situation and know. And the people who are in the counting center will know that as long as they are assigned the responsibility for the ascertaining that those programs do in fact can in fact accomplish their objective. I think they can determine the procedures to be followed. But, again, the objective here is to test the maximum, the values as the rules describe. The -- as far as the creation of the data is concerned a possibility there is to utilize the data created by previous election. Even though it -- the benefit of that, not only is that you don't have to create the data, it's been created, but, also you would know in advance what the outcome is without going through, or should be without going through an effort to determine those counts.

MR. JENSON: Excuse me, Mr. Christenson. That

wouldn't be possible under the presently existing circumstances. Our ballots are turned into the county auditors office and they are not returned to us. We would not have those ballots available for us to use for a test deck. Under the new rules it would be possible.

MR. CHRISTENSON: OK. Additionally, one thing I wanted to clear, the intent here in speaking to dedicated computers is I think clear in the -- where the word isolation is used in that multiple processing computer systems allow for many things to be processed simultaneously without interference among or between. The objective here is to obtain dedication as much as possible, but that can be accomplished and still allow other things to be processed simultaneously in a multiprocessing environment. One of the things about the rules in addressing the use of the computers, is that, they attempt to set procedures that will be applicable to a wide range of sophistication in terms of the computer center. That's a difficult thing to do, as you know, because the -- on the one extreme the computer center is an extremely sophisticated network of peripheral equipment, processing unit and disc storage and tapes and so on. To the other extreme which maybe a rather straight forward not very sophisticated operating system. Each of those two extremes require a little bit different procedure, as I've orignally said, and to be followed and in order to ascertain that the

hardware and software have the capability of handling what is to be presented to them.

MR. JENSON: So long as these types of statements could be included in the rules so that they are readily understandable to all of us that would be fine. But, the way they're written now they appear to be set for just one type of thing that calls for a dedicated computer. It doesn't indicate that you may have multifaceted computers which are doing several programs at one time, I don't think.

MS. MC COY: Are you referencing Sec. Stat., Mr. Jenson, are you referencing Sec. Stat. 3401, Use of Dedicated Operation?

MR. JENSON: Yes.

MS. MC COY: It'states there a computing system shall be set up so that vote tallying procedures will be processed in isolation without other influences while being tested or run. I think this is th--the reference that Mr. Christenson made to the fact that they are isolated but not totally dedicated. Isn't that the --

MR. CHRISTENSON: Yes.

MS. MC COY: The term is isolated.

MR. JENSON: Well I think this confuses my computer people. They were not sure just what this meant. To them a dedicated system is one which is used for that one program only. So, it's the computer people who are confused by it.

EXAMINER GOWLING: Further comments or questions.

MR. JENSON: Mary Ann is there some way you can incorporate Mr. Christenson's comments as to the maximum number of cards necessary. Where it may only be necessary to test the maximum in one precinct and lesser numbers in other precincts in the rules?

MS. MC COY: I would think we certainly could address this question. Thank you for your comments.

MR. CHRISTENSON: May I ask you a question about that. Do you have some suggestion as to how it can be stated in the rules that there -- that the procedures to be followed will vary with the programs as written. That's where the difficulty lies there.

MR. JENSON: I realize that.

MR. CHRISTENSON: And, if you can assist in the creation of language that will convey that message why it would be much appreciated.

MR. JENSON: I can't myself but perhaps some of my computer people could be of some assistance to you.

MS. MC COY: I would like to comment further. It's been pointed out to us that as you're aware, in Chapter Two where we speak of the certification of a particular system for use in Minnesota for permanent use, that there is a testing procedure that is to be developed instead of ballot images that we'll test at that time. The capabilities of

the whole system that's being presented. It has been pointed out to us that the magnetic ballot image tape or disc that will be prepared at that time could be adapted for use in any jurisdiction in the state as its ballot image test tape, and we will certainly explore this possiblity. It would, of course, have to be adapted to the particular facility, to the particular brand of computer operation that any jurisdiction might have, the sophistication of that system. But, apparently this capability exis's and we will certainly explore this should these rules be adopted as proposed.

MR. JENSON: That would certainly be very helpful.

MS. MC COY: Thank you.

EXAMINER GOWLING: Mr. Jenson, I might note that if there are any recommendations or suggestion along the line which you discussed with Mr. Christenson, that you have after talking with your computer experts that we certainly, I'm sure, that they would certainly welcome them in written form and they may be submitted within 20 days following the close of this hearing.

MR. JENSON: I thank you, sir.

EXAMINER GOWLING: The record will reflect that Ms. Pouliot who has previously identified herself and who is representing the City of New Hope is addressing the panel.

MS. POULIOT: I have the same concerns that Mr. Jenson has relative to the computer programming, however,

I think, perhaps our concerns are a little bit greater. We don't have the in-house capabilities that the City of Bloomington has. The City of New Hope and the City of Brooklyn Park, the City of Plymouth and I understand this year, the City of Maple Grove, will all be using the computer facilities at school district 281. We then of course, would be concerned with the number of cards that each of the cities will have to run through school district 281's computer. If Mr. Jenson feels that he has to open his computer center at 5 o'clock, I guess, we would perhaps have to invigle the school district to let us on their computer at 1 o'clock, or 2 o'clock or as the case may be, so we could all all these cards done. We would have the same type of problem at the end of the evening to, again, run our test deck. However, of course, as the city clerk I'm wholeheartedly in favor of having -- being assured that the computer is actually counting the votes as the people have cast them. But, since we do have -- or do use this computer jointly we do have quite a problem with that. We have not yet had the opportunity to present these rules to the school district to see if it will have any adverse impact on them after they have read these rules will they still be able to handle the four cities. If they won't, I guess, then we would have to go out shopping for some other facility or make some type of an arrangement so that our people can vote.

EXAMINER GOWLING: Thank you. Are there further

comments or questions concerning the rules as proposed? We have --

MS. FLEMING: Gerri Fleming, City of Maple Grove.

EXAMINER GOWLING: Could you spell -- spell your last name please.

MS. FLEMING: We are -- oh. F L E M I N G. We are in the process or going to buy votomatics, and the concern I have here after listening to Betty, too, is we rent the computer, will we have to rent it three different times at 200 or $300 dollars and hour, which can be quite expensive to us.

EXAMINER GOWLING: Comment or response.

MR. CHRISTENSON: As far as the rate structure for rental of the computers is concerned I, of course, can't speak to that, but, the rules do require that there be the -- at least three occurrences of the test, and each time that that test occurs there will be utilization of equipment and depending upon your rental relationship you will pay for it each time that it's used, yes. However, it's, you know, it's well to understand that even though the computer rate is per hour the utilization of the computer is a matter of seconds.

EXAMINER GOWLING: Further questions, comments, statements of any nature concerning the proposed rules regarding certification and experimental and general use of

voting machines.

MR. CHRISTENSON: I have another comment about the testing of the computer procedures, the software and the hardware. In the instance where the four communities are going to be utilizing the same center the testing of that can be accomplished once and be applicable to all four. Therefore, you do know that those computer programs and the hardware does function in accordance with the rules, it does or will be able, or capable of handling what will be presented to it. We treat all four communities comprehensively rather than looking at each on of them singularily. There can be some economies there.

EXAMINER GOWLING: Thank you for your comment. Are there further comments, statements, questions. Mr. Jenson.

MR. JENSON: Mr. Christenson, how can that be accomplished if the four municipalities who are involved have different races in their municipalities and they are using different sections of the punch card. How is one test of the program going to test them?

MR. CHRISTENSON: Again, you're speaking from a specific, you know, programming rationale, and in the example that you've given, only -- you can only tell once you get intimately into that. But, in general when four users of a set of computer programs do in fact utilize them in the same manner the one test will be beneficial to all four.

MR. JENSON: But they'd be, quite probably be using different counters which is what part of the test is suppose to accomplish.

MR. CHRISTENSON: Again, that depends upon how the program is written. You can't, you've got to look at each of the individual programs as they are, and have been designed and implemented. So, you have to -- the common thing that could be said about all of them is that these objectives that are stated in the rules have to be met and that is that you test the capacity of it.

MR. JENSON: About the only way I can see where that might be accomplished would be in those instances where the four municipalities might happen to be from the same county, and they set up using the same counting numbers in each of their programs. The County Auditor, perhaps, could accomplish this and in that way it would effect some economies. But under normal circumstances they would be using entirely different sets of holes, sets of punches.

EXAMINER GOWLING: Further comments or questions if any. Step forward. We request that you state your name, spelling your last and identifying any group or organization which you might represent.

MS. HAAPALA: My name is Shirley Haapala, H A A-P A L A. I represent the City of Fridley and two other cities in the Anoka County area, Blaine and Coon Rapids. We have,

we would like to have on record that we have presented in writing our testimony from the cities of Blaine, Coon Rapids and Fridley.

EXAMINER GOWLING: Certainly, would you like to have that marked as an Exhibit or simply --

MS. HAAPALA: I think you have an Exhibit or it was given --

EXAMINER GOWLING: -- submitted?

MS. HAAPALA: -- to the young lady over here when we came in.

EXAMINER GOWLING: Certainly, I have received that and that is considered as part of the record and will be given consideration by the Hearing Examiner as well as the Secretary of State's Office. Thank you.

MS. HAAPALA: Thank you very much.

EXAMINER GOWLING: Further comments, questions pertaining to the matters under consideration. Sir, if you, likewise, would state your full name, spelling your last, providing your address and indicating any group or organization which you might represent.

MR. HARVEY: I'm Gordon Harvey, Data Processing Director of Anoka County, 325 E. Main St., Anoka, Minnesota. H A R V E Y.

EXAMINER GOWLING: Thank you.

