

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1242 08.0009.0747

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-31-85
DATE FOR REVIEW 1-9-86
DATE DUE 1-14-86

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 1-14-86 JMM Disapproved ____ Returned to Agency ____

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 1-16-86 Revisor approved ____ disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed See SR.

? Order Adopting 12.31.85 Date new order rec'd 1/14 excludes numbers of two of the rules

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency minor omission — comments not "encouraged"

✓ Affidavit of Mailing Notice or rulemaking
11.1.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register same omission as above.
11.18.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

? Agency's Findings of Fact not submitted reasons for changes rec'd 1/14 but there are changes to rules as proposed.

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

? Certificate of Compliance w/Rulemaking Procedures not submitted

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

1/8/86 By phone + memo, JVW requested Joe Mansky, SOS, to provide revised Order Adopting + Findings of Fact

" By phone, JVW requested Peter Ackerberg to provide Cert. of Compliance

1/14 request to PA repeated. rec'd 1/14

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : JOAN ANDERSON GROWE
Secretary of State

DATE: 1/15/86

ATTN: PETER M. ACKERBERG
Special Assistant Attorney General

FROM : J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Secretary of State Governing Voter Registration, Absentee Voting, Recounts, Ballots, Certifications and Testing of Lever Voting Machines; and Testing and Use of Electronic Voting Systems

The above-referenced rule has been approved as to its legality by the Attorney General on January 14, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

JMM:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1242

AG copy

Secretary of State

Adopted Rules Relating to Voter Registration, Absentee Voting, Recounts, Ballots, Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Systems

Rules as Adopted

8200.1500 REVERSE SIDE.

Subpart 1. [Unchanged.]

Subp. 2. **Form of reverse side of registration card.**

Post office will not deliver without first class postage

RETURN TO:
(here the county auditor shall supply the address)

8200.9919 FORM FOR VOTER REGISTRATION INSTRUCTIONS, SPECIFIED BY PART 8200.1400.

Instructions for Voter Registration

Read Carefully Before Registering

ITEMS INDICATED BY A RED "X" MUST BE COMPLETED BY THE REGISTRANT BEFORE THE REGISTRATION WILL BE ACCEPTED.

1. Print in ink or type all information requested on the white card.

2. Print or type your legal name--nicknames are not acceptable.

3. Print or type the name of the township or city in which you live and are eligible to vote.

4. Print or type the house number and street name or the rural route and box number where you live.

5. Include your full birthdate--month, day, and year.

6. Give the address where you were last registered. If you have never been registered before, check the box for "none."

7. Give your previous name if it has been changed since you last registered.

8. Enter telephone number in appropriate space (optional).

9. Date and sign the WHITE CARD with your legal written

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Robert P. Mitchell

signature.

10. Date and sign the BLUE CARD with your legal written signature.

11. Review the cards to determine that they are correctly completed.

12. Fold the form, use the sealing tab, and mail or return to your county auditor at your county courthouse. 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, whose civil rights have not been restored;

b. any person who is under guardianship of the person;

c. any person who has been found by a court to be legally incompetent, whose civil rights have not been restored.

ASSISTANCE TO HANDICAPPED VOTERS

Call your county auditor or city clerk if you need information about registration or voting assistance for elderly and handicapped individuals or residents of health care facilities or hospitals. Registration and absentee instructions can be made available in large type, in Braille, or on cassette tape.

8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an

application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. This application form will obtain ballots for only the NEXT election.

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. [Unchanged.]

8210.9930 ABSENT VOTER'S CERTIFICATE, SPECIFIED BY PART 8210.0600, SUBPART 1.

ABSENT VOTER'S CERTIFICATE

OF

_____

(legal name of absent voter)

(print or type)

_____

(legal address of absent voter)

(print or type)

I swear that on election day I will meet the requirements provided by law to vote by absentee ballot.

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_____
(legal signature of voter)

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in a manner that I could not see, the voter marked the ballots, or if the voter was physically unable to mark the ballots they were marked by another individual under the personal direction of the voter, and enclosed and sealed them in the ballot envelope; that if the above-named voter registered to vote by enclosing a voter registration card in the Absentee Ballot Return Envelope, then proof of residence was provided as indicated below.

_____ _____
(date) (legal signature of witness)

_____
(print or type name of witness)

_____
(official title if witness is an official)

_____
(legal address if witness is an eligible voter)

FOR REGISTRATION ONLY - Indicate method used by voter to prove residence.

Method used by voter to prove residence:

Driver's License or Permit or Receipt	_____ (number)	Notice of Ineffective Registration	_____
Minn. ID Card or Receipt	_____ (number)	Student ID	_____ (number)
same precinct	_____	_____ (legal signature of registered voter in the precinct who attested to residence in the precinct)	
		_____ (legal address of registered voter in the precinct who attested to residence in the precinct)	

8210.9955 BACK OF ABSENTEE RETURN ENVELOPE, SPECIFIED IN PART 8210.0800, SUBPART 3.

ABSENT VOTER'S CERTIFICATE

I, _____, do solemnly swear that my
(please print or type)
present address (or last address) in the State of Minnesota is at _____ in the City or Town of
(please print or type)
_____, County of _____
(please print or type) (print or type)
I am qualified to vote the enclosed ballot(s) as

(check category that applies) ____a member of the

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Armed Forces; ____a spouse or dependent of a member of the Armed Forces; ____a citizen of the United States temporarily residing outside the territorial limits of the United States; ____a citizen of the United States permanently residing outside the territorial limits of the United States. I have not cast and will not cast any other ballot in this election. I personally marked the enclosed ballot(s) without exhibiting it to any other person, or which, in case of my physical disability, was marked for me under my personal direction.

Military identification passport number..... _____ (Legal signature of Voter)

Subscribed and sworn to me this ___ day of _____,19___

_____ (Signature of Witness)

_____ (Give title or office of witness authorized to administer oaths. If an officer of the Armed Forces, a commissioned or noncomissioned officer not below the rank of sergeant or its equivalent.)

Note: No witness is required if you provide your military or passport number to match the military or passport number on your application.

8235.1000 ELECTRONIC VOTING SYSTEMS.

In precincts in an election jurisdiction where an electronic voting system is used, the recount official shall determine if the ballots are to be recounted on the automated equipment or manually. If the recount offical is the secretary of state or the secretary's designee, the duplicate counting program certified to the secretary of state by the person preparing the program may be used to recount the ballots. If the ballots are recounted on the automated equipment, a test of the program and counting equipment as provided in part 8230.5100 must be made immediately prior to the recount, and a test sample of the ballots must also be counted manually. ~~The recount offical shall determine if the test sample is to be of one precinct selected by each candidate or a sample agreed upon by the candidates of three percent of the ballots cast but in no~~

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~~event-less-than-100-ballots~~ Unless the jurisdiction has only one precinct, the test sample shall be from two precincts, one selected by each candidate. In each of the precincts selected, the sample shall be at least three percent of the ballots cast or 50 ballots, whichever is greater. The test sample must also be counted on the automatic tabulating equipment. Access to the immediate area of the automatic counter or computer is limited to the recount official and legal advisor, officials of the election jurisdiction, the candidates and their representatives, and the technical persons necessary to the operation of the counting equipment. An observation area must be provided for the public. Ballots must be recounted by precinct. Paper absentee ballots must be counted in accordance with part 8235.0800. A ~~machine-produced~~ report of recount results must be provided for each precinct. After the count of ballots for a precinct has been determined, all ballot cards and paper absentee ballots must be resealed in the ballot container and returned with the other materials to the custodian of the ballots.

8250.0200 AUDITOR'S DUTIES.

The white ballot shall be prepared under the direction of the county auditors in a sufficient number to enable the clerks to comply with the provisions of Minnesota Statutes, section 204B.29. The county auditors shall prepare and print the white ballot as soon as practicable, but in no event less than 30 days before the election. Two weeks before the general election the auditor shall file sample copies of the white ballot in the auditor's office for public inspection. Ballots for distribution in the polling place must be bound in pads of 50.

8250.0600 OFFICES.

The offices must appear on the white ballot in the following order and must be identified as follows in upper case letters:

"UNITED STATES SENATOR"

"UNITED STATES REPRESENTATIVE"

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"STATE SENATOR"

"STATE REPRESENTATIVE"

"GOVERNOR AND LIEUTENANT GOVERNOR"

"SECRETARY OF STATE"

"STATE AUDITOR"

"STATE TREASURER"

"ATTORNEY GENERAL"

"United States" may be abbreviated as "U.S." If an office is not to be filled at a general election, the office must not appear on the ballot. Directly underneath the titles of the offices of United States representative and state senator and representative must be printed in upper case letters or numbers the district (e.g. "SIXTH DISTRICT," "DISTRICT SIX," or "DISTRICT 6") that the person elected will represent. A single vote must be cast for governor and lieutenant governor.

SCOPE AND STANDARDS

8220.0050 CONDUCT OF ELECTIONS.

Except as provided in Minnesota Statutes or in parts 8220.0050 to 8230.4250, elections shall be conducted in the manner prescribed for precincts using paper ballots in the Minnesota election law.

8220.0150 MINIMUM STANDARDS.

Parts 8220.0050 to 8230.4250 set minimum standards for procedures in the use of electronic voting systems. An election jurisdiction may by resolution require additional procedures.

8220.0250 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 8220.0150 to 8230.4250, terms defined in Minnesota Statutes, section 206.56 have the meanings given them in that section, and the following terms defined in this part have the meanings given them.

Subp. 2. **Backup program; duplicate program.** "Backup program" or "duplicate program" means 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

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computer program prepared for use in the election.

Subp. 3. **Ballot envelope.** "Ballot envelope" means a paper container into which the voted ballot is inserted by a voter.

Subp. 4. **Ballot image.** "Ballot image" means a corresponding representation in electronic form on tape or disc of the punch or mark pattern of a voted ballot.

Subp. 5. **Bit-for-bit comparison.** "Bit-for-bit comparison" means a method for comparison of machine encoded characters.

Subp. 6. **Chad.** "Chad" means a prescored portion of a ballot that is removed from the ballot to indicate a vote.

Subp. 7. **Computer program.** "Computer program" means a logically arranged set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

Subp. 8. **Console log; computer log; log book.** "Console log," "computer log," and "log book," mean computer-generated listing of actions performed by the computer, including both normal and abnormal operations.

Subp. 9. **Counting center.** "Counting center" means a location where an electronic system is used for the tabulation of ballots.

Subp. 10. **Damaged ballot.** "Damaged ballot" means a valid ballot cast by a voter that is mutilated at the precinct, in transportation to the counting center, or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated.

Subp. 11. **Demonstration ballot.** "Demonstration ballot" means a ballot of a distinctive color used to instruct voters in the use of the voting device.

Subp. 12. **Demonstration model.** "Demonstration model" means an approved copy of the voting device in use in a precinct containing ballot labels representing offices and containing fictitious names, to demonstrate to voters the method of voting.

Subp. 13. **Detachable stub.** "Detachable stub" means a two-part section of each ballot card, each part of which is printed with the identical number, which is part of a serial

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numbering of all ballot cards assigned to that precinct.

Subp. 14. **Duplicate ballot card.** "Duplicate ballot card" means 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.

Subp. 15. **Edit listing.** "Edit listing" means 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.

Subp. 16. **Election jurisdiction.** "Election jurisdiction" means any municipality, township, county, or special election district holding original responsibility for an election or part of an election.

Subp. 17. **Hardware.** "Hardware" means the mechanical, electro-mechanical, and electronic equipment used to record and tabulate votes.

Subp. 18. **Header cards.** "Header cards" means data processing cards which contain the necessary data to identify the precinct of the following ballot cards to the computer.

Subp. 19. **Lever machine.** "Lever machine" means a direct recording mechanical device or system in which a vote is cast by moving a lever.

Subp. 20. **Operating system.** "Operating system" means a collection of programs that control the overall operation of a computer system.

Subp. 21. **Overvote.** "Overvote" means a condition of a voted ballot in which more votes have been cast for an issue or office than the number of votes that the voter is lawfully entitled to cast.

Subp. 22. **Precinct certification.** "Precinct certification" means 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 requested by the election jurisdiction or the secretary of state.

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Subp. 23. **Programmer.** "Programmer" means a person or commercial vendor designated by an election jurisdiction to prepare the software to record and tally votes for an election.

Subp. 24. **Public accuracy test.** "Public accuracy test" means 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.

Subp. 25. **Seal.** "Seal" means a numbered metal device or other device used to secure hardware, software, computer programs, voting devices, or transfer cases.

Subp. 26. **Self-contained voting station.** "Self-contained voting station" means a unit that contains a voting device ~~having all four sides~~ enclosed beneath and on three sides and lighted; when assembled the unit creates one individual voting station.

Subp. 27. **Software.** "Software" means programs, languages, or routines that control the operations of a computer used to record and tabulate votes.

Subp. 28. **Source code.** "Source code" means a high-level language in which a computer program is written.

Subp. 29. **Stylus.** "Stylus" means an instrument to be used by a voter to punch out a prescored position of a ballot.

Subp. 30. **Test deck.** "Test deck" means 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.

Subp. 31. **Transfer case.** "Transfer case" means a container for transporting ballots to the counting center.

Subp. 32. **Unassigned locations.** "Unassigned locations" means voting positions not programmed or assigned to receive an indication of votes in the election in progress.

Subp. 33. **Undervote.** "Undervote" means a condition of a voted ballot in which fewer votes have been cast for an issue or office than permitted by law.

Subp. 34. **Valid vote.** "Valid vote" means a voted ballot

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cast according to the instructions for the system in keeping with the Minnesota election law and parts 8220.0050 to 8230.4250.

Subp. 35. **Vendor.** "Vendor" means an individual or organization other than an election jurisdiction supplying any element of a lever voting machine or electronic voting system, including but not limited to hardware, software, and programming services.

Subp. 36. **Vote.** "Vote" means an indication of voter intent counted by mechanical or electronic methods.

Subp. 37. **Vote-recording medium.** "Vote-recording medium" means the material or its configuration on which data are recorded, such as paper, tape, cards, or magnetic tape.

Subp. 38. **Write-in.** "Write-in" means a vote for a candidate whose name does not appear on the official ballot for that office.

EXAMINATION AND CERTIFICATION

8220.0350 APPLICATION.

An application by a vendor pursuant to Minnesota Statutes, section 206.57, for examination of a lever voting machine or electronic voting system must be accompanied by the following:

A. an initial deposit, in an amount set by the secretary of state, toward the examination fee and a signed agreement that the vendor will pay all costs incurred by the secretary of state, the vendor, and any designees of the secretary of state in accomplishing the examination;

B. complete specifications of all hardware, firmware, and software;

C. all technical manuals and documentation related to the machine or system;

D. complete instructional materials necessary for the operation of the equipment by election jurisdictions and a description of any training available to users and purchasers;

E. a list of all state election authorities that have tested and approved the machine or system for use;

F. a list of all election jurisdictions where the

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machine or system has been used for elections;

G. a description of any support services offered by the vendor and of all peripheral equipment that can be used in conjunction with the machine or system;

H. recommended procedures for use of the machine or system at Minnesota elections including procedures necessary to protect the integrity of the election;

I. specifications for materials and supplies required to be used with the machine or system;

J. explanation of the level of technical expertise required to program or prepare the machine or system for use at an election; and

K. certification of conformance or explanation of variances from any standards for voting equipment recommended by the Federal Election Commission.

The vendor may submit additional material including test reports and evaluations by other states, election jurisdictions, and independent testing agencies. The secretary of state shall make a preliminary review of the application. If the secretary of state determines from the preliminary review that the machine or system obviously does not meet provisions of Minnesota election laws, the vendor may withdraw the application and the secretary may refund the deposit.

8220.0450 ACCEPTANCE DEMONSTRATION.

The vendor shall train a designee of the secretary of state in the preparation and operation of the machine or system. The training must be at least as extensive as the training required for an election jurisdiction to be able to prepare and use the machine or system at Minnesota elections.

The acceptance demonstration must be provided by the vendor and attended by designees of the secretary of state. The vendor is responsible for demonstrating that the machine or system can meet all requirements of Minnesota election law and parts 8220.0050 to 8230.4250. In the acceptance demonstration, the vendor of the machine or system must demonstrate the following

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concerning the machine or system:

A. its storage requirements;

B. its speed of operation under conditions that simulate the scope and length of actual election ballots;

C. full audit capability, with an audit trail, in the case of an electronic voting system, which includes a printout of overvotes and undervotes for each office and issue, and with the undervotes recorded directly from the ballots and not determined by subtraction of totals from nonovervoted ballots;

D. all special parameter alterations that can be programmed;

E. all design specifications;

F. maximum numbers of precincts, offices and issues, and candidates per office which can be handled;

G. the production of reports which include vote totals and all statistics and other information required by the secretary of state; what sort of info?

H. simulation of vote counting involving a configuration of the largest number of voters, precincts, offices, and candidates with which the machine or system is expected to be used, which vote counting includes ballots showing overvotes, undervotes, and invalid votes as well as those with no overvotes or marks in unassigned locations, in many different combinations, and demonstrates rotation sequences and the ability to deal with partisan, nonpartisan, and proposal sections of the ballot independently;

I. accuracy of vote counting and procedures or process for testing accuracy;

J. provisions for maintaining the security and integrity of elections; and

K. provisions for write-in votes.

The vendor shall identify all hardware configurations with which software is intended to operate and shall provide an acceptance demonstration for every hardware and software configuration for which certification for use in Minnesota is requested. The secretary of state may provide additional

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ballots or test decks for the acceptance demonstration.

The acceptance demonstration and training of the secretary of state's designee may be accomplished either at the vendor's site or at the office of the secretary of state.

8220.0550 TESTING AND EXAMINATION.

The secretary of state shall investigate and evaluate the experience of other states and election jurisdictions using the machine or system. The secretary of state shall review the results of the acceptance demonstration and perform additional tests as the secretary deems necessary. The additional tests may include field testing at simulated or actual elections, technical evaluation of the hardware and software by a designee of the secretary of state, and experimental use as provided in Minnesota Statutes, section 206.81. In determining the need for and extent of additional examination, the secretary of state shall consider the record of use in other states and the extent and experience of use in Minnesota of similar machines or systems.

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that, the machine or system complies with Minnesota Statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. paid all costs of the examination;

B. certified that the vendor and any agent acting on behalf of the vendor will offer the machine or system for use or sale only in accordance with Minnesota Statutes and parts 8220.0050 to 8230.4250 and any stipulations of the certification;

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C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined; and

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data.

Subp. 2. **Decertification.** If a voting machine or system no longer meets the standards of Minnesota statutes or parts 8220.0050 to 8230.4250, the secretary of state may withdraw approval of the voting machine or system after a hearing.