MR. HARVEY: I'm concerned primarily as a computer

operating center with our 52 precincts that we will be counting in our next general election, next election. My concerns are with the test deck, the test deck routines, the operations, the time and soforth. I'm concerned that maybe the test procedures might be burdening the entire counting system to the extent that we may not even be able to operate considering the volume of precincts that we have. I would like very much to have from the Secretary of State the times, which I'm sure your people developed that it would take to develope and test and run a test deck that's been reported to me to be about 60,000 ballots necessary for our communities. I think these times will be determine whether we're even able to perform. We wish to perform for them but, it could be burdening us to the extent that we can't. I can't really answer it now. I have gone over the original rules as presented, many suggestions, changes were given to the County Auditor, who I understand has submitted them in evidence, so, just a couple of other specific things that bother me. There's certain rules requiring dissemination of my operating software and my support software as defined in these rules. To me this places me in violation of contract with my vendor who supplies my hardware and operating systems. This is a licensed product and I just feel that I'm being put in the middle, potential complaint from my vendor. This bothers me. The use of the word "dedicated system" addressed by a previous

respondent here. This is defined to me by Webster and other data processing people meaning single thread or only one application program at a time. Our environment is such that we would then only be able to test privately--publicly after 5 o'clock at night and before 8 o'clock in the morning. The physical counting of the ballots that's no -- officially, that's no problem. It is a problem to bring out observers after 5 and before 8 in the morning. A few other things in there regarding hardware which we did correct in our Exhibit as presented, all magnetic tapes, discs and soforth shall be error free. That's a very nice statement, but, an impossible statement to comply with. And, I just feel as an overview that my first interpretation of these rules could be putting us out of the vote counting business. And as such, then if that's substantiated, then as such these rules are then, may be putting out of business the actual legislation that's supposed to put them in. To me this would be just an interesting legal problem. Thank you.

EXAMINER GOWLING: Thank you. Any further comments, statements, questions pertaining to the rules presented.

MR. KAMMERER: I would just like to make a statement here. I'm from Ramsey County.

EXAMINER GOWLING: I'm going to ask you if you will to step to the witness stand. We recognize that we can all hear you but, unfortunately the recorder must be able to hear

you in order to have your comments recorded on the official record in --

MR. KAMMERER: Actually, I didn't what it on the tape. I'll tell you the reason why. I'm from Rameey County, and up until now in 1976, we have had no municipality that went into, or anticipated going into, punch card voting, but, I don't know if I should say this or not, but, unfortunately we have one municipality now that has indicated that they are going to punch card voting in 1976. And, when I hear, read these proposed rules, of course it's all Greek to me because I'm not a computer man, and also when I hear the comments particularly from the gentleman that was just here a minute ago I just shudder to think of what my responsibility is going to be in the September and November election in 1976, if I've got to work with this municipality in working on punch card election. I'm shaking in my boots. Thanks.

EXAMINER GOWLING: The record should reflect that that was Mr. Clarence Kammerer who previously testified and represents Ramsey County Election Office. Any further comments, questions, observations of any kind concerning the rules that are now under consideration. There appearing to be none, I'm going to, before I close, make a brief statement to again remind those of you who are here present, that if you wish you may provide written comments, legal briefs, suggestions, or any documentation. And, this will become part of the

record. The procedure to be followed in submitting this kind of information in written form is to send it to my attention. I'm James R. Gowling in care of the Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota, 55104. These documents must, however, be received within 20 days of the close of this hearing. In other words they must be actually received in my office before the close of business day on April 26th, 1976. Of course, if they are received they will be considered. They will be reviewed and will become part of the substantive evidence which is considered in the report which I will provide the Secretary of State in this regard. And, I'm going to again review for you that the purpose of this hearing has been to determine the proposed rules whether both sets of proposed rules as presented and discussed should be adopted and given the force of law as if adopted by the legislature. And, in that regard, I'm going to point out that if they are, in fact, adopted in final form that they will be given full force and effect. In that regard it has been the obligation of the agency to document the specific statutory authority to take the proposed actions, to show that it has fulfilled all the relevant substantive and procedure requirements of law or rule. And to demonstrate the need and reasonableness of its proposed action with affirmative presentation of facts. In that regard the matters which have been received and which will be received

during the 20 day period that I have indicated will all be taken into consideration. I will present my report which will cover the Findings of Fact, conclusions and recommendations and according to the rules under which this hearing has been conducted and the rule making powers of the agency they will not be considered or there will not be final action taken until after my report has been received and has been considered for a period of ten days. And, in that regard the agency after receiving my report will make its decision as to whether to adopt to modify or to reject the proposed rules. And in that regard I'm going to, unless there is some further comment, I'm indicating at this time that this is the last call for further comment or questions concerning the rules. If there are none, and I see none, I'm going to adjourn the hearing with respect to the rules and would like to take this opportunity to thank all of those who've participated. The panel has been excellent in its presentation. I appreciate the cooperation that we have received from the Secretary of State, and her office. And, I'd like to thank each of you for your very helpful and constructive comments, suggestions and the questions which brought into point the number of the issues which we have considered here today. Thank you, again, and this hearing stands adjourned.

UNIDENTIFIED VOICE: What about Exhibit K.

EXAMINER GOWLING: Oh, one last thing. Is Exhibit still --

UNIDENTIFIED VOICE: It's coming back.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE OFFFICE OF THE SECRETARY OF STATE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE SECRETARY OF STATE FOR CERTIFICATION AND EXPERIMENTAL AND GENERAL USE OF VOTING MACHINES.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing on behalf of the Office of the Secretary of State in the State Office Building Auditorium, Room 83, State Office Building, St. Paul, Minnesota, on April 6, 1976, commencing at 9:30 a.m., before James R. Gowling, duly appointed Hearing Examiner for the Minnesota Office of Hearing Examiners. The hearing continued until all representatives of associations or other interested groups or persons had an opportunity to participate and be heard concerning the proposed adoption of the proposed rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines.

The Hearing Examiner, upon all of the files, records, written comments, and proceedings herein hereby makes and issues the following as his:

FINDINGS OF FACT

1. The Notice of Hearing issued on March 5, 1976, and signed by Joan Anderson Growe, Secretary of State, was in all respects proper in form, content, execution and filing.

2. Due, timely and adequate legal notice of the hearing on the proposed rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines was properly served and filed as more fully appears by the Notice of Hearing, Exhibit A, the Certificate of Secretary of State, Joan Anderson Growe, Exhibit B, and the Affidavit of Mailing, Exhibit C. There has been compliance with all other substantive and procedural requirements, statutes or rules concerning the within hearing and notice thereof.

3. The Statement of Need with respect to the proposed rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines received at the hearing, Exhibit D, was not contested in the evidence and testimony received at the hearing nor in subsequently filed written arguments or comments and is found to demonstrate the need

for and specific statutory authority to take the proposed action. Specific statutory authority pertaining to the proposed rules herein and the reasonableness of the proppsed rules in light thereof is found to be consistent with the Statement of the Office of Secretary of State, Exhibit OO, which appends the Statement of Need, and which is entitled Reasons for the Proposed Rules of the Secretary of State for Certification and Experimental and General Use of Voting Machines which is incorporated herein as if fully set forth. Pursuant thereto, the Hearing Examiner finds that the purpose of the proposed rules is to implement Minnesota Statutes Ch. 206 (1974), as amended, as the Secretary of State has been authorized to do by Minnesota Statutes Ch. 206.08, Subd. 1, (Supp. 1975). That Minnesota Statutes Ch. 206 (1974), as amended, provides for security, capacity, durability, efficiency, accuracy, uniformity and election integrity in the use of voting machines to register the will of voters. Minnesota Statutes Ch. 206.08, Subd. 1, (Supp. 1975) permits the Secretary of State to adopt rules implementing Ch. 206 and relating to standards for examination and general use of voting machines, in Minnesota Statutes 206.08, Subd. 2 (1975) permits the Secretary of State to adopt rules implementing Ch. 206 relating to experimental use of voting machines.

4. The proposed rules herein also provide specifications, procedures and other details which are not prescribed within the above-referenced statutes, but which are necessary to the security, capacity, durability, efficiency, accuracy, uniformity and election integrity in the use of voting machines to register the will of electors and thus are within the legislative mandate of the Secretary of State.

5. The within rules have been promulgated based upon the experience in the past decade of experimental use of electronic voting systems pursuant to the provisions of Ch. 206 and set forth in a step-by-step format the certification, security, preparation of the experimental and the general use of voting machines. In addition to the accumulated experience of the experimental use of electronic voting systems in local jurisdictions, the Office of Secretary of State has extensively researched the matter and has relied upon numerous experts and national studies which

have been made part of the record in the within proceeding.

6. SecStat 301.01 Conduct of Elections through 301.04 refer to definitions of procedures authorized by Minnesota Statutes, Ch. 206, 202A, 203A, 204A. SecStat 301.01 is reasonable, necessary and pursuant to statutory authority, as a definition of the conduct of elections and citation of pertinent statutory authority. No comment was received concerning this rule and it is recommended that the proposed rule be adopted.

7. SecStat 3102 Number of Voting Machines purports under Chapter 1 entitled "Definitions" to prescribe the minimum number of voting machines to be provided in each precinct based upon the ratio of one voting machine, booth or station for every 600 qualified voters within the precinct. Reference was made in the presentation by the Office of the Secretary of State to Minn. Stat. Ch. 206.11 as the basis for the ratio of voters to number of voting machines per precinct. This statute refers specifically to requirements for change in voting precincts and refers to "voting machines". Comments received questioned the inclusion of electronic vote tabulating systems in which ballot cards are marked or punched within the definition of "voting machines". Reference was made to various provisions under Minn. Stat. Ch. 206 which indicate that the large lever type voting machine was contemplated under its provisions. Numerous commentators cited the gross inadequacy of only one booth or station for the marking or punching of a card under such a system for each 600 persons, stating that such a rule would mislead a municipality as to the number of devices required to "expiditiously process the voter". In this regard, comments subscribed to by City Clerks of Hennepin County recommended the addition after the first sentence of the following phrase: "if an electronic punch card system is used there shall be not less than one device and booth or station for every 150 qualified voters." Other comments recommended one for each "200 voters" or a "minimum of 100". Citing the absence of statutory guidelines with regard to punch card systems and the aforementioned comments, the Secretary of State proposes to delete SecStat 3102 in its entirety. The Hearing Examiner concurs in the opinion that the proposed rule is of questionable necessity, potentially confusing and misleading in application and, therefore, recommends

that it be withdrawn or rejected.

8. SecStat 3103 Additional Procedures is reasonable, necessary and pursuant to statutory authority as the definition of the effect of the rules and procedures for implementation of additional procedures within an election jurisdiction. There was no adverse comment to this proposed rule and adoption of the rule is recommended.

9. SecStat 3014 Training is reasonable, necessary and pursuant to statutory authority as the definition and outline of the minimum content of training as required under Minn. Stat. Ch. 206.19 and 206.195. Comment was received that reference to Minn. Stat. Ch. 206.19 be deleted on the ground that it pertains only to mechanical voting machines. The intent with respect to this rule is to define and outline the minimum content for training for judges for all types of voting devices. Establishment by rule of one set of guidelines is reasonable and consistent with the requirements of Ch. 206.195 and also serves to achieve the purposes of Ch. 206.19 which does pertain to mechanical voting devices but does not provide the guidelines set forth in this rule. Comment was received concerning an insubstantial change for the purpose of clarity rearranging (c)(8) and (d) and changing them to (D) and (E). This change in form has been found acceptable by the proponent and, therefore, it is recommended that the rule be adopted subject to the above modification in form and the proposed amendment thereto which was considered at the hearing as part of the supplement to the proposed rules, to wit:

"(c) - delete "in assisting voters"; in (3) delete "of" and strike everything after "card"; in (8) delete "describing the".

10. SecStat 3105 Meaning of Terms sets forth a number of definitions which are reasonable and necessary for the understanding of the proposed rules and it is recommended that it be adopted subject to the specific recommendations and findings with respect to definitions set forth belows:

SecStat 3105(a) is modified by the Supplement to the proposed rules which was considered at the time of the hearing, to wit: reference in line 2 to "206.11" is deleted and replaced by "206.01".

SecStat 3105(b)(2) APPROVED COMPUTER - Comment was received that the terminology used in the definition was somewhat confusing to computer-oriented individuals. The Office of the Secretary of State, citing Minn. Stat. Ch. 206.185, Subd. 3, stated the requirement that there be a plan for the use of electronic voting systems submitted to the Secretary of State before July 1 of every general election year and that the issues with respect to approval of the computer plan would be determined at that time. Adoption in proposed form is recommended.

SecStat 3105(b)(5) BALLOT CARD - Comments were received to the effect that the rule was incomplete and confusing as originally proposed. The specific criticisms of this rule have been met by the amended definition set forth in the supplement to the proposed rules which was considered at the hearing. Adoption is amended form is recommended.

SecStat 3105(b)(6) BALLOT ENVELOPE - Comment has been received that reference should be added providing for write-in votes. The subject matter of the comment being dealt with specifically elsewhere in the proposed rules and being unnecessary to the definition, it is recommended that the rule be adopted as proposed.

SecStat 3105(b)(7) BALLOT IMAGE - Comments were received that the definition as originally proposed is incomplete, there bein no indication as to what media would be acceptable for the acceptance of ballot images. For instance, whether it might be tape or disk. Responsive comment by the Office of the Secretary of State has proposed to amend the rule by inserting "on tape or disk" after the words "electronic form". The modification thereby clarifying the definition and satisfying the criticism. Adoption in amended form is recommended.

SecStat 3105(b)(10) COMBINATION BALLOT CARD/WRITE-IN BALLOT and

Sec Stat 3105(b)(22) DETACHABLE STUB - Comments were received with respect to each of these proposed rules that they contradict one another. It is the finding of the Hearing Examiner, however, that the definitions are not contradictory and are reasonable and necessary to the understanding of the rules. Adoption in proposed form is recommended.

SecStat 3105(b)(18) DAMAGED BALLOT - The supplement to the proposed rules which was considered at the hearing recommended the insertion after "mutilated" the words "at the precinct, in transportation to the counting center, and/or" on the ground that this reflects the intent of the rule to try to count a ballot as the voter intended it to be cast and citing that the rule as originally proposed may proof too narrow to be workable. Adoption of the rule as amended by the supplement is recommended.

SecStat 3105(b)(19) DEFECTIVE BALLOT - The supplement to the proposed rules which was considered at the time of the hearing recommended an amendment to the rule by adding "a ballot may also be declared defective in whole or in part, by inability of the judges to determine the intent of the voter." Adoption in the amended form is recommended.

SecStat 3105(b)(21) DEMONSTRATION MODEL - Comments were received to the effect that the requirement of having an "exact copy" of the voting machine may be construed to mean the same color, price, size, etc. and that the definition should therefore be modified accordingly with the suggested replacement of "an exact copy" with "an approved copy". Further comment of an insubstantial nature was received concerning the state preference for using alphabetical designations rather than names for demonstration purposes. Responsive comment clarified, however, that use of alphabetical letters to identify candidates or issues is not precluded under the proposed definition. The ambiguity with respect to the meaning of "exact copy" has been satisfied by the substitution of the word "approved" for "exact" under the supplement to the proposed rules which was considered at the hearing. It is stated that the intent of the rule is to provide the voter with the equivalent experience, not the

total environment, of an actual voting machine. The rule, therefore, is found to be reasonable, necessary and pursuant to statutory authority and adoption is recommended.

SecStat 3105(b)(22) DETACHABLE STUB - Comments were received that the last sentence of the definition as proposed was not a necessary part of the definition in that it attempts to provide instructions as to the use of the system as part of the definition. The supplement to the proposed rules deletes the final sentence, indicating that it is covered more appropriately in Ch. 7 of these rules. With the foregoing modification, the rule is reasonable, necessary and pursuant to statutory authority and adoption is therefore recommended.

SecStat 3105(b)(24) EDIT LISTING - Comment was received recommending the addition of the following statement: "the edit listing will show the computer counter assignments and allowable votes in each office. This allows a complete check of both the printing and computer program." The proposed addition would be inappropriate, amounting to instruction or requirements of procedure rather than a definition of the term "edit listing". It is therefore recommended that the rule be adopted in its proposed form.

SecStat 3105(b)(29) HEADER CARDS - Comment was received that the definition contained should be deleted and the following inserted in place thereof: "header cards are data processing cards which contain pertinent data about each precinct. Header cards may be one or more cards that always precede the ballots for each precinct." The Hearing Examiner finds the proposed definition sufficient and a reasonable definition of the term "header cards" as explained in the testimony. Adoption of the rule in its proposed form is therefore recommended.

SecStat 3105(b)(31) MARKING DEVICES - Comments were received in substance recommending that systems utilizing a punch rather than a mark be identified by inserting in the second sentence "or punch" after the word "mark". The supplement to the originally proposed rules which was heard at the hearing amends this rule in accordance with the recommendation, more clearly stating the intent of the rule. Adoption of the rule as modified is recommended.

SecStat 3105(b) OPERATING SYSTEMS - Comment was received indicating that there was confusion and misunderstanding as to the meaning within the rules of "operating system". It is therefore recommended that a definition be added between (b)(34) and (b)(35). The Office of the Secretary of State has subsequent to the hearing and pursuant to the comments received proposed the addition of the definition of "OPERATING SYSTEMS". It is proposed that this be inserted after (34). The definition be as follows:

> SecStat 3105(b)(35) OPERATING SYSTEMS. Software which controls the execution of computer programs and which may provide scheduling, debugging, input/output control, accounting, compilation, storage assignment, data management, and related services.

Implicit in the amendment adding the foregoing definition is the renumbering of the subsections which follow which is an insubstantial change for the purposes of clarity. This amendment is reasonable, necessary and pursuant to statutory authority. It is recommended that the amendment be adopted and that subsequent subsections under SecStat 3105(b) be renumbered accordingly.

SecStat 3105(b)(38) PUBLIC ACCURACY TEST - Comment was received to the effect that the words "hearing and" should be deleted from the first line of that definition on the ground that Minnesota Statutes Ch. 206.17 does not refer to nor require a hearing. The supplement to the

proposed rules which was considered at the time of the hearing deleted the words "hearing and" as recommended on the ground that this reference was contrary to the intent of the rules to provide for such a procedure. The originally proposed rule as modified by the supplement is reasonable, necessary, and pursuant to statutory authority and its adoption is recommended.

SecStat 3105(b)(40) SEAL - Comment was received requesting, in effect, the deletion of the phrase "with a number on it" in the first sentence and the addition of the words "or lock and key" after the word "seal". This recommendation was made on the ground that it was felt that it would be extremely difficult to place a numbered seal on certain models. Testimony at the hearing and an exhibit were offered in establishing that a wire seal, similar to the one used in the State of Michigan, can be effectively used and provides an inexpensive safeguard. The rule is reasonable, necessary and pursuant to statutory authority and adoption is recommended.

SecStat 3105(b)(41) SELF-CONTAINED VOTING STATION - Comment was received urging the insertion of the words "three-four" in referring to the number of sides which are required to be enclosed under that definition. The definition as proposed is reasonable, necessary and pursuant to statutory authority to assure secret balloting. As the recommendation appears to have been made by a vendor of a particular model without further amplification or testimony at the hearing, the Hearing Examiner finds no substantial evidence to support the recommended modification and, therefore, recommends the adoption of the rule as proposed.

SecStat 3105(b)(48) TEST DECK - Comment was received to the effect that the definition as originally proposed indicates that the ballot card shall be identified by the word "test" and that there is no indication of how this should be placed on the card. The recommendation is made that it may be written, printed, or stamped in order to be in conformity with the balance of the rules. The recommendation appears to be a further clarification of a matter which is implicit within the rule as written but which may add clarity. It is recommended that the rule be adopted either in the form originally proposed or with the modification suggested herein, if the Office of the Secretary of State determines the need for further clarity. The rule in either form is reasonable, necessary and pursuant to statutory authority and should be adopted.

SecStat 3105(b)(49) TRANSFER CASE - Comment was received to the effect that the definition as originally proposed is indefinite and does not prescribe sufficient standards for conduct, especially with regard to the provision requiring a container capable of protecting ballots from moisture. In that specific requirements would vary depending upon circumstances, it would appear that specific definition of the steps to be taken in the protection of ballots would not be in the nature of the definition of the term, but rather guidelines or procedures which may be embodied in some other form. For the purpose of these rules, the definition herein is reasonable, necessary and pursuant to statutory authority and its adoption is recommended.