PREPARATION AND TESTING OF ELECTION PROGRAMS

8220.0750 PREPARATION OF COMPUTER PROGRAMS.

Computer programs must be prepared 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 Minnesota and parts 8220.0050 to 8230.4250.

Computer programs must include instructions requiring that machine-readable precinct identification be required 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 may take place.

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.

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The vote tabulation portion of the computer program must be prepared as follows:

A. In nonpartisan races in all elections and in partisan primary elections, the computer program must reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballots in the various precincts.

B. The computer program must count valid votes cast by a voter for candidates for an office.

C. The computer program must count valid votes cast by a voter for or against any question.

D. The computer program must 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 that office or question, but it must record that there is an overvote condition as referred to in part 8220.0450, item C.

E. The computer program must ignore marks and punches in a ballot card in unassigned locations; these marks or punches must have no effect on any portion of the ballot.

F. For the purpose of programming, the partisan, nonpartisan, and proposal sections of the ballot are independent ballots; no action of a voter on one section of the ballot may affect the voter's action on another section of the ballot.

G. In partisan primary elections, the computer program must 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.

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

8220.0850 SCHEDULE FOR COMPLETING PROGRAMS.

No later than five days after candidates' names are

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certified by the secretary of state, the election jurisdiction responsible for requesting the computer program must supply any information such as candidates' names and rotation to the individuals designated to prepare the computer program.

The computer program for any election and an exact duplicate of the program for use as backup must be completed and delivered to the election jurisdiction or the county auditor in charge of a common counting center at least 14 days prior to the election. When state offices or questions are on the ballot, a second duplicate must be prepared, as provided in part 8220.1950. Instructions containing the necessary information, steps, and procedures required to operate the computer program must be prepared to accompany the original program and the duplicate programs. There must be at least two copies of the instructions for each computer facility. It is the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators.

8220.0950 EDIT LISTINGS.

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 must be delivered to the appropriate election jurisdiction at least 14 days prior to the election.

8220.1050 PREPARATION OF TEST DECK OR BALLOT IMAGE.

The election jurisdiction requesting the computer program must 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 all proposals in compliance with the Minnesota election law.

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

The test deck or ballot image must include ballots involving no overvotes or marks in unassigned locations as well as ballots involving overvotes, undervotes, and invalid votes in

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many different combinations.

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

The test deck must conform to part 8220.1150. A test deck must be prepared specifically for each election.

The test deck or ballot image prepared must consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and issue.

8220.1150 TEST BALLOTS.

All test ballots must be marked "TEST."

Ballots must be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot.

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

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

Test ballots must be prepared in which votes appear in positions other than those used for candidates or proposals. In preparing the test deck or ballot image a number of the ballots must be voted to include valid votes in the partisan, nonpartisian, and proposal sections of the ballot.

At least 50 blank ballot cards must be run before the test

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deck is run. Blank ballots in which no positions have been voted must be included in the test deck or ballot image.

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

A duplicate of the test deck must be prepared to be used with the duplicate or backup computer program.

8220.1250 DOCUMENTING TEST BALLOTS.

A documentation, record, chart, or listing must be prepared indicating the punches recorded in the test ballots and whether the punches are valid or invalid.

8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

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 must be tested on all precincts.

The election jurisdiction requesting the computer programs shall compare the edit listing against the ballot labels of all precincts to ascertain that the appropriate labels are in each precinct, and 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. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor.

The test must be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction, and the results must be 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.

All prom packs, memory packs, and similar devices containing the election program must be secured with a metal seal and a certificate must be prepared indicating the seal number.

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8220.1450 DUTIES UPON COMPLETION.

When an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

A. secure all computer programs, including the object code, all support software used except the operating system, test decks, and predetermined results of the test decks, in a metal container sealed with a metal seal and stored in a secured area that is subject to normal computer temperature humidity restraints;

B. 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, which certificate must contain the seal number that was used to seal the metal container and be attached to the computer results of the test; and

C. deliver the sealed metal container and the certificate to the county auditor.

8220.1550 PUBLIC ACCURACY TEST.

A public accuracy test must 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. The public accuracy test must be conducted according to Minnesota Statutes, section 206.73.

The time and place of the public accuracy test must be designated by the election jurisdiction providing the computer program, which must give at least 48 hours' public notice of the time and place of the test by publication in official newspapers, by posting a notice, and by notification to <u>the county or legislative district chair of</u> each major political party.

The test must 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 part 8220.1450 that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, predetermined results, and header cards must 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 must be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested is at the discretion of the election jurisdiction.

The backup computer program prepared and delivered according to part 8220.0850 must be tested on the computer on which it would be used on election night. The test decks used in these procedures must be the ones prepared in accordance with parts 8220.0750 to 8220.1950. Any test cards made under parts 8220.0750 to 8220.1950 must be marked "TEST."

If an error is detected in any part of the testing, the cause must be ascertained, the error corrected, and an errorless count must be made on all precincts. At the discretion of the election jurisdiction, the meeting may be adjourned to a time and date certain.

8220.1650 ADDITIONAL TEST DECKS.

The secretary of state may provide a test deck for any computer program, in which case the deck must be delivered at the public accuracy test with directions for its use. The state chair of a major political party or designee may provide a test deck for use at the public accuracy test. The use of test decks provided by the secretary of state or a major political party does not substitute for the requirement for an election jurisdiction to prepare and use a test deck in accordance with parts 8220.1050 and 8220.1150.

8220.1750 CERTIFICATION OF PUBLIC ACCURACY TEST.

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After the completion of the public accuracy test and an errorless count has been made, the election jurisdiction must certify the results of the test conducted, signed by the witnesses specified in Minnesota Statutes, section 206.73, and attached to or written on the computer results of the public accuracy test.

8220.1850 SECURING COMPUTER PROGRAMS.

Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, including the object code, software utilized, test decks, certified computer results of the test, and the predetermined results in a metal container which must be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. If a precinct ballot counter is used to count ballots, it must be sealed with the memory pack containing the election programs inside. Attached to or inside the container must be a certificate describing its contents and on which the number of the seal has been recorded. The certificate must be signed by at least two witnesses as specified in Minnesota Statutes, section 206.17, and if attached to the container in a plastic envelope it must be attached so that it cannot be removed without breaking the seal.

All computer programs, test decks, and other related materials must be clearly identified as to the computer on which they were tested and must be used on no other computer until tested in accordance with parts 8220.1550 to 8220.1850.

The election jurisdiction must immediately deliver to the county auditor or the auditor's 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 backup or duplicate computer programs and related material must be delivered to and secured by the county auditor. It must be the responsibility of the county

auditor to store the original and duplicate or backup computer program in separate locations.

8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.

When state offices and questions are to be voted on, the person preparing the computer program shall deliver an exact duplicate of the program to the secretary of state at least three days prior to the election. The program must be sealed so that it cannot be opened without breaking the seal. ~~The~~ Attached to the exterior of the sealed program must be ~~accompanied by~~ a certificate signed by the person who prepared the program naming the election jurisdiction for which the program was prepared and stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota statutes and parts 8220.0050 to 8230.4250 and the instructions of the election jurisdiction requesting the program.

SECURITY OF COMPUTER SYSTEMS AND PROGRAMS

8220.2050 ISOLATION FROM OTHER INFLUENCES.

A computing system must be set up so that the vote-tallying procedures will function in isolation from other influences while being tested or run.

8220.2150 PREPARATION BEFORE TESTING SYSTEM.

Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, the election jurisdiction must make certain that computer programs are not influenced by extraneous peripheral equipment or programs. Memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, must be erased. Active measures must 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.

8220.2250 SUPPORT SOFTWARE.

All the support software used with the vote-tallying

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computer programs must be maintained on media under the control of the election administration.

8220.2350 PHYSICAL PROTECTION OF OBJECT CODES.

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

8220.2450 LABELING OF DISCS AND TAPES.

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

8220.2550 CONTROL OF SYSTEM CONTROL CARDS.

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

8220.2650 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, inserting data, or changing control switch settings.

8220.2750 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 must not be totally responsible for a given activity, such as computer operation.

8220.2850 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, must be authorized, approved, and documented by the responsible authority of the election jurisdiction.

8220.2950 ~~PREPARATION OF PUNCH-CARD SUPPLIES AND VOTING DEVICES~~ APPLICABILITY.

Parts 8220.3050 to 8220.4250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8220.3050 PREPARATION OF BALLOT CARDS.

All ballot cards used in an election must have attached by perforation a detachable stub on which duplicate numbers must be printed in consecutive order. The words "OFFICIAL BALLOT CARD" must be printed or stamped on the face of the detachable stubs. The ballot card must have a corner cut on one corner. The following statement must 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 must 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 and write-in ballot, the portion of the ballot for write-ins must contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of

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the candidates for those offices must be printed on the ballot cards and on the ballot labels so that the voter may review all choices before leaving the voting booth or station.

8220.3150 BALLOT ENVELOPES.

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

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

Insert ballot in this envelope with the stub exposed.

Return this envelope with the ballot enclosed to the election judge.

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

Where write-in votes are not written on the ballot card, the inside flap of the envelope must contain language which clearly indicates that this is the place to vote for write-in candidates. It must 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."

8220.3250 VOTING INSTRUCTIONS ON BALLOT.

Voting instructions must be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions must 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 a ballot.

8220.3350 IDENTIFYING VOTING OR MARKING DEVICES.

All devices must be identified as to the precinct in which

they will be used.

The identifying number of the device and the seal number used to seal the ballot label pages assembly to the device must 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.

8220.3450 BALLOT LABEL PAGES.

All ballot label pages must have a crimp hinge with locking spurs 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.

A ballot label pages assembly must be inserted and sealed into each device so that the ballot label pages assembly cannot be removed without breaking the seal. Flat metal or wire seals must be used for this purpose. On devices 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.

8220.3550 MASKS.

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

The ballot label pages of each voting device must 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.

8220.3650 COMPARING LABELS TO EDIT LIST.

The ballot labels in each voting device of a precinct must be compared against the edit listing or sample ballot for that precinct to ascertain that the offices, candidates' names, and

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

8220.3750 TEST USE OF DEMONSTRATION BALLOT CARD.

Operation of each voting device must be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card must then be examined to ensure that each received a clear punch or mark.

8220.3850 CERTIFICATE OF DEVICE PREPARATION.

Subpart 1. **Preparing devices.** The election official in charge of the election jurisdiction shall prepare the voting devices so that in every particular they will meet the requirements for voting and counting at the election.

Subp. 2. **Certification.** When a voting device has been prepared for the election, the official in charge of the election jurisdiction shall make a certificate in writing which must be filed with the county auditor. This certificate must contain the precinct number, the identifying number of the device, and the numbers of the metal seals used to seal the device and state that the ballot labels have been compared against the edit list or sample ballot for that precinct, that the candidates' names and ballot numbers agree and appear in the same position, and that the device has been properly prepared and tested.

8220.3950 BALLOT CARDS.

The municipal clerk or county auditor shall package and seal or place into a transfer case the ballot cards for each precinct. The package or transfer case must contain a certificate signed by the clerk or auditor setting forth the number of ballots contained and that the ballots were counted and sealed by the auditor or clerk personally or by a duly authorized assistant. All ballot cards not issued to a precinct or assigned for absentee voting must be secured and accounted for by the municipal clerk. The clerk or auditor must maintain a record of the number of ballot cards and serial numbers issued

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to each precinct. The ballot cards must be delivered to the chief election judge of the proper precinct.

An approved ballot box must 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.

8220.4050 ADDITIONAL PRECINCT SUPPLIES.

The following items must be included in the precinct supplies:

A. an edit listing for the precinct;

B. ballot envelopes in sufficient quantity to match the quantity of ballots;

C. envelopes marked "spoiled ballot cards," "defective ballot cards," and "absentee ballots";

D. an envelope for "original ballot cards for which duplicates are to be made for any reason";

E. a precinct certification form; and

F. a set of instructions for operating the precinct on election day.

8220.4150 PRECINCT HEADER CARD.

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

8220.4250 INSTRUCTION POSTERS.

At least 25 days before every state election the secretary of state shall prepare and furnish to the county auditor of each county in which an electronic voting system with marking devices is used, posters with instructions for use of the voting devices. One poster must be furnished for each voting booth or voting station.

CONDUCT OF ELECTIONS IN PUNCH-CARD PRECINCTS

8230.0050 APPLICABILITY.

Parts 8230.0050 to 8230.2350 apply to punch-card or other

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electronic voting systems where ballot cards are used with a punch instrument or where ballot cards must be inserted into a marking or voting device.

8230.0150 PROCEDURES.

Unless otherwise provided for in Minnesota law or in parts 8230.0050 to 8230.2350, paper ballot procedures as provided in Minnesota Statutes, chapter 204A must be followed to the extent possible.

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

8230.0250 ARRANGEMENT OF VOTING DEVICES.

Voting devices may be used in voting booths or self-contained stations. The booths or stations must be equipped with lights or arranged so that adequate lighting is available for voters to be able to see and mark the ballots. The booths or stations must be arranged so the secrecy of the ballot is not violated. If a voter claims that the arrangement of the booths or stations does not afford the opportunity to vote in secrecy, the judges shall rearrange the device or booth to provide for increased secrecy.

8230.0350 EXAMINATION OF VOTING DEVICES.

The election judges shall inspect the voting devices by:

A. comparing the seal number of the devices 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 the sequence indicated on the edit listing;

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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, attempting to punch or mark in the card places other than those indicated by an arrow, and 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-ins in each voting booth or self-contained voting station;

G. checking each stylus to see that it is not broken and that it has a point; and

H. checking that there is adequate lighting and that the lights are in proper working condition.

8230.0450 DISCREPANCY IN DEVICE.

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

8230.0550 DEMONSTRATION VOTING DEVICES.

The demonstration voting devices must be arranged so as to be able to offer each voter an opportunity to use it prior to voting.

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

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

Any voter who requests additional information about the voting system must be instructed by an election judge about the system and counting procedures.

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8230.0650 VOTING PROCEDURE.

The election judge shall not deliver a ballot card to a voter until the judge has received a signed voter certificate or a voter receipt. The ballot card number must be recorded on or attached to the certificate or receipt. Ballot cards and envelopes are not to be issued until a voting station is vacant.

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

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, the election judges shall instruct the voter to return to the voting station and place the ballot card in the envelope.

8230.0750 DEPOSITING VALID BALLOT.

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 or receipt 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 must be placed in the spoiled ballot envelope and not counted. In no case may a spoiled ballot card be placed in the ballot card box.

If the numbers match, 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.

8230.0850 SPOILED BALLOT CARDS.

If a voter spoils a ballot card by inadvertently defacing it or removing the prenumbered ballot card stub or requests a new ballot card, the voter shall secretly place the ballot card in the ballot envelope and return it to the election judge and the judge shall give the voter another ballot card and ballot envelope. The spoiled ballot card and ballot envelope must be

placed in the envelope marked "SPOILED BALLOT CARDS." One of the election judges shall note the change in the ballot card number given the voter upon the voter certificate or receipt. The method of changing the number of the ballot card issued must be by drawing a line through the number of the original ballot issued and writing the new number above.

8230.0950 REVIEW OF SEALS AND LABEL PAGES.

As frequently as possible and at least every half hour the election judges shall check the seals and ballot label pages of the voting devices to assure that none has been altered or defaced. Should the judges find that the ballot label pages of a device have been altered, mutilated, or damaged in such a manner that the judges cannot correct them without doing damage to the offices and candidates' names appearing on them, the device may not be used until the condition is corrected. A note of the occurrence must be made in the precinct certification.

8230.1050 BALLOT CARDS FOUND IN VOTING BOOTHS OR STATIONS.

Any ballot card found in a booth or station must be marked "found in booth." The card must be placed in an envelope which must be placed in the transfer case. In no case may that ballot be placed with the properly cast ballots. A note of the occurrence must be made in the remarks section of the precinct certification.

8230.1150 PROCEDURES FOLLOWING CLOSE OF POLLS.

Subpart 1. **Ballot cards not issued, secured.** All ballot cards and envelopes which are not issued to voters must be secured for return to the official in charge of the election for the election jurisdiction.

Subp. 2. **Inspection.** The ballot labels and seals of each voting device must be inspected to ensure 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 must be noted in the remarks section of the precinct certification.

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Subp. 3. **Total number of voters.** The total number of voters, determined pursuant to Minnesota Statutes, section 204C.20, subdivision 1 must be entered on the precinct certification.

8230.1250 COUNTING BALLOTS.

The election judges shall open the ballot box and remove the ballots. Prior to removing the ballots from their envelopes they must be counted to determine the total number. The judges shall compare the total number of names recorded in the precinct certification. If the ballots are in excess of the number of electors voting and it is impossible to reconcile the number, the ballots must be replaced in the ballot box and one of the election judges shall publicly draw out a number of ballots equal to the excess.

Any excess ballots while still in their envelopes must 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 must 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 part 8230.1150, the reason for the discrepancy must be noted in the precinct certification. If the judges are unable to explain the discrepancy, they shall so state in the precinct certification.

8230.1350 WRITE-IN VOTES.

At a general election, each ballot in its envelope or the write-in ballot portion of a combination ballot card and write-in ballot must be examined for write-ins. Ballot cards for which no write-ins exist must be separated from their envelopes. The envelopes must be placed in a sturdy container, which must be marked with the precinct name, and delivered at the same time the voted ballots are delivered to the county auditor or municipal clerk.

If a write-in vote exists, the judges shall number the ballot envelopes 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.

8230.1450 VALID WRITE-IN VOTE.

A valid write-in vote must have on the appropriate designated place for write-ins the following information: an office to be voted on at that election and any name to be considered as a write-in candidate for that office.

Stickers containing this information are permissible.

8230.1550 INVALID WRITE-IN VOTE.

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 are not valid.

8230.1650 RECORDING VALID WRITE-IN VOTES.

When a valid write-in vote 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.

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 must be placed with the other valid ballot cards for tabulation. The envelope containing the write-in vote must be placed in a separate pile containing write-in votes.

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 is prescribed in part 8230.3850.

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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.

8230.1750 DEFECTIVE BALLOT CARD; CHAD.

Subpart 1. **Examination.** The judges shall examine all ballot cards for ballot cards with chad hanging and for defective ballot cards.

Subp. 2. **Hanging chad.** The intent of the voter is to be ascertained when processing ballot cards. A ballot card with a chad hanging must be processed in the following manner:

A. If a chad is found attached to the card by one or two corners, the chad must be removed by the election judge and the ballot card placed with the other valid ballots.

B. If a chad is found hanging by three corners the ballot card is defective for that office and must be placed in the envelope for original cards for which duplicates are to be made at the counting center.

8230.1850 DEFECTIVE BALLOT.

If 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 the ballot card is defective and may not be counted. The ballot card must be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

8230.1950 NUMBER OF BALLOT CARDS COUNTED AND RECORDED.

Subpart 1. **Number agreement.** 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 part 8230.1700, 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 must be entered in the appropriate place on the precinct certification and on the transfer case certificate.

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Subp. 2. **Entries on precinct certification.** 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 envelopes issued to the precinct, the number of ballot cards issued to voters, the number of spoiled ballot cards, the number of defective ballot cards, the number of cards for which duplicates are to be made for any reason, and the number of ballot cards not issued to voters.

8230.2050 ITEMS IN TRANSFER CASE.

Subpart 1. **Content.** The election judges shall place in the transfer case for delivery to the counting center all of the following items:

A. valid voted ballot cards;

B. ballot envelopes with write-in votes;

C. envelope containing paper absentee ballots;

D. envelope containing spoiled ballot cards;

E. envelope containing defective ballot cards;

F. envelope containing original ballot cards for which duplicates are to be made for any reason;

G. envelopes with notations concerning any other issued ballot cards contained which are not to be counted;

H. certificate signed by the judges indicating number of ballot cards received, issued, and used;

I. write-in tally return sheet;

J. precinct header card (if included in precinct supplies); and

K. precinct certification.

Subp. 2. **Second transfer case.** 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 must be used and the sealing and security handled in the same manner as the transfer case.

8230.2150 CERTIFICATE OF ELECTION JUDGE.

The election judges shall sign a "certificate of election judges." The certificate must state:

A. the number of persons voting as shown by the precinct certification;

B. that prior to the opening the polls, all voting devices were examined and found to be sealed with metal seals bearing the same numbers as certified by the election jurisdiction;

C. that the ballot labels were in their proper places;

D. 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;

E. that at the close of the polls each voting device 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;

F. the number of ballot cards being submitted for tabulation;

G. that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precinct certification;

H. that all ballot cards requiring duplication are in the proper envelope;

I. that all ballot cards have been examined for hanging chad;

J. that all write-in votes have been properly recorded;

K. 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; and

L. the number of the seal used to seal the transfer case.

8230.2250 DELIVERY OF TRANSFER CASE.

Subpart 1. **Seal and certificate.** The transfer case must

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be sealed with a seal so that it is impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal must be a certificate signed by the judges indicating its content, the precinct name, and the number of the seal used to seal the case. The seal number must also be recorded in the certificate of the election judges. The transfer case certificate must be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the seal.

Subp. 2. **Delivery by two election judges.** The transfer case containing the required items as identified in part 8230.2050 must be delivered to the counting center by two election judges, not of the same political party.

8230.2350 DELIVERY OF BALLOT ENVELOPE CONTAINER.

The container which holds the ballot envelopes issued to voters but containing no write-in votes must be delivered to the counting center by the same election judges who deliver the transfer case containing voted ballots.

8230.2450 RETENTION OF BALLOT CARDS AND BALLOT ENVELOPES.

Ballot cards and ballot envelopes which are not issued to voters must be returned to the election official in charge of the election jurisdiction who shall issue a receipt for them and retain them by precinct until the time for contest has expired.

ABSENTEE BALLOTS FOR PUNCH-CARD SYSTEMS

8230.3050 APPLICABILITY.

Parts 8230.3050 to 8230.3250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8230.3150 ABSENTEE BALLOTS, GENERAL PROVISIONS.

The issuing, receipt, processing, and tabulation of absentee ballots in election jurisdictions using punch-card electronic voting systems must conform to law and parts 8230.0050 to 8230.4250.

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Voters requesting absentee ballots must be supplied with paper absentee ballots, except as provided by Minnesota Statutes, section 203B.08, subdivision 1a. Absentee votes must be cast on paper absentee ballots and delivered either to an absentee ballot precinct as provided by law or to the polling place in the voters' precinct.

8230.3250 ABSENTEE VOTING, ELECTRONIC VOTING SYSTEM.

Subpart 1. **Applicability.** This part applies only when municipal clerks administer absentee ballots as provided in Minnesota Statutes, section 203B.08, subdivision 1a, for voters applying in person at the clerk's office for an absentee ballot.

Subp. 2. **Ballot cards.** Ballot cards issued to voters under Minnesota Statutes, section 203B.08, subdivision 1a, must conform to all of the provisions of part 8220.3050.

Subp. 3. **Ballot labels and voting devices.** Ballot labels and voting devices must be prepared as provided in parts 8220.3050 and 8220.3350. At least one voting device must be available for each precinct in the municipality and placed in a proper booth or voting station within the building where the office of the clerk is maintained.

Subp. 4. **Demonstrator.** A demonstrator voting device must be available to absentee voters and instructions for casting a ballot on an electronic voting system must be offered to each absentee voter by the municipal clerk or an election judge trained under parts 8240.0100 to 8240.2600.

Subp. 5. **Issuing ballot cards.** The municipal clerk shall remove the smaller numbered stub from the ballot card when it is issued to the voter. The smaller numbered stubs must be placed in an envelope marked "Absentee Ballot Stubs" and retained by the municipal clerk in the clerk's office.

Subp. 6. **After voting.** The voter must be instructed to insert the voted card in the ballot envelope and to fold the large numbered stub over the outside of the envelope. The voter shall next insert the ballot envelope in the absentee return envelope and seal it. The certificate of eligibility on the

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back side of the return envelope must be completed by the voter and a witness, and the voter shall give the municipal clerk the return envelope with the voted ballot card and its envelope sealed inside.

Subp. 7. **Voted ballot cards.** Absentee return envelopes with voted ballot cards must be retained by the municipal clerk in a secure container that will not damage the machine readability of the card. The municipal clerk shall deliver the absentee return envelopes with voted ballot cards to the election judges in the appropriate precinct on election day.

Subp. 8. **Processing.** When election judges have processed the absentee return envelopes as provided in Minnesota Statutes, section 203B.12, the ballot envelopes must be removed from the return envelopes marked "accepted." The large numbered stub must be removed from each ballot card before each ballot envelope is deposited in the ballot box along with the ballot cards of voters voting in person.

Subp. 9. **Disposition of stubs.** The election judges shall attach one large numbered stub to each absentee return envelope marked "accepted" from which a ballot envelope was removed. The stubs may be attached after all of the ballot envelopes have been removed and the large stubs detached.

Subp. 10. **Reconciliation.** The return envelopes with stubs attached must be placed with the voter certificates or receipts and "accepted" return envelopes of voters casting paper absentee ballots and included in the count to arrive at the total number of persons voting in the precinct. To arrive at the proper number of ballot cards to be tabulated, the "accepted" return envelopes with stubs attached must be counted with the voter certificates or receipts and the total must equal the number of ballot cards to be tabulated. The reconciliation of the ballot cards and number of persons voting must be entered on the precinct certification.

COUNTING CENTER PROCEDURES FOR PUNCH-CARD SYSTEMS

8230.3350 APPLICABILITY.

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OFFICE BY:

Parts 8230.3350 to 8230.4250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8230.3450 PRELIMINARY PROCEDURES.

The persons who operate the computer used for tabulation of ballots on election night may not be the same persons who wrote the computer program. This does not exclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operators shall take and subscribe to the election judges' oath.

The state chair of a major political party or a designee may appoint by written certificate one person to be present in the immediate area of the computer in the counting center during all activities and operations of the center. The major political party representative may observe all procedures but may not interfere in any way and may not touch any computer or ballot materials.

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.

8230.3550 TEST OF PROGRAM BEFORE AND AFTER TABULATION.

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 must be conducted with the test deck or ballot image designated in parts 8200.1100 and 8200.1200. Copies of these test results must be designated "prior to tabulation of ballots" or "after tabulation of ballots." A copy of each test certificate must 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

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that the tabulation has been done in isolation, the test after tabulation need not be performed.

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 ensure that the program and computer are operating accurately.

8230.3650 MAINTAINING AND CERTIFYING LOG.

A console log including the count and accuracy test and the tabulation of the ballots must 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 must 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 must be maintained.

8230.3750 PROCEDURES FOR TRANSFER CASES.

Subpart 1. **Identifying case.** 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 must then be opened and checked to see that it contains the ballots and all other material required by parts 8230.0050 to 8230.4250. The opened metal seal from the transfer case must be placed inside the case. The identification on the case must be noted on all reporting materials. Authorized counting center personnel must then issue a certificate to the election judges delivering the case acknowledging receipt of all materials.

Subp. 2. **Delivery to counting center.** The transfer case containing the ballot cards must 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.

Subp. 3. **Placing header card.** In processing the ballot cards of a given precinct, the computer center header card and

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the precinct header card must be placed in front of the deck of ballot cards of the respective precinct. The end card must immediately follow the deck of ballot cards.

Subp. 4. **Sealing after count.** Immediately upon the completion of the counting of a precinct, all ballot cards for the precinct and precinct header cards must 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.

Subp. 5. **Verifying number of cards.** 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 must be made of the pertinent facts on the statement of returns.

8230.3850 DUPLICATION OF BALLOTS.

Any ballots requiring duplication at the counting center must be duplicated in the following manner:

A. Whenever a ballot card is required to be duplicated, the duplication process must 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 must be identified with a single number written on both cards. The number on the duplicate card must be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering must be serial.

C. The reason for duplication such as "write-in," "chad," or "damaged," must be written on the duplicate ballot card. 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

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ballot with the voter's valid selections. The duplicate ballot card must be compared against the original ballot card to assure it has been accurately duplicated.

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

F. Any writing required on any ballot card must be done with a soft-tip marking instrument.

8230.3950 COPIES OF RETURNS.

The election official in charge of the counting center must certify four copies of the returns. The certification must 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, number of ballots counted, vote totals, and any other data required 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 forms designated by the secretary of state for the purpose of preparing the state canvassing board report and publication of election results.

8230.4050 DISTRIBUTION OF RETURNS.

Returns referred to in part 8230.3950 must 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 filed 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 required by the secretary of

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state for preparation of the state canvassing board report and other public reports of the election must be completed and returned to the secretary of state.

8230.4150 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 prescribed in part 8230.4050 shall retain ballots and voter certificates for one year unless otherwise ordered by a court order or recount procedure pursuant to the Minnesota election laws. Test decks or ballot images, accuracy test results, and computer programs must be delivered to the county auditor.

8230.4250 COUNTY AUDITOR TO MAINTAIN MATERIALS.

The county auditor must maintain all the material forwarded as required in parts 8230.4050 and 8230.4150 for a period of one year unless otherwise advised by a court order or recount procedure pursuant to the Minnesota election laws.

REPEALER. Minnesota Rules, parts 8200.2300; 8220.0100; 8220.0200; 8220.0300; 8220.0400; 8220.0500; 8220.1000; 8220.1100; 8220.1200; 8220.1300; 8220.1400; 8220.2000; 8220.2100; 8220.2200; 8220.2300; 8220.2400; 8220.2500; 8220.2600; 8220.2700; 8220.2800; 8220.2900; 8220.3000; 8220.3100; 8220.3200; 8220.4000; 8220.4100; 8220.4200; 8220.4300; 8220.4400; 8220.4500; 8220.4600; 8220.4700; 8220.4800; 8220.5000; 8220.5100; 8220.5200; 8220.5300; 8220.5400; 8220.5500; 8220.5600; 8220.5700; 8220.5800; 8220.5900; 8220.6000; 8220.6100; 8220.6200; 8220.6300; 8220.6400; 8230.0200; 8230.0300; 8230.0400; 8230.0500; 8230.1000; 8230.1100; 8230.1200; 8230.1300; 8230.1400; 8230.1500; 8230.1600; 8230.1700; 8230.1800; 8230.1900; 8230.2000; 8230.2100; 8230.2200; 8230.2300; 8230.2400; 8230.2500; 8230.2600; 8230.2610; 8230.2700; 8230.2800;

OFFICE

8230.2900; 8230.3000; 8230.3300; 8230.3500; 8230.3600; 8230.3700; 8230.3800; 8230.3900; 8230.4000; 8230.4100; 8230.4200; 8230.4300; 8230.4400; 8230.5000; 8230.5100; 8230.5200; 8230.5300; 8230.5400; 8230.5500; 8230.5600; 8230.5700; and 8230.5800 are repealed.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 16 1986
Joan Anderson Growe
Secretary of State

8:50 AM

APPROVED AS TO FORM AND LEGALITY

1/14 1986

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Governing Voter Registration, Absentee
Voting, Recounts, Ballots, Certification
and Testing of Lever Voting Machines;
and Testing and Use of Electronic
Voting Systems

ORDER ADOPTING RULES

Notice of the Secretary's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 18, 1985 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14, subdivision 1 on November 1, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified as parts 8200.1500, 8200.9919, 8210.0200, 8210.9930, 8210.9955, 8235.1000, 8250.0200, 8250.0600, and 8220.0050 to 8230.4250 are adopted this 31st day of December, 1985 pursuant to authority vested in me by Minnesota Statutes, sections 203B.09, 204C.361, 201.221, 206.57 and 204D.11.

Joan Anderson Growe

Secretary of State

CPT7.053

STATE OF MINNESOTA

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Governing Voter Registration, Absentee
Voting, Recounts, Ballots, Certification
and Testing of Lever Voting Machines;
and Testing and Use of Electronic
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NOW, THEREFORE, IT IS ORDERED that the rules identified as parts 8200.9919, 8210.9930, 8210.9955, 8235.1000, 8250.0200, 8250.0600, and 8220.0050 to 8230.4250 are adopted this 31st day of December, 1985 pursuant to authority vested in me by Minnesota Statutes, sections 203B.09, 204C.361, 201.221, 206.57 and 204D.11.

Joan Anderson Growe

Secretary of State

CPT7.053

85-0739
File # 0014.0001

STATE OF MINNESOTA

Secretary of State

In the Matter of the Proposed Adoption of Rules of the Secretary of State Relating to Voter Registration, Absentee Voting, Recounts, Ballots; Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Systems.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 31 day of October, 1985 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Secretary of State for that purpose and be published in the State Register.

STATE OF MINNESOTA

Elaine V. Voss

Deputy Secretary of State

CPT5.073

85-0741
File # 0014.0001

In the Matter of the Proposed Adotion
of the Rules of the State
Governing

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Sondra Olson, being first duly sworn deposes and says:

That on the 1st day of November, 1985 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Secretary of State for the purpose of receiving notice of the proposed adoption of rules by the Secretary of State.

Sondra Olson

CPT5.055

Williamilia Behrends

WILLIAMILIA BEHRENDS
NOTARY PUBLIC
RAMSEY COUNTY, MN
MY COMMISSION EXPIRES
JUNE 22, 1987

Secretary of State

Election Division

Proposed Rules Relating to Voter Registration, Absentee Voting, Recounts, Ballots; Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Systems

Notice of Intent to Adopt Rules Without a Public Hearing.

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Grace Haukoos

Election Division Director

180 State Office Bldg.

St. Paul, MN 55155

(612)296-9217

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 201.221, 203B.09, 204C.361, 204D.11, and 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

You are advised, pursuant to Minnesota Statutes, section 14.115 "Small business consideration in rulemaking", that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact upon agricultural land nor cost local public bodies any money for two years immediately following the adoption of these rules within the meaning of that law.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Election Division.

The rules proposed for adoption relate to the following matters:
Addition of information related to voting by elderly and disabled citizens to

the voter registration card prescribed in part 8200.1500 and the absentee ballot return envelope prescribed in part 8210.9920, as required by Laws of 1984, c 471; changes to the military and overseas voters absentee ballot return envelope prescribed in part 8210.9955 and the date for preparation of absentee ballots, as required by Laws of 1985, c 72; simplification of ballot headings in part 8250.0600; and requiring, in part 8235. 1000, a manual count of a sample of ballots at electronic voting system recounts.

The proposed rules clarify and recodify parts 8220.0100 to 8230.5800 related to the certification, testing and use of lever voting machines and electronic voting systems. A disposition table is available upon request to the Election Division. The proposed rules also incorporate some changes recommended by an Advisory Task Force on Punch Card Voting and repeal without recodification parts 8220.5300, 8220.6000, and 8220.6400.

Copies of this Notice and the proposed rules are available and may be obtained by request to the Election Division.

State of Minnesota

Elaine V. Voss

Deputy Secretary of State

CPT5.068

JOAN ANDERSON GROWE
Secretary of State
ELAINE VOSS
Deputy Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

November 1, 1985

180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secy.: 612/296-2309

MEMORANDUM

FROM: Joan Anderson Growe
Secretary of State

SUBJECT: MAILING LIST VERIFICATION

Your name appears on our list of individuals who have requested, purusant to M.S. §14.14, subd. 1a, that their names be on file for receiving notice of proposed adoption of rules by the Secretary of State.

To ensure accuracy of address, name change, avoid duplication, and determine continuing interest in receiving subsequent notifications, please complete the following and return to the Election Division before November 15, 1985.

Name _____
(Please Print)

Street address or
Rural Route _____

City _____ State _____ Zip Code _____

Check Appropriate Box(es):

☐ Please continue to send notifications to me at the address above.

☐ Change of address/name (if applicable, please attach previous mailing label or write in).

_____
Signature Date

If you wish to remain on the list, please mail this memorandum to:
Election and Legislative Manual Division
Office of the Secretary of State
180 State Office Bldg.
St. Paul, MN 55155-1299

IF THIS MEMORANDUM IS NOT RETURNED BY DECEMBER 31, 1985, YOUR NAME WILL BE DROPPED FROM OUR FILES. THANK YOU FOR YOUR CONSIDERATION.

"AN EQUAL OPPORTUNITY EMPLOYER"

85-0735
File # 0014.0001

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Secretary of State

Proposed Rules Relating to Voter Registration, Absentee Voting, Recounts, Ballots; Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Systems.

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with and maintained for the purpose of receiving notice of the proposed adoption of rules by the Secretary of State is accurate and complete as of 9:00 A.M., this 1st day of Nov., 1985.