11. SecStat 3201 Acceptance Testing is reasonable, necessary and pursuant to statutory authority, specifically Minn. Stat. Ch. 206.075, as a guideline and statement of requirements for determining and demonstrating the capabilities of the voting system for certification. This rule specifically incorporates the requirements of Minn. Stat. Ch. 206.07 with respect to testing maximum number of precincts, offices, issues and

candidates for office. Comments was received with regard to the lack of a particular definition for the term "unofficial results" which is used in subparagraph (a). The opinion was expressed that there are no provisions in presently existing programs known to the commentator for providing unofficial results and that this matter may be of major concern to election jurisdictions inasmuch as there is considerable political pressure to provide early vote counts. Responsive comment clarified the intent of the rule, stating that reference to unofficial results is not intended to mean that programs be required to give unofficial results. That it is not stated as a mandate; however, it may be of interest to voting jurisdictions as to whether or not a system is capable of providing this data. It would therefore be a part of the capabilities to be demonstrated but is not a requirement that unofficial test results be prepared in every jurisidction using a system. The proposed rule is found to be somewhat ambiguous with respect to the meaning and it is therefore recommended that the rule be adopted with modifications consistent with the responsive comments of the Office of the Secretary of State cited above.

12. SecStat 3202 Simulation & Vote Counting is reasonable, necessary and pursuant to statutory authority as the requirement for the testing and determination of the capacity of a voting system prior to its certification for use in a jurisidiction. Comment received with respect to this rule to the effect that, under subparagraph (a) the requirement that the testing shall test the maximum capabilities of the program is ambiguous. Maximum capabilities is not defined and the commentator questions whether the intent is to count the maximum number of votes that might be case statewide or nationwide in a particular contest or whether it intends to test the maximum number of contests that might be included on one punch card. Responsive comment that maximum capacity is not defined further than to indicate that it is being required in accordance with Minnesota Statutes. The actual testing, as contemplated, would be involving the largest jurisdiction for which the device might be planned to be sold, and therefore, the particular ballot image to be

tested would include the parameters that would be necessary for that application. It is not intended that it be statewide or nationwide, since the intent is not to charter or approve a particular vendor for the entire state. Vendors would be proposing sale in communities of certain sizes. If, however, a vendor proposed to cover the entire state with one system, that would then require a test of the limits of the entire state according to an interpretation of the law. In light of the apparent abiguity and possibility of conflicting interpretation, it is recommended that the rule be adopted with a modification further defining the intended meaning of "maximum capability" as set forth in the comments of the Office of the Secretary of State above.

13. SecStat 3203 Audit Trail is reasonable, necessary and pursuant to statutory authority, as modified by the supplement considered at the hearing, as a method of determining and demonstrating the capacity of a voting system prior to its certification for use in a jurisdiction. Comment was received questioning the reference under said paragraph (b), item 1, to the effect that candidates and issues in each precinct are to be printed in a rotational order given in that precinct. The commentator expresses the opinion that this statement is in conflict with programs presently in use which provide a printout for each precinct in a given standardized order. Responsive comment was made to the effect that the question of rotational order within a precinct is something that needs to be addressed at the time that a vendor is being certified to see whether or not such capabilities exist within the program. It would not be required that this be done in each jurisdiction. A clarification as to the scope and effect of the provisions under Chapter 2 as set forth immediately below clarifies the issue, indicating that the provisions deal with certification of vendors rather than with instructions to communities using the products. Additional comment was made pertaining to subparagraph (b), item 4, citing inconsistency and ambiguity in the rule as originally proposed. The supplement to the proposed rules modifies this provision in accordance with the comments. It is recommended that the proposed rule as modified by the supplement which was considered

at the hearing be adopted, provided the clarification under Chapter 2 (as set forth below) is adopted.

CHAPTER 2. CERTIFICATION. Consistent with the comments set forth above and for purposes of clarity, the Office of the Secretary of State has recommended modification by addition following the above-refererenced title to add the following sentence:

> This chapter pertains to the vendor only - it does not pertain to computer center operators or responsible authorities of election jurisdiction.

This modification is reasonable, necessary and pursuant to statutory authority and it is recommended that it be adopted.

14. SecStat 3204 Approval is reasonable, necessary and pursuant to statutory authority as a statement of procedure with regard to approval for certification. No adverse comment or criticism was received. It is recommended that it be adopted in its proposed form.

15. SecStat 3205 Decertification is reasonable, necessary and pursuant to statutory authority as a statement and definition of the withdrawal of approval for a voting machine. No adverse comment or criticism was received with respect to this rule. It is recommended that it be adopted in its proposed form.

16. SecStat 3301 Design of Computer Programs is reasonable, necessary and pursuant to statutory authority as a statement of definitions and requirements for the preparation and design of computer programs prior to use in specific elections. It is recommended that it be adopted subject to the specific recommendations including the following:

> SecStat 3301(b) received considerable comment stating in substance that two identical header cards are not necessary and add an undue burden to the vote tallying process. It was noted in comment that this provision is identical to Michigan's Interim Rules for Electronic Voting Systems which is further noted to have been recently amended to remove this requirement. Responsive comment was received to the effect that two header cards are required because this helps to alert the computer of the fact that a different precinct is about to be counted, increasing the recognition factor and decreasing possibility of error in properly identifying each precinct. That this kind of safeguard is a recommended standard procedure where header cards are used. The fact that no counting of ballots for that precinct shall take place at that time is part of the intent of the rules that when errors are noted, they must be explained before the procedures may continue. The Hearing Examiner finds that the rule as proposed is reasonable, necessary and pursuant to statutory authority and should be adopted as proposed with the modification set forth in the supplement to that rule which was considered at the time of

the hearing, to wit: in the first sentence, after "that" insert "precinct identification be punched on all ballot cards."

SecStat 3301(c): comment was received to the effect that the last sentence of this provision should be deleted since all cards must be punched to show ward and precinct, thereby making that provision redundant. The supplement to the proposed rules which was considered at the time of the hearing deletes this sentence in accordance with the recommendation and it is therefore recommended that the rule be adopted in its modified form.

SecStat 3301(e): specific comment was received to the effect that this section is not applicable to the ballot tab or the precinct ballot counter because they are only numeric and the results are generated from the units themselves. That a type of edit listing will be prepared by typing the names of candidates, issues and etc. on an election result tally form prior to election day and the numeric results will be generated by the computer at test time and the output will be fastened to the election result form showing a complete listing of the names, punch positions, votes received, percentages, and miscellaneous data. Responsive comment was received to the effect that these matters would be considered and approved at the time that a particular device was certified, so the need does not exist to identify or discuss it further in the rules. Based upon the substantive evidence, there is no showing that the proposed rule is not reasonable, necessary or pursuant to statutory authority and therefore its adoption is recommended.

SecStat 3301(g): comments was received recommending amendment to the first sentence by addition of the phrase "or to the County Auditor when two or more election jurisdictions elect to use a common counting center" after the word "election jurisdiction". Recommendation was made to accommodate a counting center used by two or more election jurisdictions when only one program would be used and the proposed amendment would clarify where the program should be delivered. Responsive comment indicated that the suggested amendment could be inserted for added clarity without changing the intent of the rules. Further comments pertaining to both subparagraphs (g) and (h) pertaining to the computer program and instructions necessary to operate the program, cites the absence of any provision as to the time frame when the deliveries are to be made of the program and instructions. Further, the rule indicates that the program was to be delivered to the County Aduitor and the Secretary of State by the programers and the instructions are to be delivered to the Secretary of State by the election jurisdiction. It is therefore the recommendation of the commentators that the election jurisdiction deliver both to the Secretary of State and/or County Auditor following the completion of the public test. The comments by a vendor of an electronic vote tabulating system comments that this request can be accomplished; however, the programs are identical for each election and the parts that change would be the control cards used with the Ballot Tab and the Office Report file cards which are used on the larger computers. The supplement to the originally proposed rules under (g) recommends the deletion of this provision as not being "absolutely essential" to the testing but is recognized as desirable to overall testing of the program. Recommendations of the Office of the Secretary of State filed subsequent to their hearing states that (g) was intended to be continuous to the end of the proposed section (h) (since the time frame referenced in section (g) also applies to the material presented in the present section (h)). The Hearing Examiner finds that the proposed rule should be clarified with respect to comments concerning delivery of the iinstructions and program and that the recommendations of the Office of Secretary of State referenced above would substantially clarify and assist in the understanding of the section. The rule is reasonable, necessary and pursuant to statutory authority and it is recommended that it be adopted pursuant to the recommended modifications set forth above and that, consistent with that recommendation, that (h) be deleted and the following paragraphs renumbered in accordance therewith.

17. SecStat 3302 Preparation of Test Deck or Ballot Image - received comment that the requirement of preparing a test deck for the maximum number of voters should be qualified under the acceptance test of the vendor. The commentators' opinions state in substance that to manually prepare and pre-audit a test deck of the magnitude (required under the proposed rules) for each precinct and election would be an impossibility considering the time elements involved and that costs would be unreasonable. To manually prepare a test deck is not required because it is allowed that it be prepared as a ballot image on a magnetic tape or disk. Further comments indicate that the provisions under (b) concerning the use of simulated ballots on tape or disk is confusing inasmuch as most of the balance of the discussion of the testing indicates that a test deck of actual punch cards must be used. The opinion was further expressed that it is unlikely that simulated ballots on tape or disk could be used in such a manner as to be understandable to those lay persons who normally are present at a public test and that it seems likely on the duplicate test deck to be submitted to the Secretary of State, one could just as well put a ballot image on tape or disk although this also is not specifically defined. Responsive comment by the Office of the Secretary of State included a recommendation for amendment whereby the following changes are proposed:

(d) after the words "ballot image shall test" insert the following words "in a manner commensurate with the logic of the computer program, the capabilities of the program and storage and to correctly tally".

(f) in the third line from the end of (f) change the word "measure" to "issue" and delete all of the words following "issue" so that (f) as amended reads as follows: "The test deck or ballot image prepared shall consist of a pre-audited configuration of ballots to record a predetermined number of valid votes for each candidate and issue."

The notes of explanation submitted as comments by the Office of the Secretary of State indicate regarding the proposed changes (d) and (f) that the changes are made in the above proposal to meet the major objection of the election jurisdictions now using punch card voting systems, concerning time and money necessary to be spent for testing. Responsive comment states further that the rules as modified are in keeping with the mandate expressed in Minnesota Statutes with regard to preparation of

test type prior to an election when electronic voting systems are used. The comments, including numerous statements and resolutions of municipalities cite the expectation that substantial additional time and funds would be spent to meet the requirements of the originally proposed rules herein and requested greater flexibility and reduction in the test deck requirements.