Grace Louise Hankow

Director of Elections

CPT5.074

Williamilia Behrends

WILLIAMILIA BEHRENDS
NOTARY PUBLIC
RAMSEY COUNTY, MN
MY COMMISSION EXPIRES
JUNE 22, 1987

SECRETARY OF STATE

ELECTIONS AND RULES MAILING LIST

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St. Paul, MN 55104

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C-2359 Gov. Center
300 S. 6th St.
Mpls, MN 55487

Mel Hansen
4505 28th Ave. S.
Mpls, MN 55406

Mona Hintzman
4018 58th Ave. N.
Brooklyn Center, MN 55429

John S. Jackson
MN Bankers Assoc.
332 Baker Bldg.
Mpls, MN 55402

Kay Joyce
334 9th Ave. N.
Hopkins, MN 55343

Jacobson, Wallace Law Center Bldg.
1625 Park Ave.
Minneapolis, MN 55404

Mrs. Philip Larson
8527 5th Ave. S.
Bloomington, MN 55420

MacArthur Co.
2400 Wycliff St.
St. Paul, MN 55114

T. J. Manthey
Pickands Mather & Co.
1100 Superior Ave.
Cleveland, Ohio 44114

Board of Nursing
717 Delaware St. S.E.
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85-0893
0014.0001

STATE REGISTER

STATE OF MINNESOTA

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SECRETARY OF STATE
ELECTION DIVISION



VOLUME 10, NUMBER 21

November 18, 1985

Pages 1141-1196

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 10		
22	Friday November 8	Monday November 18	Monday November 25
23	Friday November 15	Thursday November 21	Monday December 2
24	Thursday November 21	Monday December 2	Monday December 9
25	Monday December 2	Monday December 9	Monday December 16

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

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How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
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The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

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Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issues 27-38, inclusive
Issue 39, cumulative for 1-39
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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Cancellation of Commercial Policies

Notice

These rules were published on November 4, 1985 at page 1018 of the *State Register*. The Notice of Intent to Adopt Rules Without Public Hearing was inadvertently omitted. The text of the rules is identical to the rules published on November 4, 1985.

Notice of Intent to Adopt Rules without a Public Hearing and Notice of Intent to Adopt Rules with a Public Hearing if Twenty-five or More Persons Request a Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing unless twenty-five or more persons submit written requests for a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21-14.28.

PLEASE NOTE, HOWEVER, THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD PURSUANT TO MINNESOTA STATUTES SECTION 14.14-14.20 AND IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THE *STATE REGISTER* OF EVEN DATE AND MAILED ON THIS DATE.

Persons or groups interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modification is supported by the data and views submitted to the Department and does not result in a substantial change in the proposed rule.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14-14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 72A.19 and Section 45.023. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available from the Department upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.155, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness. The department believes that every small business having insurance will be affected by these rules.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should request them from Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

The text of the proposed rules follows this notice in the *State Register*. Copies of this notice and the proposed rules are available and may be obtained by contacting Richard G. Gomsrud, Department Counsel, at the above address.

Michael A. Hatch
Commissioner of Commerce

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minnesota Statute Section 14.14, subdivision 1 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on December 19, 1985, at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements, briefs or written material may be submitted within the comment period described in this notice without appearing at the hearing by sending them to Administrative Law Judge, George H. Beck, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. The rule hearing procedure is governed by Minnesota Statute Section 14.14-14.20 and by Minnesota Rules Parts 1400.0200-1400.1200, as amended (Amended Rules published at 9 S.R. 2276). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

PLEASE NOTE, HOWEVER, THAT THIS HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A HEARING PUBLISHED IN THE *STATE REGISTER* OR EVEN DATE AND MAILED THE SAME DATE AS THE NOTICE.

The Commissioner proposes to adopt rules relating to Cancellation, Nonrenewal and Renewal with Altered Rates of Commercial Liability Insurance. Authority for the adoption of these rules is contained in Minnesota Statute Section 72A.19 and Section 45.023. A text of the proposed rules follows this notice in the *State Register*.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Department of Commerce and is available at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all of the evidence and arguments which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department of Commerce or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.155, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Every small business having insurance will be affected by these rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in order to explain the purpose or intended operation of the proposed rules, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rules. As a result of the hearing process, the proposed rule may be modified.

Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to extend 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during the comment period will be available for review at the Office of Administrative Hearings. Following the five to twenty day comment period, there will be a three day period in which the Commissioner and interested persons may respond in writing to any new information submitted. During the three day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three day period. The written responses will be added to the record of the proceeding.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available after which date the Department of Commerce may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Secretary of the State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department of Commerce at any time prior to the filing of the rules with the Secretary of State.

Minnesota Statutes chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statute Section 10A.01, subdivision 11 as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155 telephone (612) 296-5615.

One free copy of this notice and the proposed rules may be obtained by contacting Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing.

November 4, 1985

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

CANCELLATION, NONRENEWAL, AND CHANGE OF RATES

2700.2400 SCOPE.

Parts 2700.2400 to 2700.2450 apply to all commercial liability insurance policies issued by companies licensed to do business in this state except workers' compensation insurance, employers' liability, ocean marine insurance, accident and health insurance, and reinsurance.

2700.2410 MIDTERM CANCELLATION.

Subpart 1. **Reason for cancellation.** No insurer may cancel a policy of commercial liability insurance during the term of the policy, except for one or more of the following reasons:

A. nonpayment of premium;

B. misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim under the policy;

C. actions by the insured that have substantially increased or substantially changed the risk insured;

D. refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;

E. substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract;

F. loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this item shall advise the policyholder that he or she has ten days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within five business days after receipt of the appeal;

G. a determination by the commissioner that the continuation of the policy could place the insurer in violation of the insurance laws of this state; or

H. nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance; provided, however, that this provision for cancellation for failure to pay dues shall not be applicable to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Subp. 2. **Notice.** Cancellation under subpart 1, items B to H, shall not be effective prior to 30 days after notice to the policyholder. The notice of cancellation shall contain a specific reason for cancellation as provided in subpart 1.

A policy shall not be canceled for nonpayment of premium pursuant to subpart 1, item A unless the insurer, at least ten days prior to the effective cancellation date, has given notice to the policyholder of the amount of premium due and the due date. The notice shall state the effect of nonpayment by the due date. No cancellation for nonpayment of premium shall be effective if payment of the amount due is made prior to the effective date set forth in the notice.

Subp. 3. **New policies.** Subparts 1 and 2 do not apply to any insurance policy that has not been previously renewed if the policy has been in effect less than 90 days at the time the notice of cancellation is mailed or delivered. No cancellation under this subpart is effective until at least ten days after the written notice to the policyholder.

Subp. 4. **Longer term policies.** A policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer for the reasons stated in subpart 1 by giving notice as required by subpart 2 at least 30 days prior to any anniversary date.

2700.2420 NONRENEWAL.

Subpart 1. **Notice required.** An insurer shall renew the policy, unless at least 30 days prior to the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date is made to the policyholder.

Subp. 2. **Exceptions.** This part does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

2700.2430 RENEWAL WITH ALTERED RATES.

Subpart 1. **General.** Subject to subpart 2, if the insurer offers or purports to renew the policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 30-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata.

Subp. 2. **Exception.** Subpart 1 does not apply if the change relates to guide "a" rates or excess rates also known as "consent to rate."

2700.2440 INTERPRETATION AND PENALTIES.

Subpart 1. **Rules not exclusive.** Parts 2700.2400 to 2700.2440 are not exclusive, and the commissioner may also consider other provisions of Minnesota law to be applicable to the circumstances or situations addressed by parts 2700.2400 to 2700.2440. The rights provided by parts 2700.2400 to 2700.2440 are in addition to and do not prejudice any other rights the policyholder may have at common law, under statute, or other administrative rules.

Subp. 2. **Penalties.** A violation of any provisions of parts 2700.2400 to 2700.2440 shall be deemed to be an unfair trade practice in the business of insurance and shall subject the violator to the penalties provided by Minnesota Statutes, sections 72A.17 to 72A.32 in addition to any other penalty provided by law.

Subp. 3. **Notices required.** All notices required by parts 2700.2400 to 2700.2440 shall only be made by first class mail addressed to the policyholder's last known address or by delivery to the policyholder's last known address. Notice by first class mail is effective upon deposit in the United States mail. In addition to giving notice to the policyholder, the insurer must also give notice to the agent of record, if any, in the manner specified for the policyholder.

REPEALER. Minnesota Rules, parts 2700.2400 to 2700.2440 are repealed September 30, 1987.

Department of Commerce

Withdrawal of Previously Proposed Rules Relating to Cancellation of Commercial Liability Insurance

Notice of Withdrawal of Rules and Substitution

Notice is hereby given that the proposed rules relating to Cancellation of Commercial Liability Insurance as published in the *State Register* on August 19, 1985 at pages 419 and 420 are withdrawn.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Rules including the same subject matter and bearing some of the same rule numbers are published on pages 1018-1020 of the November 4, 1985 *State Register*. Those rules are also republished in this issue due to an omission in the November 4, 1985 issue.

Michael A. Hatch
Commissioner of Commerce

Department of Labor and Industry
Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standards

Request for Comments

Notice is hereby given that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA), proposes to adopt the following revisions to the Minnesota Occupational Safety and Health Standards, as authorized under Minnesota Statutes § 182.655 (1984) amending the Occupational Safety and Health Standards that have already been proposed and adopted by the federal Occupational Safety and Health Administration (Federal OSHA).

Complete copies of the specific revisions are available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standards stating the grounds for those objections; such person may request a public hearing on those objections.

Steve Keefe
Commissioner of Labor and Industry

Standards as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE. The Minnesota Department of Labor and Industry, Occupational Safety and Health standards and rules are amended by incorporating and adopting by reference, and thereby making a part thereof, Title 29 of the Code of Federal Regulations as follows:

Part 1910—Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to ~~June 1, 1985~~ November 1, 1985:

—Federal Register, Vol. 50, No. 178, dated 9/13/85—"Coke Oven Emissions (1910.1029); Deletion of Portions of Standard."

—Federal Register, Vol. 50, No. 198, dated 10/11/85—"Occupational Exposure to Ethylene Oxide (1910.1047); Labeling Requirements."

Summary of Standards: The following summary of the proposed standards is very brief; persons interested in reviewing the entire standard may obtain a copy at the address noted above.

A) "Coke Oven Emissions Standard; Deletion of Portions of Final Rule." Federal OSHA deleted certain terms from the permanent standard governing employee exposure to coke oven emissions (29 CFR 1910.1029) to conform the standard to the decision of the United States Court of Appeals for the Third Circuit in the case of American Iron and Steel Institute et al. v. Occupational Safety and Health Administration. The deletions implement the Court's interpretation that, although OSHA may require an employer to implement technology "looming on today's horizon," it lacks the authority to place an affirmative duty on each employer to research and develop new technology to reduce exposures to coke oven emissions. The deletions also respond to the Court's vacating the requirement for quantitative fit testing of certain respirators based on the lack of support for this requirement in the coke oven emission proceeding record. Conforming amendments were made to 29 CFR Part 1910, Subpart Z, 1910.1029(f)(1)(i)(b), (f)(1)(ii)(b), (f)(1)(iii)(b), (f)(6)(iii), and (g)(4)(i).

Minnesota OSHA adopted 29 CFR 1910.1029 "Coke Oven Emissions" on May 2, 1977. By this notice, Minnesota OSHA proposes to adopt the above amendments.

B) "Occupational Exposure to Ethylene Oxide (29 CFR 1910.1047); Labeling Requirements." Federal OSHA has amended the final Occupational Exposure to Ethylene Oxide (EtO) standard to provide an exception from the labeling requirements where ethylene oxide is used as a pesticide and the EtO container is labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This amendment, which is effective immediately, is necessary to avoid legal and substantive conflict with FIFRA and regulations issued pursuant to FIFRA by the Environmental Protection Agency. In addition, Federal OSHA has modified its labeling requirements by changing the hazard warning to read "Cancer Hazard and Reproductive Hazard" and modifying the signal word from "Caution" to "Danger" to conform with the signal word required on the FIFRA label. Use of the FIFRA label in

lieu of the OSHA label for EtO pesticides is effective immediately. The changes in the signal word and hazard language on OSHA labels for EtO are effective January 9, 1986 to allow employers time to make necessary label changes. Conforming amendments were made to 29 CFR 1910.1047(j)(1)(i)(A), (j)(1)(iii), and (m)(3).

By this notice, Minnesota OSHA proposes adoption of these amendments to 29 CFR 1910.1047, "Ethylene Oxide."

Racing Commission

Proposed Rules Governing Horse Racing Regulations; Minnesota Racing Commission

Withdrawal of Proposed Rules Governing Horse Racing, Re-publication of These Rules with Certain Modifications and Notice of Intent to Adopt These Rules without a Public Hearing

Notice is hereby given that the proposed rules governing prohibited acts; disciplinary sanctions; distribution of purse money; direct deposit requirement and reporting of payments; stewards; and breeders' funds which were published in the *State Register* on Monday, June 10, 1985, pages 2651-2657 (9 S.R. 2651), are withdrawn because the Racing Commission is re-publishing them with certain modifications and re-noticing its intent to adopt them without a public hearing.

Accordingly, notice is hereby given that the Minnesota Racing Commission proposes to adopt the above-referenced rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority for the Racing Commission to adopt these rules is found in Minnesota Statutes, sections 240.13, subd. 5; 240.15, subd. 2; 240.16, subd. 4, 5 and 6; and 240.18; 240.23; and 240.25, subd. 4(a).

Persons interested in these rules shall have 30 days in which to submit comment in support of or in opposition to the proposed rules, or any part or subpart of the rules, and comments are encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

David J. Freeman
Executive Director
Minnesota Racing Commission
11000 W. 78th St.
Suite 201
Eden Prairie, Minnesota 55344
Telephone: (612) 341-7555

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change to the proposed rules.

The text of the proposed rules follows this notice in the *State Register*. Additional copies of the proposed rules are available for review upon request made to David J. Freeman at the above address.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules had been prepared and is available upon request from David J. Freeman at the above address. The effect, if any, of the proposed rules on small business is addressed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the noncontroversial rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this

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material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, must submit the written request to David J. Freeman at the above address.

November 4, 1985

David J. Freeman
Executive Director
Minnesota Racing Commission

Rules as Proposed

7897.0100 PROHIBITED ACTS.

Subpart 1. to 17. [Unchanged.]

Subp. 18. **Possession of electrical devices.** No person, while on the grounds of an association, shall have in his or her possession any electrical or mechanical device or other appliance, other than an ordinary riding whip, that could be used for the purpose of stimulating a horse or affecting its speed in a race or workout.

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Reciprocity of rulings.** The commission or the stewards may suspend or revoke a Class C license if it is found that the licensee, or any person who is an agent, employee, or associate of such licensee:

A. is presently under suspension or his or her license has been revoked for any reason by a legally constituted racing commission of another jurisdiction; or

B. becomes suspended or has his or her license revoked for any reason by a legally constituted racing commisssion of another jurisdiction while such licensee is participating in racing in Minnesota.

Before considering a licensee for reinstatement in Minnesota, the commission or stewards shall require such licensee to obtain reinstatement in the original racing jurisdiction where his or her license was suspended or revoked, and to establish his or her fitness to be reinstated in Minnesota.

Rules as Proposed (all new material)

7873.0550 DISTRIBUTION OF PURSE MONEY.

Subpart 1. **Purse amounts.** Pursuant to Minnesota Statutes, section 240.13, subdivision 5, an amount equal to not less than five percent of all money in all pools must be allocated for purses by an association conducting horse racing. In making the distribution of purse money, an association must, to the extent possible, maintain purse amounts in proper relationship to actual pari-mutuel handles.

Subp. 2. **Adjustments to purses.** Should the levels of pari-mutuel handle create overpayment or underpayment of purses paid during the course of the race meeting, the association must make adjustments in each publication of it's condition book to attempt to keep purses consistent with mutuel handles.

Subp. 3. **Overpayments carried over.** If, at the end of each race meeting, an overpayment of purses has occurred, the overpayment shall be carried over to the next race meeting of the same breed and such overpayment may be recovered by the association. The association must make its best effort to recover the overpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 4. **Underpayments carried over.** If, at the end of a race meeting, an underpayment of purses has occurred, the underpayment shall be carried over to the next race meeting of the same breed. Such underpayment must be paid to horse owners by adding the underpayment to purses. The association must make its best effort to repay the underpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 5. **Willful underpayment.** Should the commission determine that an association willfully failed to adjust purse levels in violation of subpart 1, for the purposes of retaining purse underpayments from one race meeting to the next, the association will be subject to disciplinary action by the commission.

Subp. 6. **Escrow accounts.** All money received by an association for races that charge nominating, sustaining, entry, or starting fees must be placed in interest bearing escrow accounts, and all accrued interest must be added to such races if:

A. the total fees received for such a race exceed $15,000; or

B. fees are due and payable for such a race more than 180 days in advance of the advertised date of the running of the race.

CHAPTER 7874
MINNESOTA RACING COMMISSION
DIRECT DEPOSIT REQUIREMENTS AND REPORTING OF PAYMENTS

7874.0100 GENERAL PROVISIONS.

Subpart 1. **Scope.** For the purpose of administering the direct deposit of taxes, breakage, and unredeemed tickets pursuant to Minnesota Statutes, section 240.15, subdivisions 1, 2, and 5, and subparts 2 to 4 shall apply.

Subp. 2. **Payment of pari-mutuel tax, admissions tax, breakage, and breeders' fund.** Taxes, breakage, and breeders' funds collected by an association must be remitted to the commission within seven days of the day on which it was collected. However, the amount allocated for purse supplements, pursuant to part 7895.0110, subpart 2, item C, may be deducted and retained by the association as reimbursement for purse supplements paid by it. The remittance must be accomplished by a direct deposit in a financial institution designated by the commissioner of finance and approved by the commission. On those days when the seventh day is a holiday or a weekend day, the payment must be made by the succeeding business day.

At the close of each month in which racing is conducted, the association must report to the commission all deposits of taxes and breakage for that month.

Subp. 3. **Payment of unredeemed tickets.** After reporting to the commission, pursuant to Minnesota Statutes, section 240.13, and not later than 100 days after the end of a race meeting, an association must remit to the commission an amount equal to the total value of unredeemed tickets from the race meeting in the same manner as in subpart 2.

Subp. 4. **Recapitulation.** On each day that deposits are made by the association, a report must be filed with the commission containing the following recapitulation:

A. total take-out;

B. pari-mutuel tax;

C. state and local admissions taxes;

D. total breakage;

E. commission's share of breakage; and

F. breeders' fund tax.

CHAPTER 7879
MINNESOTA RACING COMMISSION
STEWARDS

7879.0100 QUALIFICATIONS AND APPOINTMENT OF STEWARDS.

Subpart 1. **Qualifications for stewards.** No person may qualify for commission appointment or approval as a steward unless:

A. he or she has served as a steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge, or clerk of scales at one or more recognized race meetings for a period of not less than 60 days per year during at least three of the five preceding calendar years or has had at least five years experience as a jockey;

B. he or she has satisfactorily passed an optical examination within 90 days prior to approval as a steward evidencing 20-20 vision (corrected) and the ability to distinguish colors; and

C. the commission is satisfied that income, other than salary as a steward, which may accrue to a person under consideration for appointment as a steward is independent of and unrelated to patronage of or employment by any licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of a licensee.

Subp. 2. **Appointment and approval of stewards.** The following procedures must be observed in the appointment of stewards:

A. There shall be three stewards for each race meeting, two of whom shall be appointed by the commissioner and one of whom shall be nominated by the association for approval by the commission. The name of the association nominee for steward must be submitted no later than 30 days before commencement of a race meeting and be accompanied by biographical data setting

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forth the experience and qualifications of the nominee. The association may submit successive nominees until one person is approved by the commission as qualified to serve as steward. No steward may serve until approved by the commission.

B. In the event a steward becomes ill, resigns, or is unable to serve for any reason, the remaining stewards shall nominate a temporary steward to the commission for approval. In emergencies, the executive secretary may approve appointment of a temporary steward.

7879.0200 AUTHORITY AND DUTIES OF STEWARDS.

Subpart 1. **General authority of stewards.** The stewards shall exercise immediate supervision, control, and regulation of racing at each licensed race meeting on behalf of the commission and shall be responsible only to the commission. The powers of the stewards shall include:

A. the authority over all horses and all persons, licensed or unlicensed, on association grounds during a race meeting as to all matters relating to racing;

B. the authority to determine all questions, disputes, protests, complaints, or objections concerning racing matters which arise during a race meeting and to enforce such determinations;

C. the authority to suspend, according to applicable law, the license of a participant in racing;

D. the authority to eject or exclude according to applicable law, from association grounds or any part thereof, licensed or unlicensed persons for violations of law;

E. the authority to interpret and enforce commission rules and determine all questions pertaining to racing matters in conformity with applicable law and the ''customs of the turf'';

F. the authority to issue decisions or rulings pertaining to racing matters which shall supersede orders of the officers, directors, and officials of the association, which may vary any arrangement relating to the conduct of a race meeting, including postponing or canceling a race, or ruling a race ''no contest'';

G. the authority to request and receive assistance from commission employees, racing officials, track security, and federal, state, or local police in the investigation of possible violations of law;

H. the authority to conduct hearings on all questions, disputes, protests, complaints, or objections concerning racing matters;

I. in the event a jockey, driver, trainer, or racing official, other than a steward, is determined to be unable for any reason to perform his or her duties, the authority to appoint a substitute therefor; and

J. the authority to excuse a horse or any jockey, driver, trainer, or racing official other than a steward.

Subp. 2. **Specific duties and responsibilities of stewards.** In addition to the duties and responsibilities necessary and pertinent to general supervision, control, and regulation of race meetings, and without limiting the authority of the stewards to perform those and all other duties listed in this part, the stewards shall have the following specific duties and responsibilities:

A. To consider and review all allegations of misconduct or rule infractions and, when warranted, initiate investigations of the allegations and conduct necessary hearings; or take the action necessary to prevent rule infractions.

B. At least one steward shall be on association grounds from scratch time (or, if not a racing day, when entries are first taken) until entries are closed. At least one steward shall be present for the regular showing of racing films or video tapes. All three stewards shall be on association grounds for a continuous period beginning not less than one hour before post time for the first race until conclusion of the last race.

C. At least one steward, or a designated representative of the stewards, shall be present in the paddock before each race and remain there until the horses leave for the starting gate, to observe the conduct of all persons in and around the paddock.

D. To review applications for Class C licenses and administer, or cause to be administered by technically qualified persons, standard examinations to all first-time applicants for a trainer, jockey, apprentice jockey, driver, or farrier license, and to make recommendations to the commission as to the qualifications of all applicants for Class C licenses.

E. To review all license applications, registration certificates, contracts, papers, and other documents pertaining to the sale or ownership of a horse, payment of purse money, appointments of agents, and applications for racing colors or stable name.

F. To require proof of eligibility of a horse or person to participate in a race if the eligibility is in question and, in the absence of sufficient proof to establish eligibility, to rule the horse or person ineligible.

G. To supervise the taking of entries and receive all declarations and scratches and determine all questions arising and pertaining to same; the stewards may refuse the entry of any horse by any person, or refuse to permit a declaration or scratch, or may limit entries when necessary to protect the safety or integrity of racing.

H. To lock all pari-mutuel betting machines not later than the start of a race.

I. To cause the ''inquiry'' sign to be posted on the infield totalizator board immediately after the horses have crossed the finish line in a race if any doubt is held by any steward as to the fairness of the running of the race.

J. To cause the ''objection'' sign to be posted on the infield totalizator board upon the lodging of an objection.

K. To cause the ''official'' sign to be posted on the infield totalizator board after determining the official order of finish for purposes of pari-mutuel payoff.

L. To review the video tapes of each day's races before commencement of the successive day's races and to draw up and post a list of jockeys (including all apprentice jockeys) whom the stewards feel should review such films for instructional purposes.

M. To maintain daily reports of actions taken and observations made during the conduct of each day's racing program. The report must contain the name of the track, the date, weather and track conditions, claims, inquiries and objections, and any unusual circumstances or conditions. The reports must be signed by all three stewards and filed with the commission within 24 hours.

N. During racing hours, make periodic inspections of the jockeys' and drivers' room and observe security, and note the inspections and observations made in the stewards' daily report.

O. To maintain detailed records of all questions, disputes, protests, complaints, or objections brought to the attention of the stewards, and a summary of interviews, reports of investigations, and rulings issued thereon. If a ruling is not unanimous, the dissenting steward shall record the reasons for the dissent. The stewards' log must be available to the commission for inspection at all times.

P. Within seven days after the conclusion of a race meeting, the stewards must submit to the commission a written report containing their observations and comments concerning the conduct of the race meeting and the condition of the association grounds and any appropriate recommendation for improvement.

Subp. 3. **Criteria and bases for stewards' decisions.**

A. When making judgments with respect to the conduct of horse racing, the stewards shall take into consideration the following:

(1) their prior experience in horse racing;

(2) the applicability of similar prior decisions to the decision being made;

(3) all relevant circumstances surrounding the decision under consideration;

(4) what effect, if any, the decision being made has upon the integrity of racing and the safety, health and welfare of the participants and the general public; and

(5) any other relevant factors which affect the integrity of horse racing, so long as the same factors are considered with regard to all similar decisions.

B. When making a determination or recommendation regarding the qualifications of an applicant for a Class C license, the stewards shall consider the following factors:

(1) whether the applicant's ability is sufficient so as to not endanger the life or safety of the applicant, other participants, racetrack patrons, horses, or property;

(2) whether the applicant is able to perform in a competitive manner so as to enhance the quality of horse racing;

(3) whether the applicant's ability and/or qualifications are at least equal to those of current licensees; and

(4) any other relevant factors which affect the integrity of horse racing, or the health, safety, or welfare of persons and animals so long as these same factors are applied uniformly to all applicants for Class C licenses.

7879.0300 COMPENSATION OF STEWARDS.

Subpart 1. **Commission to be reimbursed.** An association must reimburse the commission, on a weekly basis, for the cost of providing state stewards. The level of compensation and benefits for all stewards shall be determined by the commission.

Subp. 2. **Compensation level.** In determining the level of compensation for stewards, the commission shall consider the following criteria:

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A. the current comparable rate of compensation for stewards in other racing jurisdictions;

B. the experience and background of the stewards, as well as their responsibilities and required hours of work; and

C. the cost of any necessary equipment used or specialized courses required to fulfill their duties.

CHAPTER 7895
MINNESOTA RACING COMMISSION
BREEDERS' FUND

7895.0100 GENERAL PROVISIONS.

Subpart 1. **Scope.** The purpose of this chapter is to administer the breeders' fund under Minnesota Statutes, section 240.18, and the required race provision of Minnesota Statutes, section 240.29.

Subp. 2. **Registration.** To qualify for payment of awards and for entry into restricted races, all foal certificates must have the Minnesota registration seal affixed upon them. The seal shall be proof that the requirements of this part have been met.

Subp. 3. **Decisions regarding eligibility for registration.** Questions regarding the registration, eligibility for registration, or breeding of a Minnesota-bred horse shall be decided by the commission. An official registering agency may be designated by the commission and empowered to act in matters relative to registration, eligibility for registration, or breeding. A decision of the official registering agency shall be subject to review by the commission which retains the right to make the final decision as to any right or liability under this chapter. All original foal registration certificates must be submitted for inspection to the commission or official registering agency. Affidavits or other substantive proof, as the commission or official registering agency deems necessary, may be required to support any claim for Minnesota-bred registration.

Subp. 4. **Decision regarding eligibility to enter restricted races.** Questions as to the eligibility for nomination or entry in restricted races shall be decided by the commission or the official registering agency.

Subp. 5. **Basis for allocation.** The amount of money allocated for any particular race should reflect the quality of the race being run.

Subp. 6. **Breeders' fund advisory committees.** All money allocated pursuant to this chapter shall be determined by the commission after consultation with the appropriate breeders' fund advisory committee.

7895.0110 THOROUGHBRED BREEDERS' FUND.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meaning given them unless another intention clearly appears.

A. "Minnesota-owned" means:

(1) In the case of a horse owned by an individual, the owner must reside in Minnesota, declare himself or herself to be a resident of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that he or she is not a resident of any other state.

(2) In the case of a horse owned by a corporation, the corporation must:

(a) be legally incorporated in the state of Minnesota;

(b) have its principal place of business in Minnesota;

(c) have at least 51 percent of all outstanding shares of stock owned by shareholders who are residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and who declare that they are not residents of any other state.

(3) In the case of a horse owned by a limited partnership, the general partners and at least 51 percent of the limited partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

(4) In the case of a horse owned by a partnership, all partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

Every owner of a Minnesota-owned horse must hold a Class C owner's license issued by the commission as required in part 7877.0130, subparts 1 and 2.

B. "Minnesota-foaled" means a horse foaled in Minnesota.

C. "Minnesota-bred" means a horse foaled in Minnesota.

D. "Minnesota-sire" means a stallion owned at least 50 percent by residents of Minnesota or leased entirely by Minnesota residents, and which has stood the entire breeding season, between February 15 and July 31, in Minnesota.

Subp. 2. **Division of money.** The money available from the breeders' fund for the thoroughbred breed category shall be divided as follows:

A. 31 percent shall be set aside and paid to breeders of Minnesota-bred horses as breeders' awards;

B. 31 percent shall be set aside and paid to owners of Minnesota-bred horses as owners' awards;

C. 31 percent shall be paid to supplement purses in races which are restricted to Minnesota-bred or Minnesota-owned horses. In all such races Minnesota-bred horses shall be preferred, and the purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission.

D. Seven percent shall be set aside and paid as stallion awards to the owners of the Minnesota-sire at the time of breeding.

Subp. 3. **Distribution of money.** The money available from the thoroughbred breeders' fund, other than purse supplements, shall be distributed as follows:

A. "Breeders' awards" shall be paid to the breeder of a Minnesota-bred horse, as reflected on the Jockey Club certificate that finishes fifth or better in any race.

B. "Owners' awards" shall be paid to the owners of Minnesota-bred horses that finish fifth or better in any race.

C. "Stallion awards" shall be paid to the owners of the Minnesota-sire of a Minnesota-bred horse that finishes fifth or better in any race.

Subp. 4. **Methods of payment.** The amount of money distributed by the commission for awards or purse supplements pursuant to subpart 3 shall be paid out in the same percentage as the purse money in the race. The amount of money to be distributed shall be in accordance with subpart 5.

Subp. 5. **Adjustments.** The racing commission shall set percentages to be applied to each category of the breeders' fund for the purpose of determining the amount of awards and purse supplements that may be earned during the current race meeting. The racing commission may, in its discretion, during the course of a race meeting vary the percentages set in each category for the purpose of keeping awards and purse supplements consistent with the amount of money being earned in the breeders' fund and subsequent awards disbursements. The racing commission shall consider the following criteria in determining the applicable percentages:

A. the number of potential award recipients;

B. the total amount of awards and purse supplements to be distributed;

C. the need to distribute awards and purse supplements among Minnesota breeders and owners in a fair and equitable manner with a view toward encouraging the continued support of the horse industry in Minnesota, thereby providing incentive to breeders and owners of thoroughbred horses within the state; and

D. that the set amount of the awards and purse supplements or any adjustments made thereto are in the best interest of horse racing within the state.

Subp. 6. **Time of payment.** Purse supplements are part of the purse and shall be credited to owners' accounts at the time such purses are earned. All money allocated for breeders' awards, owners' awards, and stallion awards shall be distributed within 30 days of the end of the race meeting.

Subp. 7. **Maximum awards permitted.** The maximum amount of any award, exclusive of purse supplements, paid to an individual or entity under this part shall not exceed:

A. For calendar year 1985:

(1) $75,000 per breeder;

(2) $75,000 per owner; or

(3) $75,000 in total combined awards if a breeder is also an owner.

B. For calendar year 1986:

(1) $150,000 per breeder;

(2) $150,000 per owner; or

(3) $150,000 in total combined awards if a breeder is also an owner.

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Subp. 8. **Residual funds.** After complying with subparts 4 to 7:

A. any remaining funds in the stallion awards account shall be transferred to and distributed through the owners' account; and

B. any remaining funds in the owners' awards account and the breeders' awards account shall be distributed in proportion to the award money earned by each individual Minnesota-bred horse to the total award money earned by Minnesota-bred horses as a group.

After complying with subparts 4 to 8, any remaining funds in the breeders' and owners' accounts, and all unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding thoroughbred race meeting.

Secretary of State

Proposed Rules Relating to Voter Registration, Absentee Voting, Recounts, Ballots, Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Systems

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Grace Haukoos
Election Division Director
180 State Office Bldg.
St. Paul, MN 55155
(612)296-9217

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 201.221, 203B.09, 204C.361, 204D.11, and 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

You are advised, pursuant to Minnesota Statutes, section 14.115 "Small business consideration in rulemaking", that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact upon agricultural land nor cost local public bodies any money for two years immediately following the adoption of these rules within the meaning of that law.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Election Division.

The rules proposed for adoption are as follows:

Rules as Proposed

8200.1500 REVERSE SIDE.

Subpart 1. [Unchanged.]

Subp. 2. **Form of reverse side of registration card.**

Post office will not deliver without first class postage

RETURN TO:
(here the county auditor shall supply the address)

8200.9919 FORM FOR VOTER REGISTRATION INSTRUCTIONS, SPECIFIED BY PART 8200.1400.

Instructions for Voter Registration

Read Carefully Before Registering

ITEMS INDICATED BY A RED "X" MUST BE COMPLETED BY THE REGISTRANT BEFORE THE REGISTRATION WILL BE ACCEPTED.

1. Print in ink or type all information requested on the white card.

2. Print or type your legal name—nicknames are not acceptable.

3. Print or type the name of the township or city in which you live and are eligible to vote.

4. Print or type the house number and street name or the rural route and box number where you live.

5. Include your full birthdate—month, day, and year.

6. Give the address where you were last registered. If you have never been registered before, check the box for "none."

7. Give your previous name if it has been changed since you last registered.

8. Enter telephone number in appropriate space (optional).

9. Date and sign the WHITE CARD with your legal written signature.

10. Date and sign the BLUE CARD with your legal written signature.

11. Review the cards to determine that they are correctly completed.

12. Fold the form, use the sealing tab, and mail or return to your county auditor at your county courthouse. 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, whose civil rights have not been restored;

b. any person who is under guardianship of the person;

c. any person who has been found by a court to be legally incompetent, whose civil rights have not been restored.

ASSISTANCE TO HANDICAPPED VOTERS

Call your county auditor or city clerk if you need information about registration or voting assistance for elderly and handicapped individuals or residents of health care facilities or hospitals. Registration and absentee instructions can be made available in large type, in Braille, or on cassette tape.

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8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. This application form will obtain ballots for only the NEXT election. ~~You must apply separately for each election.~~

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. [Unchanged.]

8210.9930 ABSENT VOTER'S CERTIFICATE, SPECIFIED BY PART 8210.0600, SUBPART 1.

ABSENT VOTER'S CERTIFICATE

OF

_____

(legal name of absent voter)

(print or type)

_____

(legal address of absent voter)

(print or type)

I swear that on election day I will meet the requirements provided by law to vote by absentee ballot.

_____

(legal signature of voter)

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in a manner that I could not see, the voter marked the ballots, or if the voter was physically unable to mark the ballots they were marked by another individual under the personal direction of the voter, and enclosed and sealed them in the ballot envelope; that if the above-named voter registered to vote by enclosing a voter registration card in the Absentee Ballot Return Envelope, then proof of residence was provided as indicated below.

_____

(date)

_____

(legal signature of witness)

_____

(print or type name of witness)

_____

(official title if witness is an official)

_____

(legal address if witness is an eligible voter)

FOR REGISTRATION ONLY—Indicate method used by voter to prove residence.

Method used by voter to prove residence:

Driver's License or Permit or Receipt _____ (number)

Minn. ID Card or Receipt _____ (number)

same precinct _____

Notice of Ineffective Registration _____

Student ID _____ (number)

_____

(legal signature of registered voter in the precinct who attested to residence in the precinct)

_____

(legal address of registered voter in the precinct who attested to residence in the precinct)

8210.9955 BACK OF ABSENTEE RETURN ENVELOPE, SPECIFIED IN PART 8210.0800, SUBPART 3.

ABSENT VOTER'S CERTIFICATE

I, _____ (please print or type), do solemnly swear that my present address (or last address) in the State of Minnesota is at _____ (please print or type) in the City or Town of _____ (please print or type), County of _____ (print or type) I am qualified to vote the enclosed ballot(s) as (check category that applies) __a member of the Armed Forces; __a spouse or dependent of a member of the Armed Forces; __a citizen of the United States temporarily residing outside the territorial limits of the United States; __a citizen of the United States permanently residing outside the territorial limits of the United States. I have not cast and will not cast any other ballot in this election. I personally marked the enclosed ballot(s) without exhibiting it to any other person, or which, in case of my physical disability, was marked for me under my personal direction.

Military identification passport number .....

_____

(Legal signature of Voter)

Subscribed and sworn to me this _____ day of _____ 19____

_____

(Signature of Witness)

_____

(Give title or office of witness authorized to administer oaths. If an officer of the Armed Forces, a commissioned or noncommissioned officer not below the rank of sergeant or its equivalent.)

Note: No witness is required if you provide your military or passport number to match the military or passport number on your application.

8235.1000 ELECTRONIC VOTING SYSTEMS.

In a ~~precinct~~ precincts in an election jurisdiction where an electronic voting system is used, the recount official shall determine if the ~~ballot cards must~~ ballots are to be recounted on the automated equipment or manually. If the recount official is the secretary of state or the secretary's designee, the duplicate counting program certified to the secretary of state by the person preparing the program may be used to recount the ballots. If the ballots are recounted on the automated equipment, a test of the program and counting equipment as provided in part 8230.5100 must be made immediately prior to the recount, and a test sample of the ballots

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must also be counted manually. The recount offical shall determine if the test sample is to be of one precinct selected by each candidate or a sample agreed upon by the candidates of three percent of the ballots cast but in no event less than 100 ballots. Access to the immediate area of the automatic counter or computer is limited to the recount official and legal advisor, officials of the election jurisdiction, the candidates and their representatives, and the technical persons necessary to the operation of the counting equipment. An observation area must be provided for the public. Ballots must be recounted by precinct. Paper absentee ballots must be counted in accordance with part 8235.0800. A machine-produced report of recount results must be provided for each precinct. After the count of ballots for a precinct has been determined, all ballot cards and paper absentee ballots must be resealed in the ballot container and returned with the other materials to the custodian of the ballots.