Comment was received relative to subparagraph (f) that a test deck as required thereunder would require from the City of Bloomington, for example, somewhere between 40 and 45 thousand prepunched cards. Using a deck of this size before the actual count of ballots on election night as a test as well as after the completion, would add approximately 4 hours to the actual operation.

Comments pertaining to subparagraph (g) indicate that the parameters established by this paragraph are unreasonable, requiring more ballot cards to be prepared than for the entire number of registered voters.

Pertaining to subparagraph (n) that the requirement of 50 blank ballot cards to be run before a test deck is run is unnecessary inasmuch as present programs zero all counters to be used in the computer program and there is a printout of a complete set of precinct returns proving that each of the counters is zeroed for each precinct. Comment goes on to add that this procedure accomplishes the same objective and if 50 blank cards are to be used, it should be specified whether 50 blank cards should be run for each precinct or for an entire election jurisdiction.

Under subparagraph (p) at the last sentence of the paragraph indicates the duplicate test deck may consist of standard data processing cards. It is suggested that this is ambiguous and appears inconsistent with the provisions in the rules requiring exact duplicates, although there is some provision for ballot image on tape in other sections of the rules.

The Hearing Examiner finds that the rules under SecStat 3302 Preparation of Test Deck or Ballot Image as modified by the foregoing recommendation of the Office of the Secretary of State, are reasonable,

necessary and pursuant to statutory authority and should therefore be adopted as modified.

18. SecStat 3303 Preliminary Testing of Computer Programs is reasonable, necessary and pursuant to statutory authority as a statement of procedure and requirement for preliminary testing of computer programs. It is recommended that it be adopted subject to the following specific recommendations, pertaining to subsections thereof:

SecStat 3303(c) - comments were received to the effect that the words "or ballot image" following reference to "the test deck" should be deleted. There were no supporting reasons cited for the recommended change and responsive comment indicated that proponents were not able to follow the reasoning for the change since ballot image is a means to prepare a test deck. It therefore appears as though the rule as proposed is reasonable, necessary and pursuant to statutory authority and it is recommended that it be adopted.

SecStat 3303(d) comments were received to the effect that it would be unreasonable to require the securing of "all" of the computer program, including the operating system, the object code, all support software utilized, test decks, etc. Specific comment was made that the items listed in the rule as originally proposed are voluminous and that metal boxes of sufficient size to contain the disc along with other necessary programs on tape, the object code on cards and other support software on tape would be quite sizeable. It was recommended by the commentator that it would suffice to secure a copy of the operating system on tape in order to minimize the amount of space required in such a box.

Responsive comment from the Office of the Secretary of State recommends the amendment of (d), item 1, consistent with the substance of the comments by inserting the words "except the operating system" after the word "utilized". The explanation with respect to the proposed change recognizes that there has been concern expressed in the testimony regarding the security of the operating system and the intent of these rules in that regard. A modification coupled with other adjustment in the same section, incorporated in the supplement considered at the hearing, and the inclusion of the definitions chapter of these rules of the words "operating system" would appear to resolve the problem cited. The Hearing Examiner finds that the proposed rule with the recommended modification is reasonable, necessary and pursuant to statutory authority and recommends its adoption.

19. SecStat 3304 Public Accuracy Test is reasonable, necessary, and pursuant to statutory authority as establishing the requirements and

procedure for Public Accuracy Test, specifically pursuant to authority under Minn. Stat. Ch. 206.17. It is recommended that it be adopted subject to the following specific recommendations pertaining thereto:

SecStat 3304(a) - comment was received to change "at least" to "within" five (5) days so as to conform with Minnesota Statutes Ch. 206.17. The supplement to the proposed rules which was considered at the time of the hearing proposed this change. It is recommended that the proposed rule as modified by the supplement be adopted.

SecStat 3304(d) - comment was received that reference to "Chapter 4C3" be corrected to read "SecStat 3304". The supplement to the proposed rules which was considered at the time of the hearing corrected this typographical error and it is recommended that the proposed rule as so modified be adopted.

SecStat 3304(g) - comment was received that the rule is confusing and that it requires the testing of the original and duplicate computer program as well as the test decks prepared. Comment is further made that, if the procedures outlined earlier in the rules had been followed, the duplicate programs and duplicate test decks would not be in the possession of the voting jurisdiction at the time of the test. Further, that it would appear to be redundant to test the duplicate program and the duplicate test deck since by definition they are exactly the same as the originals. Responsive comment indicates that it is not intended under the rules that the duplicate program should be tested, but that it should be filed with the Secretary of State as a backup to be used if something happened to the other program, and then at that time it would be tested according to these procedures. It is contemplated that the testing of the original and duplicate program would be carried out so that they would be available and delivered on time for the public accuracy test, and also then for use at the counting center. The Hearing Examiner finds that the rule as proposed is confusing and subject to differing reasonable interpretations and therefore recommends that the rule, if it is to be adopted, be redrafted so as to clearly embody the intent of the rule as expressed in the aforementioned comments. The rule as interpreted in light of the comments is reasonable, necessary and pursuant to statutory authority.

SecStat 3304(h) and (i) - comment was received recommending the deletion of the subparagraphs inasmuch as the previous testing accomplished (under the within rules) both by the Secretary of State and the certification of the system and the test decks prepared by the election jurisdiction have already adequately proved the accuracy of the system. The number of persons who are candidates on any general election and could request the opportunity to prepare a test deck, could result in the extending of the public test to a period of eight hours or more and there is no computer operation in the state, which the commentators were apprised of, which could spare that amount of time for a public test and still maintain the normal work flow. Comment was further made that the contemplated procedure would be further complicated by the fact that the computers being operated would be required to be on a dedicated basis with no other activity taking place during the course of the test. The supplement to the originally proposed rules recommend the deletion of (h) and (i) commenting further that on review of the total security and the testing procedures in Minnesota Statutes on this matter, it appeared that the extra procedures should not be mandated by rule when they appear to add procedures that go beyond the application of Minn. Stat. Ch. 206.17. The rejection of (h) and (i) is therefore recommended.

SecStat 3304(j) - comment was received recommending the deletion of "meeting" and substituting therefor "testing" for purposes of clarity. The supplement to the originally proposed rules which was considered at the time of the hearing recommends the aforedescribed change and it is recommended that the rule as modified be adopted.

SecStat 3304(k) - comment was received recommending modification of the first sentence by changing "may" to "shall"; in the second sentence to delete "if so"; and in the third sentence, delete "shall" and substitute therefor "may". Responsive comment from the Office of the Secretary of State indicates that the intent was not to lengthen the process by requiring that the Secretary of State prepare and use a test deck and, therefore, there is no intent to change provisions with respect to granting permission to creating a requirement. The Hearing Examiner finds that, consistent with this intention, the rule as proposed should be adopted, it being reasonable, necessary and pursuant to statutory authority.

SecStat 3304(m) - comment was received recommending the requirement of the election jurisdiction to secure "...the operating system, the object code, software utilized,"; deleting the word "results" and replacing it with "listing"; deleting reference to "metal container" and replacing it with "appropriate"; and deletion of "with a metal seal" and replacement thereof with "in a secure manner". Responsive comment cites that the requirement for metal seals in reference to SecStat 3304(m) are in keeping with the requirements of Minnesota Statutes and the metal seal with numbers is a security required. The proposed rule is found by the Hearing Examiner to be reasonable, necessary and pursuant to statutory authority and therefore recommends its adoption.

SecStat 3304(n) - comment was received that the meaning was unclear and could be interpreted to limit the usage of programs, test decks, etc. to a particular computer manufacturer model and serial number which would not be reasonable. Further that voting jurisdictions provide for a backup computer at some other location which is of the same type and model as used in the jurisdiction. If the materials to be used were marked in such a way that they could only be used on the election jurisdiction computer, the backup computer system could not be used in the event of a breakdown. Other comments urged simply for the deletion of the words "and shall be used on no other computer" as being unduly restrictive. The responsive comment of the Office of the Secretary of State, taking into consideration the testimony and comments, has recommended the modification of (n) after the final words in that section, adding the following: "until tested in accordance with SecStat 3304." The rule with the recommended modification is reasonable, necessary and pursuant to statutory authority and its adoption is recommended.

SecStat 3304(o) - comment was received that the County Auditor should not receive <u>both</u> programs just for security reasons. The backup program should remain with the City Clerk. Further comment recommended the deletion and modification of the rule to give the election jurisdiction the responsibility for storage of computer programs and test decks. Responsive comment cited the recommendation contained in the supplement to the originally proposed rule which was considered at the time of the hearing wherein, in the second line, after "auditor" the words "or his designee" were added. The proposed rule as modified is reasonable, necessary and pursuant to statutory authority and its adoption is recommended.

20. SecStat 3401 <u>Use of Dedicated Operation</u> is reasonable, necessary and pursuant to statutory authority as a definition and requirement for vote-tally procedure. Comment was received to the effect that the "dedicated operation" was ambiguous and subject to different interpretations. Testimony was received indicating that computer experts believed dedicated operation to mean that the computer is totally dedicated to the vote-tally process to the exclusion of any other functions. Further, recommendation was made for deletion of the words "being tested or run" with the addition

thereafter of the phrase "counting official ballots from the election jurisdiction". Responsive comment from the Office of the Secretary of State recommends the modification of the rule as follows:

> Delete the title "USE OF DEDICATED OPERATION" and insert in its place this title: "ISOLATION FROM OTHER INFLUENCES". (SecStat 3401) Delete the words "be processed" and insert the word "function"; delete the word "without" and insert the word "from".

The above-recommended modification was accompanied by the comment that the terminology incorporated in the rules as originally proposed appeared to be confusing. The provisions with the recommended modification is in keeping with the overall goal of the rules and is inserted for the purposes of clarity. The rule is reasonable, necessary and pursuant to statutory authority, as modified, and its adoption is recommended.