8250.0200 AUDITOR'S DUTIES.

The white ballot shall be prepared under the direction of the county auditors in a sufficient number to enable the clerks to comply with the provisions of Minnesota Statutes, section 204B.29. ~~It shall be the duty of~~ The county auditors ~~to~~ shall prepare and print the white ballot as soon as practicable, but in no event less than ~~20~~ 30 days before the election. Two weeks before the general election the auditor shall file sample copies of the white ballot in ~~his~~ the auditor's office for public inspection. Ballots for distribution in the polling place must be bound in pads of 50.

8250.0600 OFFICES.

The offices must appear on the white ballot in the following order and must be identified as follows in upper case letters:

"UNITED STATES SENATOR ~~IN CONGRESS~~"

"UNITED STATES REPRESENTATIVE ~~IN CONGRESS~~"

"STATE SENATOR ~~IN THE LEGISLATURE~~"

"STATE REPRESENTATIVE ~~IN THE LEGISLATURE~~"

"GOVERNOR AND LIEUTENANT GOVERNOR"

"SECRETARY OF STATE"

"STATE AUDITOR"

"STATE TREASURER"

"ATTORNEY GENERAL"

"United States" may be abbreviated as "U.S." If an office is not to be filled at a general election, the office ~~shall~~ must not appear on the ballot. Directly underneath the titles of the offices of United States representative ~~in congress~~ and state senator and representative ~~in the legislature~~ must be printed in upper case letters or numbers the district (e.g. "SIXTH DISTRICT," "DISTRICT SIX," or "DISTRICT 6") that the person elected will represent. A single vote must be cast for governor and lieutenant governor.

Rules as Proposed (all new material)

SCOPE AND STANDARDS

8220.0050 CONDUCT OF ELECTIONS.

Except as provided in Minnesota Statutes or in parts 8220.0050 to 8230.4250, elections shall be conducted in the manner prescribed for precincts using paper ballots in the Minnesota election law.

8220.0150 MINIMUM STANDARDS.

Parts 8220.0050 to 8230.4250 set minimum standards for procedures in the use of electronic voting systems. An election jurisdiction may by resolution require additional procedures.

8220.0250 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 8220.0150 to 8230.4250, terms defined in Minnesota Statutes, section 206.56 have the meanings given them in that section, and the following terms defined in this part have the meanings given them.

Subp. 2. **Backup program; duplicate program.** "Backup program" or "duplicate program" means 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.

Subp. 3. **Ballot envelope.** "Ballot envelope" means a paper container into which the voted ballot is inserted by a voter.

Subp. 4. **Ballot image.** "Ballot image" means a corresponding representation in electronic form on tape or disc of the punch or mark pattern of a voted ballot.

Subp. 5. **Bit-for-bit comparison.** "Bit-for-bit comparison" means a method for comparison of machine encoded characters.

Subp. 6. **Chad.** "Chad" means a prescored portion of a ballot that is removed from the ballot to indicate a vote.

Subp. 7. **Computer program.** "Computer program" means a logically arranged set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

Subp. 8. **Console log; computer log; log book.** "Console log," "computer log," and "log book," mean computer-generated listing of actions performed by the computer, including both normal and abnormal operations.

Subp. 9. **Counting center.** "Counting center" means a location where an electronic system is used for the tabulation of ballots.

Subp. 10. **Damaged ballot.** "Damaged ballot" means a valid ballot cast by a voter that is mutilated at the precinct, in transportation to the counting center, or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated.

Subp. 11. **Demonstration ballot.** "Demonstration ballot" means a ballot of a distinctive color used to instruct voters in the use of the voting device.

Subp. 12. **Demonstration model.** "Demonstration model" means an approved copy of the voting device in use in a precinct containing ballot labels representing offices and containing fictitious names, to demonstrate to voters the method of voting.

Subp. 13. **Detachable stub.** "Detachable stub" means 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.

Subp. 14. **Duplicate ballot card.** "Duplicate ballot card" means 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.

Subp. 15. **Edit listing.** "Edit listing" means 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.

Subp. 16. **Election jurisdiction.** "Election jurisdiction" means any municipality, township, county, or special election district holding original responsibility for an election or part of an election.

Subp. 17. **Hardware.** "Hardware" means the mechanical, electro-mechanical, and electronic equipment used to record and tabulate votes.

Subp. 18. **Header cards.** "Header cards" means data processing cards which contain the necessary data to identify the precinct of the following ballot cards to the computer.

Subp. 19. **Lever machine.** "Lever machine" means a direct recording mechanical device or system in which a vote is cast by moving a lever.

Subp. 20. **Operating system.** "Operating system" means a collection of programs that control the overall operation of a computer system.

Subp. 21. **Overvote.** "Overvote" means a condition of a voted ballot in which more votes have been cast for an issue or office than the number of votes that the voter is lawfully entitled to cast.

Subp. 22. **Precinct certification.** "Precinct certification" means 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 requested by the election jurisdiction or the secretary of state.

Subp. 23. **Programmer.** "Programmer" means a person or commercial vendor designated by an election jurisdiction to prepare the software to record and tally votes for an election.

Subp. 24. **Public accuracy test.** "Public accuracy test" means 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.

Subp. 25. **Seal.** "Seal" means a numbered metal device or other device used to secure hardware, software, computer programs, voting devices, or transfer cases.

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Subp. 26. **Self-contained voting station.** "Self-contained voting station" means a unit that contains a voting device having all four sides enclosed and lighted; when assembled the unit creates one individual voting station.

Subp. 27. **Software.** "Software" means programs, languages, or routines that control the operations of a computer used to record and tabulate votes.

Subp. 28. **Source code.** "Source code" means a high-level language in which a computer program is written.

Subp. 29. **Stylus.** "Stylus" means an instrument to be used by a voter to punch out a prescored position of a ballot.

Subp. 30. **Test deck.** "Test deck" means 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.

Subp. 31. **Transfer case.** "Transfer case" means a container for transporting ballots to the counting center.

Subp. 32. **Unassigned locations.** "Unassigned locations" means voting positions not programmed or assigned to receive an indication of votes in the election in progress.

Subp. 33. **Undervote.** "Undervote" means a condition of a voted ballot in which fewer votes have been cast for an issue or office than permitted by law.

Subp. 34. **Valid vote.** "Valid vote" means a voted ballot cast according to the instructions for the system in keeping with the Minnesota election law and parts 8220.0050 to 8230.4250.

Subp. 35. **Vendor.** "Vendor" means an individual or organization other than an election jurisdiction supplying any element of a lever voting machine or electronic voting system, including but not limited to hardware, software, and programming services.

Subp. 36. **Vote.** "Vote" means an indication of voter intent counted by mechanical or electronic methods.

Subp. 37. **Vote-recording medium.** "Vote-recording medium" means the material or its configuration on which data are recorded, such as paper, tape, cards, or magnetic tape.

Subp. 38. **Write-in.** "Write-in" means a vote for a candidate whose name does not appear on the official ballot for that office.

EXAMINATION AND CERTIFICATION

8220.0350 APPLICATION.

An application by a vendor pursuant to Minnesota Statutes, section 206.57, for examination of a lever voting machine or electronic voting system must be accompanied by the following:

A. an initial deposit, in an amount set by the secretary of state, toward the examination fee and a signed agreement that the vendor will pay all costs incurred by the secretary of state, the vendor, and any designees of the secretary of state in accomplishing the examination;

B. complete specifications of all hardware, firmware, and software;

C. all technical manuals and documentation related to the machine or system;

D. complete instructional materials necessary for the operation of the equipment by election jurisdictions and a description of any training available to users and purchasers;

E. a list of all state election authorities that have tested and approved the machine or system for use;

F. a list of all election jurisdictions where the machine or system has been used for elections;

G. a description of any support services offered by the vendor and of all peripheral equipment that can be used in conjunction with the machine or system;

H. recommended procedures for use of the machine or system at Minnesota elections including procedures necessary to protect the integrity of the election;

I. specifications for materials and supplies required to be used with the machine or system;

J. explanation of the level of technical expertise required to program or prepare the machine or system for use at an election; and

K. certification of conformance or explanation of variances from any standards for voting equipment recommended by the Federal Election Commission.

The vendor may submit additional material including test reports and evaluations by other states, election jurisdictions, and independent testing agencies. The secretary of state shall make a preliminary review of the application. If the secretary of state determines from the preliminary review that the machine or system obviously does not meet provisions of Minnesota election laws, the vendor may withdraw the application and the secretary may refund the deposit.

8220.0450 ACCEPTANCE DEMONSTRATION.

The vendor shall train a designee of the secretary of state in the preparation and operation of the machine or system. The training must be at least as extensive as the training required for an election jurisdiction to be able to prepare and use the machine or system at Minnesota elections.

The acceptance demonstration must be provided by the vendor and attended by designees of the secretary of state. The vendor is responsible for demonstrating that the machine or system can meet all requirements of Minnesota election law and parts 8220.0050 to 8230.4250. In the acceptance demonstration, the vendor of the machine or system must demonstrate the following concerning the machine or system:

A. its storage requirements;

B. its speed of operation under conditions that simulate the scope and length of actual election ballots;

C. full audit capability, with an audit trail, in the case of an electronic voting system, which includes a printout of overvotes and undervotes for each office and issue, and with the undervotes recorded directly from the ballots and not determined by subtraction of totals from nonovervoted ballots;

D. all special parameter alterations that can be programmed;

E. all design specifications;

F. maximum numbers of precincts, offices and issues, and candidates per office which can be handled;

G. the production of reports which include vote totals and all statistics and other information required by the secretary of state;

H. simulation of vote counting involving a configuration of the largest number of voters, precincts, offices, and candidates with which the machine or system is expected to be used, which vote counting includes ballots showing overvotes, undervotes, and invalid votes as well as those with no overvotes or marks in unassigned locations, in many different combinations, and demonstrates rotation sequences and the ability to deal with partisan, nonpartisan, and proposal sections of the ballot independently;

I. accuracy of vote counting and procedures or process for testing accuracy;

J. provisions for maintaining the security and integrity of elections; and

K. provisions for write-in votes.

The vendor shall identify all hardware configurations with which software is intended to operate and shall provide an acceptance demonstration for every hardware and software configuration for which certification for use in Minnesota is requested. The secretary of state may provide additional ballots or test decks for the acceptance demonstration.

The acceptance demonstration and training of the secretary of state's designee may be accomplished either at the vendor's site or at the office of the secretary of state.

8220.0550 TESTING AND EXAMINATION.

The secretary of state shall investigate and evaluate the experience of other states and election jurisdictions using the machine or system. The secretary of state shall review the results of the acceptance demonstration and perform additional tests as the secretary deems necessary. The additional tests may include field testing at simulated or actual elections, technical evaluation of the hardware and software by a designee of the secretary of state, and experimental use as provided in Minnesota Statutes, section 206.81. In determining the need for and extent of additional examination, the secretary of state shall consider the record of use in other states and the extent and experience of use in Minnesota of similar machines or systems.

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. Certification. If, from the reports of the demonstration and testing, the secretary of state determines that, the machine or system complies with Minnesota Statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. paid all costs of the examination;

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B. certified that the vendor and any agent acting on behalf of the vendor will offer the machine or system for use or sale only in accordance with Minnesota Statutes and parts 8220.0050 to 8230.4250 and any stipulations of the certification;

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined; and

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data.

Subp. 2. Decertification. If a voting machine no longer meets the standards of Minnesota statutes or parts 8220.0050 to 8230.4250, the secretary of state may withdraw approval of the voting machine after a hearing.

PREPARATION AND TESTING OF ELECTION PROGRAMS

8220.0750 PREPARATION OF COMPUTER PROGRAMS.

Computer programs must be prepared 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 Minnesota and parts 8220.0050 to 8230.4250.

Computer programs must include instructions requiring that machine-readable precinct identification be required 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 may take place.

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.

The vote tabulation portion of the computer program must be prepared as follows:

A. In nonpartisan races in all elections and in partisan primary elections, the computer program must reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballots in the various precincts.

B. The computer program must count valid votes cast by a voter for candidates for an office.

C. The computer program must count valid votes cast by a voter for or against any question.

D. The computer program must 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 that office or question, but it must record that there is an overvote condition as referred to in part 8220.0450, item C.

E. The computer program must ignore marks and punches in a ballot card in unassigned locations; these marks or punches must have no effect on any portion of the ballot.

F. For the purpose of programming, the partisan, nonpartisan, and proposal sections of the ballot are independent ballots; no action of a voter on one section of the ballot may affect the voter's action on another section of the ballot.

G. In partisan primary elections, the computer program must 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.

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

8220.0850 SCHEDULE FOR COMPLETING PROGRAMS.

No later than five days after candidates' names are certified by the secretary of state, the election jurisdiction responsible for requesting the computer program must supply any information such as candidates' names and rotation to the individuals designated to prepare the computer program.

The computer program for any election and an exact duplicate of the program for use as backup must be completed and delivered to the election jurisdiction or the county auditor in charge of a common counting center at least 14 days prior to the election. When state offices or questions are on the ballot, a second duplicate must be prepared, as provided in part 8220.1950. Instructions containing the necessary information, steps, and procedures required to operate the computer program must be prepared to accompany the original program and the duplicate programs. There must be at least two copies of the instructions for each computer facility. It is the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators.

8220.0950 EDIT LISTINGS.

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 must be delivered to the appropriate election jurisdiction at least 14 days prior to the election.

8220.1050 PREPARATION OF TEST DECK OR BALLOT IMAGE.

The election jurisdiction requesting the computer program must 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 all proposals in compliance with the Minnesota election law.

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

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

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

The test deck must conform to part 8220.1150. A test deck must be prepared specifically for each election.

The test deck or ballot image prepared must consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and issue.

8220.1150 TEST BALLOTS.

All test ballots must be marked "TEST."

Ballots must be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot.

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

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

Test ballots must be prepared in which votes appear in positions other than those used for candidates or proposals. In preparing the test deck or ballot image a number of the ballots must be voted to include valid votes in the partisan, nonpartisian, and proposal sections of the ballot.

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

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

A duplicate of the test deck must be prepared to be used with the duplicate or backup computer program.

8220.1250 DOCUMENTING TEST BALLOTS.

A documentation, record, chart, or listing must be prepared indicating the punches recorded in the test ballots and whether the punches are valid or invalid.

8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

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 must be tested on all precincts.

The election jurisdiction requesting the computer programs shall compare the edit listing against the ballot labels of all precincts to ascertain that the appropriate labels are in each precinct, and 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. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor.

The test must be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction, and the

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results must be 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.

All prom packs, memory packs, and similar devices containing the election program must be secured with a metal seal and a certificate must be prepared indicating the seal number.

8220.1450 DUTIES UPON COMPLETION.

When an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

A. secure all computer programs, including the object code, all support software used except the operating system, test decks, and predetermined results of the test decks, in a metal container sealed with a metal seal and stored in a secured area that is subject to normal computer temperature humidity restraints;

B. 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, which certificate must contain the seal number that was used to seal the metal container and be attached to the computer results of the test; and

C. deliver the sealed metal container and the certificate to the county auditor.

8220.1550 PUBLIC ACCURACY TEST.

A public accuracy test must 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. The public accuracy test must be conducted according to Minnesota Statutes, section 206.73.

The time and place of the public accuracy test must be designated by the election jurisdiction providing the computer program, which must give at least 48 hours' public notice of the time and place of the test by publication in official newspapers, by posting a notice, and by notification to each major political party.

The test must 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 part 8220.1450 that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, predetermined results, and header cards must 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 must be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested is at the discretion of the election jurisdiction.

The backup computer program prepared and delivered according to part 8220.0850 must be tested on the computer on which it would be used on election night. The test decks used in these procedures must be the ones prepared in accordance with parts 8220.0750 to 8220.1950. Any test cards made under parts 8220.0750 to 8220.1950 must be marked "TEST."

If an error is detected in any part of the testing, the cause must be ascertained, the error corrected, and an errorless count must be made on all precincts. At the discretion of the election jurisdiction, the meeting may be adjourned to a time and date certain.

8220.1650 ADDITIONAL TEST DECKS.

The secretary of state may provide a test deck for any computer program, in which case the deck must be delivered at the public accuracy test with directions for its use. The state chair of a major political party or designee may provide a test deck for use at the public accuracy test. The use of test decks provided by the secretary of state or a major political party does not substitute for the requirement for an election jurisdiction to prepare and use a test deck in accordance with parts 8220.1050 and 8220.1150.

8220.1750 CERTIFICATION OF PUBLIC ACCURACY TEST.

After the completion of the public accuracy test and an errorless count has been made, the election jurisdiction must certify the results of the test conducted, signed by the witnesses specified in Minnesota Statutes, section 206.73, and attached to or written on the computer results of the public accuracy test.

8220.1850 SECURING COMPUTER PROGRAMS.

Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, including the object code, software utilized, test decks, certified computer results of the test, and the predetermined results in a metal container which must be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. If a precinct ballot counter is used to count ballots, it must be sealed with the memory pack containing the election programs. Attached to or inside the container must be a certificate describing its contents and on which the number of the seal has been recorded. The certificate must be signed by at least two witnesses as specified in Minnesota Statutes, section 206.17, and if attached to the container in a plastic envelope it must be attached so that it cannot be removed without breaking the seal.

All computer programs, test decks, and other related materials must be clearly identified as to the computer on which they were tested and must be used on no other computer until tested in accordance with parts 8220.1550 to 8220.1850.

The election jurisdiction must immediately deliver to the county auditor or the auditor's 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 backup or duplicate computer programs and related material must be delivered to and secured by the county auditor. It must be the responsibility of the county auditor to store the original and duplicate or backup computer program in separate locations.

8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.

When state offices and questions are to be voted on, the person preparing the computer program shall deliver an exact duplicate of the program to the secretary of state at least three days prior to the election. The program must be sealed so that it cannot be opened without breaking the seal. The program must be accompanied by a certificate signed by the person who prepared the program stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota statutes and parts 8220.0050 to 8230.4250 and the instructions of the election jurisdiction requesting the program.

SECURITY OF COMPUTER SYSTEMS AND PROGRAMS

8220.2050 ISOLATION FROM OTHER INFLUENCES.

A computing system must be set up so that the vote-tallying procedures will function in isolation from other influences while being tested or run.

8220.2150 PREPARATION BEFORE TESTING SYSTEM.

Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, the election jurisdiction must make certain that computer programs are not influenced by extraneous peripheral equipment or programs. Memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, must be erased. Active measures must 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.

8220.2250 SUPPORT SOFTWARE.

All the support software used with the vote-tallying computer programs must be maintained on media under the control of the election administration.

8220.2350 PHYSICAL PROTECTION OF OBJECT CODES.

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

8220.2450 LABELING OF DISCS AND TAPES.

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

8220.2550 CONTROL OF SYSTEM CONTROL CARDS.

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

8220.2650 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, inserting data, or changing control switch settings.

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8220.2750 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 must not be totally responsible for a given activity, such as computer operation.

8220.2850 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, must be authorized, approved, and documented by the responsible authority of the election jurisdiction.

8220.2950 PREPARATION OF PUNCH-CARD SUPPLIES AND VOTING DEVICES.

Parts 8220.3050 to 8220.4250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8220.3050 PREPARATION OF BALLOT CARDS.

All ballot cards used in an election must have attached by perforation a detachable stub on which duplicate numbers must be printed in consecutive order. The words "OFFICIAL BALLOT CARD" must be printed or stamped on the face of the detachable stubs. The ballot card must have a corner cut on one corner. The following statement must 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 must 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 and write-in ballot, the portion of the ballot for write-ins must contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of the candidates for those offices must be printed on the ballot cards and on the ballot labels so that the voter may review all choices before leaving the voting booth or station.

8220.3150 BALLOT ENVELOPES.

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

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

Insert ballot in this envelope with the stub exposed.

Return this envelope with the ballot enclosed to the election judge.

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

Where write-in votes are not written on the ballot card, the inside flap of the envelope must contain language which clearly indicates that this is the place to vote for write-in candidates. It must 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."

8220.3250 VOTING INSTRUCTIONS ON BALLOT.

Voting instructions must be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions must 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 a ballot.

8220.3350 IDENTIFYING VOTING OR MARKING DEVICES.

All devices must be identified as to the precinct in which they will be used.

The identifying number of the device and the seal number used to seal the ballot label pages assembly to the device must 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.

8220.3450 BALLOT LABEL PAGES.

All ballot label pages must have a crimp hinge with locking spurs 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.

A ballot label pages assembly must be inserted and sealed into each device so that the ballot label pages assembly cannot be

removed without breaking the seal. Flat metal or wire seals must be used for this purpose. On devices 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.

8220.3550 MASKS.

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

The ballot label pages of each voting device must 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.

8220.3650 COMPARING LABELS TO EDIT LIST.

The ballot labels in each voting device of a precinct must be compared against the edit listing 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.

8220.3750 TEST USE OF DEMONSTRATION BALLOT CARD.

Operation of each voting device must be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card must then be examined to ensure that each received a clear punch or mark.

8220.3850 CERTIFICATE OF DEVICE PREPARATION.

Subpart 1. Preparing devices. The election official in charge of the election jurisdiction shall prepare the voting devices so that in every particular they will meet the requirements for voting and counting at the election.

Subp. 2. Certification. When a voting device has been prepared for the election, the official in charge of the election jurisdiction shall make a certificate in writing which must be filed with the county auditor. This certificate must contain the precinct number, the identifying number of the device, and the numbers of the metal seals used to seal the device and state that the ballot labels have been compared against the edit list or sample ballot for that precinct, that the candidates' names and ballot numbers agree and appear in the same position, and that the device has been properly prepared and tested.

8220.3950 BALLOT CARDS.

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

An approved ballot box must 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.

8220.4050 ADDITIONAL PRECINCT SUPPLIES.

The following items must be included in the precinct supplies:

A. an edit listing for the precinct;

B. ballot envelopes in sufficient quantity to match the quantity of ballots;

C. envelopes marked "spoiled ballot cards," "defective ballot cards," and "absentee ballots";

D. an envelope for "original ballot cards for which duplicates are to be made for any reason";

E. a precinct certification form; and

F. a set of instructions for operating the precinct on election day.

8220.4150 PRECINCT HEADER CARD.

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

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8220.4250 INSTRUCTION POSTERS.

At least 25 days before every state election the secretary of state shall prepare and furnish to the county auditor of each county in which an electronic voting system with marking devices is used, posters with instructions for use of the voting devices. One poster must be furnished for each voting booth or voting station.

CONDUCT OF ELECTIONS IN PUNCH-CARD PRECINCTS

8230.0050 APPLICABILITY.

Parts 8230.0050 to 8230.2350 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where ballot cards must be inserted into a marking or voting device.

8230.0150 PROCEDURES.

Unless otherwise provided for in Minnesota law or in parts 8230.0050 to 8230.2350, paper ballot procedures as provided in Minnesota Statutes, chapter 204A must be followed to the extent possible.

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

8230.0250 ARRANGEMENT OF VOTING DEVICES.

Voting devices may be used in voting booths or self-contained stations. The booths or stations must be equipped with lights or arranged so that adequate lighting is available for voters to be able to see and mark the ballots. The booths or stations must be arranged so the secrecy of the ballot is not violated. If a voter claims that the arrangement of the booths or stations does not afford the opportunity to vote in secrecy, the judges shall rearrange the device or booth to provide for increased secrecy.

8230.0350 EXAMINATION OF VOTING DEVICES.

The election judges shall inspect the voting devices by:

A. comparing the seal number of the devices 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 the 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, attempting to punch or mark in the card places other than those indicated by an arrow, and 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-ins in each voting booth or self-contained voting station;

G. checking each stylus to see that it is not broken and that it has a point; and

H. checking that there is adequate lighting and that the lights are in proper working condition.

8230.0450 DISCREPANCY IN DEVICE.

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

8230.0550 DEMONSTRATION VOTING DEVICES.

The demonstration voting devices must be arranged so as to be able to offer each voter an opportunity to use it prior to voting.

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

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

Any voter who requests additional information about the voting system must be instructed by an election judge about the system and counting procedures.

8230.0650 VOTING PROCEDURE.

The election judge shall not deliver a ballot card to a voter until the judge has received a signed voter certificate or a voter receipt. The ballot card number must be recorded on or attached to the certificate or receipt. Ballot cards and envelopes are not to be issued until a voting station is vacant.

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

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, the election judges shall instruct the voter to return to the voting station and place the ballot card in the envelope.

8230.0750 DEPOSITING VALID BALLOT.

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 or receipt 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 must be placed in the spoiled ballot envelope and not counted. In no case may a spoiled ballot card be placed in the ballot card box.

If the numbers match, 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.

8230.0850 SPOILED BALLOT CARDS.

If a voter spoils a ballot card by inadvertently defacing it or removing the prenumbered ballot card stub or requests a new ballot card, the voter shall secretly place the ballot card in the ballot envelope and return it to the election judge and the judge shall give the voter another ballot card and ballot envelope. The spoiled ballot card and ballot envelope must be placed in the envelope marked "SPOILED BALLOT CARDS." One of the election judges shall note the change in the ballot card number given the voter upon the voter certificate or receipt. The method of changing the number of the ballot card issued must be by drawing a line through the number of the original ballot issued and writing the new number above.

8230.0950 REVIEW OF SEALS AND LABEL PAGES.

As frequently as possible and at least every half hour the election judges shall check the seals and ballot label pages of the voting devices to assure that none has been altered or defaced. Should the judges find that the ballot label pages of a device have been altered, mutilated, or damaged in such a manner that the judges cannot correct them without doing damage to the offices and candidates' names appearing on them, the device may not be used until the condition is corrected. A note of the occurrence must be made in the precinct certification.

8230.1050 BALLOT CARDS FOUND IN VOTING BOOTHS OR STATIONS.

Any ballot card found in a booth or station must be marked "found in booth." The card must be placed in an envelope which must be placed in the transfer case. In no case may that ballot be placed with the properly cast ballots. A note of the occurrence must be made in the remarks section of the precinct certification.

8230.1150 PROCEDURES FOLLOWING CLOSE OF POLLS.

Subpart 1. **Ballot cards not issued, secured.** All ballot cards and envelopes which are not issued to voters must be secured for return to the official in charge of the election for the election jurisdiction.

Subp. 2. **Inspection.** The ballot labels and seals of each voting device must be inspected to ensure 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 must be noted in the remarks section of the precinct certification.

Subp. 3. **Total number of voters.** The total number of voters, determined pursuant to Minnesota Statutes, section 204C.20, subdivision 1 must be entered on the precinct certification.

8230.1250 COUNTING BALLOTS.

The election judges shall open the ballot box and remove the ballots. Prior to removing the ballots from their envelopes they must be counted to determine the total number. The judges shall compare the total number of names recorded in the precinct certification. If the ballots are in excess of the number of electors voting and it is impossible to reconcile the number, the ballots must be replaced in the ballot box and one of the election judges shall publicly draw out a number of ballots equal to the excess.

Any excess ballots while still in their envelopes must 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 must 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

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in part 8230.1150, the reason for the discrepancy must be noted in the precinct certification. If the judges are unable to explain the discrepancy, they shall so state in the precinct certification.

8230.1350 WRITE-IN VOTES.

At a general election, each ballot in its envelope or the write-in ballot portion of a combination ballot card and write-in ballot must be examined for write-ins. Ballot cards for which no write-ins exist must be separated from their envelopes. The envelopes must be placed in a sturdy container, which must be marked with the precinct name, and delivered at the same time the voted ballots are delivered to the county auditor or municipal clerk.

If a write-in vote exists, the judges shall number the ballot envelopes 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.

8230.1450 VALID WRITE-IN VOTE.

A valid write-in vote must have on the appropriate designated place for write-ins the following information: an office to be voted on at that election and any name to be considered as a write-in candidate for that office.

Stickers containing this information are permissible.

8230.1550 INVALID WRITE-IN VOTE.

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 are not valid.

8230.1650 RECORDING VALID WRITE-IN VOTES.

When a valid write-in vote 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.

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 must be placed with the other valid ballot cards for tabulation. The envelope containing the write-in vote must be placed in a separate pile containing write-in votes.

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 is prescribed in part 8230.3850.

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.

8230.1750 DEFECTIVE BALLOT CARD; CHAD.

Subpart 1. **Examination.** The judges shall examine all ballot cards for ballot cards with chad hanging and for defective ballot cards.

Subp. 2. **Hanging chad.** The intent of the voter is to be ascertained when processing ballot cards. A ballot card with a chad hanging must be processed in the following manner:

A. If a chad is found attached to the card by one or two corners, the chad must be removed by the election judge and the ballot card placed with the other valid ballots.

B. If a chad is found hanging by three corners the ballot card is defective for that office and must be placed in the envelope for original cards for which duplicates are to be made at the counting center.

8230.1850 DEFECTIVE BALLOT.

If 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 the ballot card is defective and may not be counted. The ballot card must be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

8230.1950 NUMBER OF BALLOT CARDS COUNTED AND RECORDED.

Subpart 1. **Number agreement.** 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 part 8230.1700, 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 must be entered in the appropriate place on the precinct certification and on the transfer case certificate.

Subp. 2. **Entries on precinct certification.** 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 envelopes issued to the precinct, the number of ballot cards issued to voters, the number of spoiled ballot cards, the number of defective ballot cards, the number of cards for which duplicates are to be made for any reason, and the number of ballot cards not issued to voters.

8230.2050 ITEMS IN TRANSFER CASE.

Subpart 1. **Content.** The election judges shall place in the transfer case for delivery to the counting center all of the following items:

A. valid voted ballot cards;

B. ballot envelopes with write-in votes;

C. envelope containing paper absentee ballots;

D. envelope containing spoiled ballot cards;

E. envelope containing defective ballot cards;

F. envelope containing original ballot cards for which duplicates are to be made for any reason;

G. envelopes with notations concerning any other issued ballot cards contained which are not to be counted;

H. certificate signed by the judges indicating number of ballot cards received, issued, and used;

I. write-in tally return sheet;

J. precinct header card (if included in precinct supplies); and

K. precinct certification.

Subp. 2. Second transfer case. 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 must be used and the sealing and security handled in the same manner as the transfer case.

8230.2150 CERTIFICATE OF ELECTION JUDGE.

The election judges shall sign a "certificate of election judges." The certificate must state:

A. the number of persons voting as shown by the precinct certification;

B. that prior to the opening the polls, all voting devices were examined and found to be sealed with metal seals bearing the same numbers as certified by the election jurisdiction;

C. that the ballot labels were in their proper places;

D. 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;

E. that at the close of the polls each voting device 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;

F. the number of ballot cards being submitted for tabulation;

G. that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precinct certification;

H. that all ballot cards requiring duplication are in the proper envelope;

I. that all ballot cards have been examined for hanging chad;

J. that all write-in votes have been properly recorded;

K. 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; and

L. the number of the seal used to seal the transfer case.

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8230.2250 DELIVERY OF TRANSFER CASE.

Subpart 1. **Seal and certificate.** The transfer case must be sealed with a seal so that it is impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal must be a certificate signed by the judges indicating its content, the precinct name, and the number of the seal used to seal the case. The seal number must also be recorded in the certificate of the election judges. The transfer case certificate must be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the seal.

Subp. 2. **Delivery by two election judges.** The transfer case containing the required items as identified in part 8230.2050 must be delivered to the counting center by two election judges, not of the same political party.

8230.2350 DELIVERY OF BALLOT ENVELOPE CONTAINER.

The container which holds the ballot envelopes issued to voters but containing no write-in votes must be delivered to the counting center by the same election judges who deliver the transfer case containing voted ballots.

ABSENTEE BALLOTS FOR PUNCH-CARD SYSTEMS

8230.3050 APPLICABILITY.

Parts 8230.3050 to 8230.3250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8230.3150 ABSENTEE BALLOTS, GENERAL PROVISIONS.

The issuing, receipt, processing, and tabulation of absentee ballots in election jurisdictions using punch-card electronic voting systems must conform to law and parts 8230.0050 to 8230.4250.

Voters requesting absentee ballots must be supplied with paper absentee ballots, except as provided by Minnesota Statutes, section 203B.08, subdivision 1a. Absentee votes must be cast on paper absentee ballots and delivered either to an absentee ballot precinct as provided by law or to the polling place in the voters' precinct.

8230.3250 ABSENTEE VOTING, ELECTRONIC VOTING SYSTEM.

Subpart 1. **Applicability.** This part applies only when municipal clerks administer absentee ballots as provided in Minnesota Statutes, section 203B.08, subdivision 1a, for voters applying in person at the clerk's office for an absentee ballot.

Subp. 2. **Ballot cards.** Ballot cards issued to voters under Minnesota Statutes, section 203B.08, subdivision 1a, must conform to all of the provisions of part 8220.3050.

Subp. 3. **Ballot labels and voting devices.** Ballot labels and voting devices must be prepared as provided in parts 8220.3050 and 8220.3350. At least one voting device must be available for each precinct in the municipality and placed in a proper booth or voting station within the building where the office of the clerk is maintained.

Subp. 4. **Demonstrator.** A demonstrator voting device must be available to absentee voters and instructions for casting a ballot on an electronic voting system must be offered to each absentee voter by the municipal clerk or an election judge trained under parts 8240.0100 to 8240.2600.

Subp. 5. **Issuing ballot cards.** The municipal clerk shall remove the smaller numbered stub from the ballot card when it is issued to the voter. The smaller numbered stubs must be placed in an envelope marked "Absentee Ballot Stubs" and retained by the municipal clerk in the clerk's office.

Subp. 6. **After voting.** The voter must be instructed to insert the voted card in the ballot envelope and to fold the large numbered stub over the outside of the envelope. The voter shall next insert the ballot envelope in the absentee return envelope and seal it. The certificate of eligibility on the back side of the return envelope must be completed by the voter and a witness, and the voter shall give the municipal clerk the return envelope with the voted ballot card and its envelope sealed inside.

Subp. 7. **Voted ballot cards.** Absentee return envelopes with voted ballot cards must be retained by the municipal clerk in a secure container that will not damage the machine readability of the card. The municipal clerk shall deliver the absentee return envelopes with voted ballot cards to the election judges in the appropriate precinct on election day.

Subp. 8. **Processing.** When election judges have processed the absentee return envelopes as provided in Minnesota Statutes, section 203B.12, the ballot envelopes must be removed from the return envelopes marked "accepted." The large numbered stub must be removed from each ballot card before each ballot envelope is deposited in the ballot box along with the ballot cards of voters voting in person.

Subp. 9. **Disposition of stubs.** The election judges shall attach one large numbered stub to each absentee return envelope marked "accepted" from which a ballot envelope was removed. The stubs may be attached after all of the ballot envelopes have been removed and the large stubs detached.

Subp. 10. **Reconciliation.** The return envelopes with stubs attached must be placed with the voter certificates or receipts and "accepted" return envelopes of voters casting paper absentee ballots and included in the count to arrive at the total number of persons voting in the precinct. To arrive at the proper number of ballot cards to be tabulated, the "accepted" return envelopes with stubs attached must be counted with the voter certificates or receipts and the total must equal the number of ballot cards to be tabulated. The reconciliation of the ballot cards and number of persons voting must be entered on the precinct certification.

COUNTING CENTER PROCEDURES FOR PUNCH-CARD SYSTEMS

8230.3350 APPLICABILITY.

Parts 8230.3350 to 8230.4250 apply to punch-card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

8230.3450 PRELIMINARY PROCEDURES.

The persons who operate the computer used for tabulation of ballots on election night may not be the same persons who wrote the computer program. This does not exclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operators shall take and subscribe to the election judges' oath.

The state chair of a major political party or a designee may appoint by written certificate one person to be present in the immediate area of the computer in the counting center during all activities and operations of the center. The major political party representative may observe all procedures but may not interfere in any way and may not touch any computer or ballot materials.

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.

8230.3550 TEST OF PROGRAM BEFORE AND AFTER TABULATION.

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 must be conducted with the test deck or ballot image designated in parts 8200.1100 and 8200.1200. Copies of these test results must be designated "prior to tabulation of ballots" or "after tabulation of ballots." A copy of each test certificate must 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.

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 ensure that the program and computer are operating accurately.

8230.3650 MAINTAINING AND CERTIFYING LOG.

A console log including the count and accuracy test and the tabulation of the ballots must 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 must 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 must be maintained.

8230.3750 PROCEDURES FOR TRANSFER CASES.

Subpart 1. **Identifying case.** 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 must then be opened and checked to see that it contains the ballots and all other material required by parts 8230.0050 to 8230.4250. The opened metal seal from the transfer case must be placed inside the case. The identification on the case must be noted on all reporting materials. Authorized counting center personnel must then issue a certificate to the election judges delivering the case acknowledging receipt of all materials.

Subp. 2. **Delivery to counting center.** The transfer case containing the ballot cards must 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.

Subp. 3. **Placing header card.** In processing the ballot cards of a given precinct, the computer center header card and the precinct header card must be placed in front of the deck of ballot cards of the respective precinct. The end card must immediately follow the deck of ballot cards.