21. SecStat 3402 Initialization of System is reasonable, necessary and pursuant to statutory authority. Comment was received to the effect that the first sentence should be amended to add the word "official" for the phrase "vote tallying computer program" and deleting thereafter "testing or running" and replacing it with "counting"; that the phrase "active measures shall be undertaken to assure that all tapes and discs are to be used and are supposed to be initially blank are actually blank (except for machine readable inventory identifiers) and have no defects." These recommended changes were made with the further comment that requirements of this section during testing procedures would prohibit any other use of the system for an unreasonable length of time. Responsive comment refers to the modification recommended by the Office of the Secretary of State under SecStat 3401 and the rationale therefor. In light of the proposed modification under the preceding rule, it is recommended that this rule be adopted in its proposed form.

22. SecStat 3403 Use of Dedicated Support Software is reasonable, necessary and pursuant to statutory authority. Specific comments received recommended deletion of the entire section on the ground that adherence to the rule would require a violation of the contract with the computer hardware vendor. Further comment was received to the effect that the last sentence is confusing, not providing specific requirements as to demonstration to whom and where. A final comment made to the effect that SecStat 3403 and 3404, below, provide for bit-by-bit comparison of support

software and object codes, but neither indicates the procedure for bit-by-bit comparison nor does it indicate who is to conduct such comparison and is therefore indefinite and confusing. Responsive comment by the Office of the Secretary of State states that the "last sentence" referred to above has been deleted and that the following modification is recommended in light of the comments and testimony:

> Delete the words "USE OF DEDICATED" from the title, so that the title of Rule 3403 would read: "SUPPORT SOFTWARE". At the end of the first sentence in that rule, delete "and not used for any other purpose". Delete the next two sentences also. Rule 3403, if amended, therefore would read: "SUPPORT SOFTWARE All the support software used with vote tallying computer programs shall be maintained on media, under the control of the election administration."

The explanation with regard to the modification set forth above is for the purpose of clarity and does not depart from the intent of the rules. It is recommended that the rule, as modified, be adopted.

23. SecStat 3404 Physical Protection of Object Codes is reasonable, necessary and pursuant to statutory authority. Comment has been received,however, that adherence to the rule may constitute a violation of contract with the computer hardware vendor. No further substantive evidence or testimony concerning such agreement or contract was submitted and in the absence thereof it is recommended that the rule be adopted in its proposed form.

24. SecStat 3405 Labeling of Disks and Tapes is reasonable, necessary and pursuant to statutory authority. Specific comment stated that disks and tapes presently employed do have both machine readable and human readable labels and that the actual comparison between the two are normally accomplished as part of the program. Another further comment was received, similar to the comment to the aforegoing rule, that adherence to the proposed rule may cause violation of contract with a computer hardware vendor. No further substantive evidence or testimony concerning such agreement or contract was submitted and in the absence thereof it is recommended that the proposed rule be adopted.

25. SecStat 3406 Control of System Control Cards is reasonable, necessary and pursuant to statutory authority. There was no substantive

evidence or testimony received in opposition thereto and it is recommended that the proposed rule be adopted.

26. SecStat 3407 Logging of Operations is reasonable, necessary and pursuant to statutory authority. Specific comment was received recommending amendment by deleting section as written and adding "the log must print automatically on the system printer which reports all operating actions taken by the computer." Substantive reasons for the proposed amendment are not clear. Responsive comment was received that SecStat 3406 - 3407 are necessary for security inherent in the whole chapter. The Hearing Examiner finds the proposed rule to be reasonable and pursuant to the statutory objectives and intent of the rules and therefore recommends that the proposed rule be adopted.

27. SecStat 3408 Separation of Computer Room Duties is reasonable, necessary and pursuant to statutory authority. No substantive comments or criticisms were received concerning this rule. It is recommended that it be adopted in its proposed form.

28. SecStat 3409 Control of Computer Program Changes is reasonable, necessary and pursuant to statutory authority. Comment was received, however, citing a lack of clarity in that computer programs are indicated in this paragraph to be authorized, approved and documented. There is no indication as to who is to provide the authorization, approval or documentation. Responsive comment from the Office of the Secretary of State proposes the following modification of the rule, consistent with comments and testimony received thereon:

> After the word "documented" insert the following words: "by the responsible authority of the election jurisdiction."

In explanation of the proposed modification, comment is made that the addition to this rule is made in response to comments and by testimony submitted at the public hearing. The changes are proposed in the interest of clarity, not representing a change from the original intent of the rule. It is recommended that the proposed rule as modified be adopted.

29. SecStat 3501 Preparation of Ballots is reasonable, necessary and pursuant to statutory authority. It is recommended that it be adopted

subject to the following specific recommendations:

SecStat 3501(a) BALLOT CARDS - comment was received stating that printing on two sides is very expensive. The cards presently in use state "insert card this side up" on the front. Also, the holes are off-center so that they will not fit over the posts, if the card is inserted incorrectly. Responsive comment was made to the effect that other systems or devices may be used and deletion of the applicable provisions would not provide adequate security. That only by the words printed on the back side of the card can the necessary degree of assurance be obtained. The rule as proposed is reasonable, necessary and pursuant to statutory authority and it is recommended that it be adopted.

SecStat 3501(b) BALLOT ENVELOPES - comment was received that there is no provision within the section for the use of plain envelopes (without spaces for write-ins) for primary elections. The intent and authority of Minn. Stat. Ch. 206.185, Subd. 3, is again cited as well as the testimony presented in the hearing with respect to the necessary requirements. Responsive comments indicate that rule 3501(b) provides that ballot envelopes are to be of the type and form approved by the Secretary of State; blank envelopes for primary and write-in spaced ones for general elections would be part of the plan required by Minn. Stat. Ch. 206.185, Subd. 3, to be submitted to the Secretary of State for approval before July 1 of every general election year. It is recommended that the rule as proposed be adopted.

SecStat 3501(d)- comments were received to the effect that sample ballots required under this paragraph are normally prepared by the Office of the County Auditor. That it would appear more likely that the County Auditor should submit the samples to the Secretary of State than the election jurisdiction. Responsive comments acknowledge that sample ballots are indeed prepared by the County Auditor, but goes on to state that the intent is to make sure that they are the ones that would match the face of the voting machine, the particular configuration of the type of voting machine that might be in use in the jurisdiction. Because of this close tie with the election jurisdiction, it has been proposed in the rules as such. The rule is reasonable, necessary and pursuant to statutory authority. It is recommended that it be adopted.

30. SecStat 3502 Preparation of Voting Machines is reasonable, necessary and pursuant to statutory authority. Adoption of the rule is proposed, subject to the specific comments and recommendations below:

SecStat 3502(d) - comments received recommend the addition of "or cause to be prepared" after the word "prepare" in the first sentence on the ground that many municipalities and/or counties contract to have this work done. The supplement to the proposed rules which was considered at the hearing recommended change consistent with this comment. It is recommended that the proposed rule as modified be adopted.

SecStat 3502(i) and (j) - comments were received that in both of these paragraphs the number of the seal used on the particular voting device is required to be entered on the certificate. It is pointed out that, in the collective statements submitted by the Hennepin County City Clerks, that there is no provision for numbering the type of lead seal presently in use and, therefore, statements regarding the seal number should be removed from the paragraphs. Responsive comment was made in the testimony and introduction of exhibit which substantiates the fact that numbered lead wire sealing devices are available at nominal expense which would provide an important safeguard. Responsive comment further indicates that a flat seal called a "lead wire seal" is available at a cost of less than 2 cents apiece with the number on it and would meet the specifications. Security of the ballot pages is essential to the goals of the statutes and these rules and such need is referenced by Minn. Stat. Ch. 206.18, Subd. 3. It is recommended that the rule as proposed be adopted.

31. SecStat 3503 Preparation of Election Supplies is reasonable, necessary and pursuant to statutory authority. Adoption of the rule as proposed is recommended, subject to the following specific comments and recommendations:

Comments were received specifically with respect to SecStat 3503(e) recommending that this section be rewritten to allow the City Clerk to decide the vendor's activities at the precinct level. Further comment was received to the effect that the rule appears to be unduly restrictive, particularly in those cases where an election jurisdiction is using a new voting system for the first time. In cases of this type, it was indicated that it would be advantageous for the City Clerk to have the services of the vendor available even at the precinct level. In addition, some of the County Auditors in the state designate the vendors as their representative at the polls on election day under existing practice. Responsive comment indicates that Minnesota law specifies who may be present in the precincts. Within that law, an election jurisdiction could make additional appointments for persons present at a precinct. The recommendation that the election activities not be conducted by or supervised by vendors has sould basis in studies of some of the difficulties that have occurred in election administration in other parts of the country and are referenced in studies prepared for the general accounting office and the Federal Clearing House on Elections. The rule as proposed represents an attempt to deal with this matter in Minnesota. Despite certain advantages of having vendors on the election premises, the rule as proposed is reasonable, necessary and pursuant to statutory authority and its adoption is therefore recommended.

32. SecStat 3601 Arrangement of Voting Machines is found by the Hearing Examiner to be reasonable, necessary and pursuant to statutory authority. It is recommended that the rule be adopted as proposed.

33. SecStat 3602 The Election Judges Shall Check the Machines is reasonable, necessary and pursuant to statutory authority as a statement of requirements pertaining to general duties of election judges before the polls open and is based, in part, on provisions in Minn. Stat. Ch. 206, as well as Minn. Stat. Chs. 202A, 203A and 204A, where applicable. It is recommended that the proposed rule be adopted, subject to the specific comments and recommendations below:

SecStat 3602(a) - comments received recommend deletion of the entire paragraph in conformity with the previous statements concerning seal numbers on voting devices. Responsive comment refers to the previously cited references to seals and numbers which have been dealt with in testimony at the public hearing and the exhibit received illustrative thereof. It is recommended that the rule be adopted as proposed for reasons previously stated with respect to the issue raised by the commentator.

SecStat 3602(b) and (c) - comments received recommend the deletion of the phrase under (b) of "and/or sample ballot" and under (c) the deletion of "sample ballot" and addition in place thereof of "edit listing". The recommended changes are made on the ground that the sample ballot does not show rotation of candidates names and the edit listing does. In the supplement to the proposed rules the change referred to

under (c) has been made with the notation that it more accurately describes the intent of the rule and is appropriate to state laws governing the configuration of sample ballots, per se. Responsive comment further indicates that the deletion of the words "and/or sample ballot" under (b) has been accomplished pursuant to the Statement of Reasons submitted to the Attorney General on April 20, 1976. It is recommend that these provisions be adopted as modified.

34. SecStat 3603 Discrepancy is reasonable, necessary and pursuant to statutory authority. There was no adverse comment or criticism received with respect to this proposed rule. It is recommended that the proposed rule be adopted.

35. SecStat 3604 Demonstration Voting Machine is reasonable, necessary and pursuant to statutory authority. There were no adverse comments or criticisms received concerning the proposed rule. It is recommended that the proposed rule be adopted.

36. SecStat 3701 Election Procedures and Manner of Voting is reasonable, necessary and pursuant to statutory authority as establishing definitions and guidelines for election procedures and manner of voting. Adoption of the proposed rule is recommended subject to the specific comments and recommendations set forth below:

SecStat 3701(e) - comments were received recommending in the second sentence the placement of the word "shall" with "may" so as to be consistent with SecStat 3105(b)(22). One commentator further indicated that judges in his voting jurisdiction number the voter certificates serially as they are issued and that this accomplishes the same end. Other comments recommended deletion of "the ballot card number shall be recorded on that certificate" and deletion of 3701(l) entirely. The responsive comment indicates that the question under the rule is that the ballot is delivered by an election judge; therefore, "shall" is appropriate; time is not the issue that is being addressed in the particular rule, so it is not in conflict with 3105(b)(22). Further, that the testimony and comments at the hearing clearly refer to the necessity of the numbering of stubs and the records relating thereto. The supplement to the proposed rules which was considered at the time of the hearing does recommend under (e), second sentence, the insertion after "recorded on" and following the words "or attached to". Comment made with respect to this modification is that rule as modified more accurately reflects the concept that the number of the ballot stub be associated with the voter's certificate to which the ballot was issued. It is recommended that the proposed rule as modified consistent with the above comments be adopted.

SecStat 3701(f) - comment was received to the effect that the last half of the sentence be deleted, placing a period after the words "with ballot label pages after voting." The commentator further indicates that if assistance is to be given to every voter, two more precinct judges would be required at additional expense. Responsive comment indicates that, pursuant to the comment and testimony, this change has been made as documented in the Statement of Reasons submitted to the Attorney General on April 20, 1976. Responsive comment contained in the Statement of Reasons to the Attorney General indicate that in rule 3701(f) a period is to be placed after "voting" and the rest of the sentence is to be deleted. Minnesota Statutes provide that election judges assist voters upon request of the voters; it is not the intent of these rules to depart from this law; therefore, we shall delete the portion of this law which

may be so construed. In rule 3701(h) delete "and return to the voting station" in line six. This touches an important part of the Australian ballot system - insuring the secrecy of the ballot. (Minn. Stat. Ch. 205.04) Reference Minn. Stat. Chs. 204.14, 204.10 and 204.11. The intent is not to embarass judges or voters by this rule; the intent is to seek a means to remind voters that their vote ballot card, which cannot be folded inward to conceal marking as in paper ballots, is to be screened from view by the ballot envelope provided. Rule 3701(i) reflects Minn. Stat. 206.20, Subd. 1, which provides that the voting machine be inspected after every voter has finished voting; this rule conforms with this law by encouraging frequent checking; requiring a check at least once every one-half hour may make the task more practical, recalling the provisions of Minn. Stat. Ch. 206.026, Subd. 5. It is recommended that the proposed rule as modified be adopted.

SecStat 3701 (h) - comment was received urging the deletion of the words "return to the voting station and" in the last sentence on the ground that many voters become upset when told to return and more than likely that voting station would already be filled by the next voter. The security considerations cited in the hearing testimony appear to outweigh the other considerations mentioned in the comments. It is recommended that the proposed rule be adopted.

SecStat 3701(i) - comments were received to the effect that the entire rule should be deleted on the ground that many voters feel this is an infringement on their privacy. Further comment urged that the paragraph be expanded somewhat in those instances where the ballot card number and the ballot card number on the certificate do not agree. It was urged that, as an additional step, definition should be made as to what would actually constitute vote fraud and what action the election jurisdiction would be required to take with respect to prosecution. Responsive comment cites the statement contained in the written comments of the Hennepin County City Clerks to the effect that each municipality has different comments and procedures. That one of the primary purposes of the rules being to establish and maintain uniform practices and because of the requirement of maintaining the integrity of the voting system, this provision is required. It is recommended that the proposed rule as modified by the supplement to the proposed rules which was considered at the time of the hearing be adopted.

37. SecStat 3702 Absentee Ballots is reasonable, necessary and pursuant to statutory authority. Comment received with respect to this rule recommends the deletion of the phrase "after the polls close" from the first sentence. The commentator indicated that since they can transfer the voter's intent after the last mail delivery (SecStat 3702(d)) it would be much more expediant to check this work before the polls close especially if a municipality has designated their city offices as an absentee ballot precinct. Responsive comment as set forth in the Statement of Reasons submitted to the Attorney General indicates that in rule 3702(f), first sentence, the words "after the polls close" is to be deleted pursuant to the comment. The additional comment is made that Minnesota Statutes provide the processing of absentee ballots may begin after the last delivery of mail to the precinct and it is not the intent

of the rules to depart from statutory mandate. It is recommended that the proposed rule as modified as set forth above be adopted.

38. SecStat 3801 Procedures Following Close of Polls is reasonable, necessary and pursuant to statutory authority. It is recommended that the proposed rule be adopted subject to the comments and recommendations below:

SecStat 3801(g) - comments were received recommending the addition under (g)(1) "or two corners" to the second line and to (g)(2) to amend the first line to read "where chad is found hanging by three corners...". It is submitted that although hanging chads have not been a problem, it was felt that every consideration should be given to the voter. Further comment indicated that chad hanging by two corners should be valid as it took considerable intent by the voter to get it that far. Responsive comment indicates that the matter of determining hanging chad has been raised with the suggestion that the rule as stated is too stringent, that should there be chand hanging by one or two corners it might be removed. Recommendation was made as to the statements made at the time of the hearing with reference to the rules of the Attorney General, promulgated in 1968. Reference was also made to the applicable rule in the State of Michigan which allows the removal of chad hanging by one or two corners. The Hearing Examiner finds that the above-referenced rule either as proposed or under the proposed amendments would satisfy the requirements of being reasonable, necessary and pursuant to statutory authority. A decision to adopt the rule as proposed or to adopt the rule with the proposed amendments would largely amount to a policy decision as no substantive evidence was received which would be determinative as to whether the adoption of the proposed amendments may allow for error or affect the integrity of the voting system. General comments, however, indicated that in the rare occurrence of the "chad problem" it appears as though the vote should be counted where chad is found to be hanging by one or two corners. The Hearing Examiner, therefore, makes no specific recommendation as to whether the rule should be adopted as proposed or subject to the proposed amendment, thereby leaving the decision to the discretion of the Office of the Secretary of State and its accumulated experience and knowledge.

SecStat 3801(h) - comment was received to the effect that the word "defective " should be deleted and replaced by the word "damaged" in the fourth line. The reason for the proposed change is that "defective" is not consistent with the definition in "Meaning of Terms". Responsive comment was received to the effect that it is the intent of the rules that the definition of "defective ballot" in Minn. Stat. Ch. 204.32(k) apply. That this does not make reference to the definition of defective ballots in Minn. Stat. Ch. 204.23. Defective ballots, by the latter definition, are handled by computer program as outlined in Chs. 2 and 3 of these rules as proposed. Recommendation is further made that SecStat 3801(k) be modified to add "number of defective ballot cards" after the number of spoiled ballot cards to reamin consistent with this intent. In summary, the stated intent of the rules is to implement the requirements and statutes for such reporting from each precinct, and to include these words would clarify the matter. It is therefore recommended that the proposed rule be adopted consistent with the above responsive comment and that SecStat 3801(k) be amended accordingly.

39. SecStat 3802 Processing Write-In Votes is reasonable, necessary and pursuant to statutory authority. There was no adverse comment or criticism received with respect to this rule. It is recommended that the rule be adopted as proposed.

40. SecStat 3901 Preliminary Proceedings is reasonable, necessary and pursuant to statutory authoirty subject to the specific comments and recommendations set forth below:

SecStat 3901(c) - comment was received to the effect that the test required in the first portion of this paragraph should be stated as being identical to the public test conducted by the election jurisdiction. Otherwise comparison of certificates would become more difficult. The commentator indicated that the rules as presently written do not require the testing of each precinct at the public test and consequently should not require the testing of each precinct prior to and following the actual counting of the ballots. Responsive comment was received to the effect that it is the intent of SecStat 3901(c) and (d) that the testing at the counting center be performed using identical materials used in the public accuracy test. Further comment recommended the amendment of the second sentence to delete the words "the accuracy test shall be conducted with the test deck or ballot image designated in Chapter 3 of these rules" and to insert in place thereof "the accuracy test shall be conducted on the same precinct as chosen by the election jurisdiction, before and after the official counting, using the test deck designated in Chapter 3 of these rules". Responsive comment received with respect to this specific recommendation was to the effect that it did not appear necessary to make the modification suggested since the fact that the test is to be performed with the same test as previously used in Chapter 3 is clearly stated. It is recommended that the rule as proposed be adopted.

SecStat 3901(d) - comment was received to the effect that this paragraph permits the insertion of the test deck periodically during the course of the ballot count. Present programs would have no way of differentiating between the test deck and the actual votes being counted and modification of the paragraph is therefore recommended. Responsive comment refers in substance to insertion of the test deck periodically during the course of the ballot count. This is in accordance with Minnesota Statutes Ch. 206.075, so that redrafting the rule would in effect seek to alter statutory authority, which is not the intent of the rule. It is recommended that the rule as proposed be adopted.

41. SecStat 3902 Procedures for Transfer Cases is reasonable, necessary and pursuant to statutory authority. It is recommended that it be adopted in its proposed form, subject to the following specific comments and recommendations:

SecStat 3902(b) - comments were received recommending the addition of the following words after the word "deliver" in the first sentence "by the election judges". Responsive comment was received that the effect of the amendment would be too limiting as there may be other people at the counting center who could attend to that and it does not appear necessary to add the additional provision. It is recommended that the rule as proposed be adopted.

SecStat 3902(c) - comment was received that the words "the computer header card and" should be deleted in the first sentence. Pursuant to previous comment, responsive comment indicated that this requirement is necessary to the process as outlined. Responsive comment was received with respect to procedures for transfer cases stating that the references under (c) and (d) and (f) are necessary to the process and that the checking procedure in (f) does not constitute a recount. The responsive comment went on to indicate that this requirement "may" be done and is not an absolute or "shall" requirement. It is recommended that the proposed rule be adopted.

SecStat 3902(d) - comments were received that the rule should be deleted on the ground that procedures for sealing of ballots are already provided for under Minnesota Statutes Ch. 204.26. Further comment recommended the addition of "or other suitable container" after the words "transfer case" on the ground that ballots must be sealed for one year and, if they were sealed in another suitable container, this would allow the cities to use transfer cases for other elections that might occur following any given election. Responsive comment by the Office of the Secretary of State did recommend the addition of "or other suitable container" after the words "transfer case" with the comment that this addition is necessary to acknowledge the fact that transfer cases may be required to be used in another election and that it is within the intent of the rules to allow adequate suitable storage other than in a transfer case within the one year period. It is recommended that the rule as modified by the above responsive comment be adopted.

SecStat 3902(f) - comment was received to the effect that the section should be deleted as this would constitute a recount situation and that procedure is normally a court-ordered decision. Further comment recommended addition in the first sentence of the third line the words "from the Secretary of State's Office" after "by the authorized personnel". Questions were further asked as to whether a hand count would be necessary after the programs and test decks have been run four times, also citing the possibility of human error while hand counting ballot cards on election night and the requirement of numerous additional people to perform such a task. Responsive comment was received to the effect that the checking procedure in (f) does not constitute a recount and that the provision indicates this "may" be done and is not mandatory requirement. Responsive comment of the Office of Secretary of State did further indicate that, upon review of the testing and counting procedures incorporated elsewhere in these rules, SecStat 3902(f) could be deleted from the rules without weakening the overall intent of the rules and they therefore propose the deletion thereof. It is therefore recommended that this rule be deleted consistent with the statement of the proponent.

42. SecStat 3903 Duplication of Ballots is reasonable, necessary and pursuant to statutory authority. Adoption of the rule is recommended subject to the specific comments and recommendations set forth below:

SecStat 3903(a) - comments were received recommending the deletion of the word "perform" and the insertion in place thereof of the word "supervise". Responsive comment cites the requirements of Minnesota Statutes requiring that this be done by election judges and therefore recommending that no change be made. It is therefore recommended that this rule be adopted as proposed.

SecStat 3903(c) - comment was received recommending the deletion of the phrase "defective (specify the office(s) or proposition(s) for which the ballot card is defective". This amendment is offered with the statement that the term "defective" is not consistent with the definition under the "Meaning of Terms" in SecStat 3105. Responsive comment was received to the effect that in SecStat 3903(c) "damage" refers to the definition of "damage ballot" contained in Minn. Stat. Ch. 206.185, Subd. 4. The supplement to the proposed rules which was considered at the time of the hearing recommends, in the third line, the deletion of "defective (specify the office(s) or proposition(s) for which the ballot card is defective", replacing the comma after "damage" with a period. Comment was made with respect to this recommendation that this reference is not needed because computer programs shall be designed to count only valid votes and to not count "defective ballots" as defined by Minnesota Statutes Ch. 204.23. There is no statutory authority to duplicate defective ballots so defined.

It is recommended that the proposed rule as modified by the above comments herein be adopted.

SecStat 3903(d) -comment was received recommending the following amendment in the first sentence: duplicating a ballot card, both election judges shall call from the original ballot card the valid sections of the voter; ~~another election judge~~ both election jduges shall ~~prepare~~ supervise the duplicate ballot with the voter's valid selections. Responsive comment indicates that the suggestion for modification was unclear in light of the comment on SecStat 3903(a) and therefore recommended no change. It is recommended that the rule as proposed be adopted.

43. SecStat 3904 Copies of Returns is reasonable, necessary and pursuant to statutory authority. It is recommended that it be adopted subject to the following specific comments and recommendations:

Comment was received recommending the amendment of the rule to read as follows:

The ~~Election official~~ election judges in charge of the ~~counting center~~ ballots for their precinct shall certify four copies of the returns. The certification shall state the name of the ~~community~~ municipality or township, precinct numbers, offices, names of candidates, number of persons registered before polls open on election day (in those election jurisdictions having voter registration), ~~number of persons who registered on election day (in those areas having voter registration)~~ number of ballots counted, vote totals and any other data defined by the Secretary of State such as precinct identification number. ~~Authorized personnel in the counting center shall transfer any numbers to forms supplied by the Secretary of State for the purpose of state reporting of election results.~~ The statement of returns may be a computer printout as well as any form(s) designated by the Secretary of State for the purpose of preparing the state canvassing board report and publication of election results.

Rationale for the proposed amendment states that it is not feasible to enter the number of persons registering on election day on the print-out return by the computer. This information is more readily entered on a form in the precinct along with other reconciliation information. That additional personnel would be required to comply with this stricken section pertaining to transferring of numbers to the forms and would create more confusion in the counting center. The county canvassing board would more properly perform these duties. SecStat 3904 through 3907 reference authority in Minn. Stat. Ch. 204.29, Subd. 4, and comment with respect to each indicate that those rules are intended to create uniform procedures for the accomplishment of the purposes set forth in those provisions.

Responsive comment was received to the effect that proponents of the rule do not recommend the change suggested, shifting it from a responsibility of the election official in charge of the counting center to certify the returns. Recognition was acknowledged that election judges as part of their procedures do sign the print-out showing that it is the return; however, the total certification for the municipality as a whole would appear to be a responsibility of those in charge of the counting center, rather than the individual election judges in each precinct. Responsive comment notes that the suggestion of the words "number of persons who registered on election day" in those areas having voter registration. This is now required by recently enacted law of the 1976 legislature and is therefore necessarily included in the rules and could not be deleted. Similar comment was made concerning the suggestion for transfer of information to forms required by the Secretary of State, this also being a part of legislation for uniform forms and the rule proposes

the manner in which to accommodate the purposes of the new law. Reference is also made to the fact that the same election judges who sign on the printed material from the computer showing that this is the count for the ballots that they submitted -- at that time those same judges can fill out the Secretary of State's precinct form as required. It appearing as though the proposed rule is necessary and adequately meets the need required under recent legislation, it is recommended that the rule as proposed be adopted.

44. SecStat 3905 Distribution of Returns is reasonable, necessary and pursuant to statutory authority. It is recommended that the rule be adopted in its proposed form.

45. SecStat 3906 Delivery of Material After Counting is reasonable, necessary and pursuant to statutory authority. It is recommended that it be adopted. Comment was received to the effect that the words "or ballot images" should be deleted from the proposed rule. Responsive comments with respect to the ballot image issue pertaining to this recommended modification are set forth above. It is recommended that the rule in its proposed form be adopted.

46. SecStat 3907 County Auditor to Maintain Material is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received of this section. It is recommended that the proposed rule be adopted.

47. SecStat 4001 Canvass of Votes is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received concerning the proposed rule. It is recommended that the proposed rule be adopted.

48. SecStat 4002 Incomplete Return is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received concerning this proposed rule. It is recommended that the proposed rule be adopted.

49. SecStat 4003 Canvassing Board Powers, Computer Programs, Procedures is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received concerning the proposed rule. It is recommended that the proposed rule be adopted.

50. SecStat 4004 Canvassing Board Powers, Counting Center Procedures is reasonable, necessary and pursuant to statutory authority. Comment was received recommending the following amendment:

The canvassing boards, whether municipal, county or state, are empowered to summon the persons having ~~the transfer cases containing~~

custody of the ballots to bring them before the board;
(a) the board of canvassors is authorized to open the ~~boxes~~ containers and take therefrom any books or papers bearing up a count and return of the election judges, but they shall not remove or mark ballots therein;...

Responsive comment from the Office of the Secretary of State was received indicating that the amendment appears to have merit and is in keeping with the intent of the rules. It is recommended that proposed rule as amended by the above proposal be adopted.

51. SecStat 4005 Procedures After Canvass is reasonable, necessary and pursuant to statutory authority. Comment received with respect to this rule urged the following modifications:

When the examination of papers or computer programs is completed or the ballots have been counted or retabulated as provided in this chapter, they shall be returned to the ~~transfer case.~~ containers and be sealed and delivered to the legal custodian thereof. ~~The number of the seal shall be recorded on the certificate to be filed with the clerk of the canvassing board.~~ A certificate of receipt shall be signed upon delivery and filed with the clerk of the canvassing board.

Responsive comment was made to the effect that there was no objection to the deletion of the words"transfer case" in the first sentence. With respect to the second sentence and the proposed modification, reference was made to the requirement under Minnesota Statutes that there be numbered seals and it is therefore recommended that no change be made in this provision. It is recommended that the proposed rule be adopted as proposed, but with deletion of the words "transfer case" in the first sentence.

52. SecStat 4006 Liability for Voting System Error is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received with respect to the proposed rule. It is recommended that the rule be adopted in its proposed form.

53. SecStat 4007 Recounts is reasonable, necessary and pursuant to statutory authority. No adverse comment or criticism was received. It is recommended that the rule in its proposed form be adopted.

CONCLUSIONS

1. The Hearing Examiner was duly appointed and had jurisdiction over the within proceeding.

2. The procedural documents and rules were in all respects proper in form, content, execution and filing.

3. There was compliance with all substantive and procedural requirements, statutes or rules concerning the within hearing and notice thereof.

4. The rules as modified by the recommendations contained herein under the Findings of Fact are reasonable and necessary. That the proponent, the Office of the Secretary of State, has demonstrated the need for and reasonableness of proposed action with respect to each by an affirmative presentation of facts. That specific statutory authority with respect to each such proposed action has been documented and duly submitted.

5. All persons wishing to express themselves by oral or written comment, argument or legal briefs have had an opportunity to do so.

6. That clear and compelling need has been demonstrated for the adoption of the proposed rules as set forth in the Findings of Fact herein, as modified where appropriate.

Based on the foregoing Findings of Fact and Conclusions, the Hearing Examiner makes the following as his:

RECOMMENDATIONS

That the proposed rules as modified or specifically rejected in the Findings of Fact herein be promulgated, approved and adopted.

Dated this 28th day
of May, 1976.

JAMES R. GOWLING
Hearing Examiner