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Subp. 4. **Sealing after count.** Immediately upon the completion of the counting of a precinct, all ballot cards for the precinct and precinct header cards must 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.

Subp. 5. **Verifying number of cards.** 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 must be made of the pertinent facts on the statement of returns.

8230.3850 DUPLICATION OF BALLOTS.

Any ballots requiring duplication at the counting center must be duplicated in the following manner:

A. Whenever a ballot card is required to be duplicated, the duplication process must 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 must be identified with a single number written on both cards. The number on the duplicate card must be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering must be serial.

C. The reason for duplication such as ''write-in,'' ''chad,'' or ''damaged,'' must be written on the duplicate ballot card. 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. The duplicate ballot card must be compared against the original ballot card to assure it has been accurately duplicated.

E. All original ballot cards which require duplication must be placed in an envelope marked ''original ballot cards for which duplicates have been made.'' The duplicated ballot card must be placed with the other valid ballot cards to be tabulated.

F. Any writing required on any ballot card must be done with a soft-tip marking instrument.

8230.3950 COPIES OF RETURNS.

The election official in charge of the counting center must certify four copies of the returns. The certification must 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, number of ballots counted, vote totals, and any other data required 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 forms designated by the secretary of state for the purpose of preparing the state canvassing board report and publication of election results.

8230.4050 DISTRIBUTION OF RETURNS.

Returns referred to in part 8230.3950 must 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 filed 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 required by the secretary of state for preparation of the state canvassing board report and other public reports of the election must be completed and returned to the secretary of state.

8230.4150 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 prescribed in part 8230.4050 shall retain ballots and voter certificates for one year unless otherwise ordered by a court order or recount procedure pursuant to the Minnesota election laws. Test decks or ballot images, accuracy test results, and computer programs must be delivered to the county auditor.

8230.4250 COUNTY AUDITOR TO MAINTAIN MATERIALS.

The county auditor must maintain all the material forwarded as required in parts 8230.4050 and 8230.4150 for a period of one year unless otherwise advised by a court order or recount procedure pursuant to the Minnesota election laws.

REPEALER. Minnesota Rules, parts 8200.2300; 8220.0100; 8220.0200; 8220.0300; 8220.0400; 8220.0500; 8220.1000; 8220.1100; 8220.1200; 8220.1300; 8220.1400; 8220.2000; 8220.2100; 8220.2200; 8220.2300; 8220.2400; 8220.2500; 8220.2600; 8220.2700; 8220.2800; 8220.2900; 8220.3000; 8220.3100; 8220.3200; 8220.4000; 8220.4100; 8220.4200; 8220.4300; 8220.4400; 8220.4500; 8220.4600; 8220.4700; 8220.4800; 8220.5000; 8220.5100; 8220.5200; 8220.5300; 8220.5400; 8220.5500; 8220.5600; 8220.5700;

8220.5800; 8220.5900; 8220.6000; 8220.6100; 8220.6200; 8220.6300; 8220.6400; 8230.0200; 8230.0300; 8230.0400; 8230.0500; 8230.1000; 8230.1100; 8230.1200; 8230.1300; 8230.1400; 8230.1500; 8230.1600; 8230.1700; 8230.1800; 8230.1900; 8230.2000; 8230.2100; 8230.2200; 8230.2300; 8230.2400; 8230.2500; 8230.2600; 8230.2610; 8230.2700; 8230.2800; 8230.2900; 8230.3000; 8230.3300; 8230.3500; 8230.3600; 8230.3700; 8230.3800; 8230.3900; 8230.4000; 8230.4100; 8230.4200; 8230.4300; 8230.4400; 8230.5000; 8230.5100; 8230.5200; 8230.5300; 8230.5400; 8230.5500; 8230.5600; 8230.5700; and 8230.5800 are repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce

Adopted Rules Repealing Commercial Insurance Filing Exemptions

The rules proposed and published at *State Register*, Volume 9, Number 48, page 2566, May 27, 1985 (9 S.R. 2566) and Volume 10, Number 3, pages 89-90, July 15, 1985 (10 SR 89) are adopted with the following modifications:

Rules as Adopted

EFFECTIVE DATE. These rules are effective January 1, 1986.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota School of the Arts and Resource Center

Coordinator's Position Available

The Board of Directors of the Minnesota School of the Arts and Resource Center seeks individual to provide leadership and management functions during the establishment and on-going operation of the Resource Center, the extension arm of the School of the Arts. The purpose of the Center is to enhance arts education in elementary and secondary schools by providing improved opportunities for teachers and students through summer institutes, teacher training programs, curriculum development and distribution and exchange programs.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Qualifications include: management ability and experience in curricular, budgetary and personnel matters relating to education in the arts; leadership ability and extensive knowledge of the arts education community; ability to communicate orally and in writing with various groups; skills in the areas of inter-personal and public relations.

Salary: $38,315-$50,926. For application and additional info contact: Minn. School of the Arts and Resource Center, 709 Capitol Bldg., St. Paul, MN 55101, (612) 296-3271. Applications must be received by 12/20/85. This is not a classified civil service position.

Minnesota School of the Arts and Resource Center

Director's Position Available

The Board of Directors of the Minnesota School of the Arts and Resource Center seeds individual to provide leadership for development of a School of the Arts serving students in grades 9-12, through an interdisciplinary education program, including an academic curriculum and special programs in the visual, performing and literary arts. This individual will also be required to assume a leadership role and management function in the establishment of a Resource Center whose purpose is to offer programs in the aforementioned disciplines (dance, music, theatre, literary, media and visual arts) that are directed at the enhancement of arts education opportunities for teachers and students in elementary and secondary schools.

Qualifications: management ability and experience in curricular, budgetary and personnel matters relating to academic and arts education and training in the arts, including analytical and conceptual skills; leadership ability and knowledge of the arts disciplines; ability to communicate orally and in writing with various groups; skills in inter-personal and public relations.

Salary: $43,869-$57,858. For application and additional info contact: Minn. School of the Arts and Resource Center, 709 Capitol Square Bldg., St. Paul, MN 55101, (612) 296-3271. Applications must be received by 12/20/85. This is not a classified civil service position.

Department of Energy and Economic Development Agricultural Resource Loan Guaranty Board

Public Hearing on a Proposal to Issue Revenue Bonds to Finance Project Proposed by Blue Ribbon Gardens, Inc.

NOTICE IS HEREBY GIVEN that the governing body of the Agricultural Resource Loan Guaranty Board of the State of Minnesota (the "Board"), will meet on December 5, 1985, at 10:30 a.m. at the Minnesota Department of Energy and Economic Development, 900 American Center Building, Room 3, 150 East Kellogg Boulevard, Saint Paul, Minnesota for the purpose of conducting a public hearing on a proposal that the Board issue its revenue bonds under the Agricultural Resource Loan Guaranty Program pursuant to Minnesota Statutes, Chapter 41A, as amended, in order to finance the cost of a project. The proposed project will consist of the acquisition of various parcels of land within Martin County, the acquisition, renovation and equipping of an existing building located in Ceylon, Minnesota as a farm produce processing facility, and construction and equipping of greenhouse facilities located in Martin County. The proposed project will be owned by Blue Ribbon Gardens, Inc. The estimated total amount of the proposed issue is $2,010,000. The bonds shall be a limited obligation of the Board and the bonds and interest thereon shall be payable solely from the revenues pledged to the payment thereof, except that such bonds may be secured by a mortgage and other encumbrance on the project. No holder of any such bond shall ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bonds, or the interest thereon, nor to enforce payment against any property of the State except the project.

A draft copy of the proposed application to the Minnesota Department of Energy and Economic Development for approval of the project, together with all attachments and exhibits thereto, is available for public inspection at the Board offices.

All persons interested may appear and be heard at the time and place set forth above.

November 7, 1985

By Order of the Agricultural Resource
Loan Guaranty Board,
Jay Kiedrowski

Department of Health

Public Forum to Discuss Whether a Need Exists for the State to Regulate Acupuncturists

As per Minn. Rules 4695.1400, Subp. 3. a public forum will be held from 9:00 a.m.-12:00 noon on December 12, 1985 in Room 105 of the Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. The public forum will provide for public participation in the process to determine whether a need exists for the state regulation of acupuncturists. The public forum will also provide for the collecting of information and the raising and clarifying of issues related to the state regulation of acupuncturists.

The public forum shall be open to all persons. All interested persons will be given an opportunity to make a presentation although time limits may be imposed.

For more information regarding the public forum, please contact Mary Cahill at (612) 623-5612 or Norm Hanson at (612) 623-5443.

Department of Health
Office of Health Systems Development

Outside Opinion Sought Regarding Proposed Rules Governing Health Maintenance Organizations

Notice is hereby given that the Minnesota Department of Health is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing subrogation and coordination of benefits by health maintenance organizations. Current considerations are to amend Minn. Rule part 4685.0900 and, where applicable to health maintenance organizations, to incorporate certain provisions of the Model Coordination of Benefits regulations adopted by the National Association of Insurance Commissioners in June, 1985.

The promulgation of these rules is authorized by Minnesota Statutes § 62D.20 which permits the Commissioner of Health to promulgate such reasonable rules which are necessary or proper to carry out the provisions of section 62D.01 to 62D.29.

The Department of Health requests comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Kent E. Peterson
HMO Unit
Room 217
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Oral statements will be received during regular business hours over the telephone at 623-5365 and in person at the above address. Any written material received by the Minnesota Department of Health shall become part of the record in the event the rules are promulgated.

October 25, 1985

Sister Mary Madonna Ashton
Commissioner of Health

Housing Finance Agency

Public Hearing on Annual Policy Statement

The Minnesota Housing Finance Agency (Agency) will hold a public hearing pursuant to Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended, on December 6, 1986, at 1 p.m. in the Agency's Board Room, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998. The subject of this hearing is the annual policy statement as described in Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended.

All persons interested will be given an opportunity to express their views. Persons desiring to speak at the hearing must so request in writing at least 24 hours before the hearing. Oral remarks by any person will be limited to ten minutes. A draft of the report can be obtained by submitting a written request to Laurel Nelson, Minnesota Housing Finance Agency, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998. The report is a statement of the policies with respect to housing, development, and low-income housing assistance, which the Agency is to follow in issuing qualified mortgage bonds and mortgage credit certificates in 1986. The proposed report is a statement of the housing, development, and low-income policies the Agency will follow in its proposed Homeownership, Home Improvement, and Home Energy Loan Programs (?). Further, the report is a statement of the policies the Agency will follow in providing financing for the acquisition of residences and providing financing for qualified home improvement loans. In addition, the report is a statement of the policies the Agency will follow with respect to target areas as described in Section 6a 103A-2(b)(3) and the policies the Agency will follow for low-income housing assistance. Finally, the annual policy statement discusses the Agency's compliance with its previously filed annual policy statement dated February 15, 1985.

Pollution Control Agency
Division of Water Quality

Notice of Board Review of Metropolitan Council's 208 Plan on Water Resources Management

The Twin Cities Metropolitan Council has submitted amendments to its ''Water Resources Management Development Guide/ Policy Plan'' (Part 1 208) on sewage treatment and handling for the Seven County Metropolitan area to the Minnesota Pollution Control Agency (MPCA). In accordance with federal requirements the MPCA has 120 days to review and approve the Metropolitan Council's Plan, The MPCA will review the Council's 208 Plan at the January 27, 1986 Board meeting. After approval of the Plan by the MPCA Board and subsequent certification by the Governor, the Plan will be forwarded to the U.S. Environmental Protection Agency.

Further notices will be made regarding MPCA Board action on the Plan and the Governor's certification.

Copies of the Metropolitan Council's 208 Part 1 Plan are on file at the MPCA (the contact is Randy Burnyeat (612) 296-7765), and at the Metropolitan Council (Marcel Jouseau, (612) 296-6402).

November 8, 1985

Michael Robertson
for
Thomas J. Kalitowski
Executive Director

Revisor of Statutes

Notice of Publication of Minnesota Rules 1985

Minnesota Rules 1985 is now available. This edition contains the compiled rules of state agencies adopted through April 8, 1985. It costs $125 for the set or $13 for an individual volume, and may be purchased from the State Register and Public Documents Division, Department of Administration, 117 University Avenue, St. Paul, MN 55155. Orders must be prepaid. Minnesota Rules 1985 will be updated with two supplements in 1986, scheduled for April and December.

State Board of Vocational Technical Education

Notifications List to Be Compiled on Post-Secondary and Extension Aid Allocation Decisions

Interested persons wishing to be notified of all post-secondary and extension aid allocation decisions of the State Board of Vocational Technical Education may submit their names and addresses to Margaret Spencer, Communications Director, State Board of Vocational Technical Education, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, or may call (612) 296-8555.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
07-700-37253-3920	Title Application	Public Safety	St. Paul	Contact buyer
55-000-93324-5-6-7-3971-2-3-4	Special Notice—Eligibility Assessment—Registration & Request Case Review Forms	Human Services	St. Paul	Contact buyer
07-500-33802	Emergency Lights	Public Safety	St. Paul	Contact buyer
79-000-50370	Electrographic Plotter Supplies	Transportation	St. Paul	Contact buyer
79-700-A	Aggregates	Transportation	Mankato	Contact buyer
02-511-47324	Perma Stamps	Administration—Central Stores	St. Paul	Contact buyer
26-073-18321	Purchase of Analog/Hybrid Computer Control System	St. Cloud State University	St. Cloud	Contact buyer
27-000-48562, etc.	Satellite Systems	Community Colleges	Various	Contact buyer
07-700-37134-3821	Prebill Title	Public Safety	St. Paul	Contact buyer
21-200-11581-3699	UI Benefit Information Booklet	Jobs & Training	St. Paul	Contact buyer
79-000-50339	Controller	Transportation		Contact buyer
79-000-50341	Luminaires	Transportation		Contact buyer
Contract	Genuine Detroit Diesel Engine and Allison Transmission Repair Parts	Various	Various	Contact buyer
26-073-18361	Purchase of Plotter System	St. Cloud State University	St. Cloud	Contact buyer
55-000-93373 & 4-4099-4100	Eligibility Information DHS106A & B	Administration—Central Stories	St. Paul	Contact buyer
07-100-37067-3731	Outsmarting Crime	Public Safety	St. Paul	Contact buyer
02-511-47323-3724	Office Information Memo	Administration—Central Stores	St. Paul	Contact buyer
02-511-47322-3675	Employee's Bi-Weekly Time Report	Administration—Central Stores	St. Paul	Contact buyer
68-000-00296	Wang Word Processing Equipment	MN Tax Court	St. Paul	Contact buyer
79-600-A	Aggregates	Transportation	Rochester	Contact buyer
78-620-25625	Law Enforcement Equipment	MN Correctional Facility	Stillwater	Contact buyer
32-100-13926	Purchase of CRT Terminals	Pollution Control Agency	Roseville	Contact buyer
30-000-15560	Purchase of Portable Computer	State Planning Agency	St. Paul	Contact buyer

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Contract	Ice Cream Mix	Human Services—State Hospitals & Institutions	Various	Contact buyer
32-200-13869	Purchase of Xyplex Controller	Pollution Control Agency	Roseville	Contact buyer
26-073-18333	Purchase of Multiplexors	St. Cloud State University	St. Cloud	Contact buyer
79-350-A	Aggregates	Transportation	St. Cloud	Contact buyer
55-000-93068 Rebid	Vending Machines	Human Services—Services for the Blind	St. Paul	Contact buyer
26-073-18246	Purchase of Multiplexors	St. Cloud State University	St. Cloud	Contact buyer
07-700-34916	Uniform Trousers	Public Safety	St. Paul	Contact buyer
29-002-11763	Fish Transportation Tank	Natural Resources	Grand Rapids	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Corrections
Community Services Support Unit

Request for Proposals for Community Resource Development Services for American Indians

In order to comply with state law, the Community Services Support Unit of the Minnesota Department of Corrections, hereby publishes its intentions to contract with a social service agency or interested individuals in north central Minnesota, experienced in providing services to Minnesota's American Indian population. The duration of the contract is expected to be 1/1/86 to 9/30/86. The maximum amount of the contract will be $33,000.00. The contractor will provide the following services for both male and female minority youths released from the Department of Corrections juvenile institutions to placements in northern Minnesota:

1. Identify and catalog resources in rural communities that are currently available to minority youth committed to the Minnesota Department of Corrections.

2. A community liaison worker who will actively participate in parole planning for rural minority youth committed to the Commissioner of Corrections.

3. A community liaison worker who will refer rural minority youth to community resources and assist the youth in the use of these resources, acting as an advocate when necessary.

4. Transportation for parents of rural minority youth to Department of Corrections institutions, for the purposes of visiting and parole planning.

5. Orientation of parents, families and significant others to the Department of Corrections, its mission, policies and practices.

6. Provide adult role models for the rural minority youth released from the Minnesota Department of Corrections institutions.

7. Serve as a community contact person for the Minnesota Department of Corrections parole services.

Proposals for the above contract are to be submitted by 4:30 pm, Friday, December 13, 1985 to Denis Doege, Project Director, Minnesota Department of Corrections, 300 Bigelow Bldg., 450 N. Syndicate St., St. Paul, Minnesota 55104. Further details regarding this program can be obtained by contacting Denis Doege by phone at 612-642-0349.

Department of Energy and Economic Development Governor's Rural Development Council

Request for Proposals for Specialty Crop Demonstration Farm

The Minnesota Department of Energy and Economic Development, on behalf of the Governor's Rural Development Council (MN DEED/GRDC), is requesting proposals from qualified individuals interested in working with MN DEED/GRDC on a project to develop an efficient, productive and profitable small farm producing high value cash crops, and implementing specialized marketing techniques in Minnesota.

The work is to be completed no later than December 31, 1986. Proposals are being requested to complete the following major activities:

A. Identify a mixture of high cash value specialty crops which will provide year round income (e.g. asparagus, broccoli, peppers, direct meat sales, honey, wood, maple syrup) in the State of Minnesota.

B. Develop innovative produce marketing methods such as a clientele membership club.

C. Determine an income goal per acre utilizing intensive rather than extensive farming.

It is estimated that the cost of this activity need not approach but shall not exceed $17,500. Proposals should be received by MN DEED/GRDC no later than 4:30 p.m., Friday December 20, 1985.

The formal Request for Proposals document may be requested and inquiries should be directed to:

Lori Widmark, Program Manager
Governor's Rural Development Council
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612/296-3993)

Department of Human Services Anoka State Hospital

Request for Proposals for Medical Services

Notice is hereby given that Anoka State Hospital, Mental Health Bureau, Department of Human Services, is seeking the services of an Anoka area based Medical Provider to provide emergency and/or inpatient and outpatient treatment for services not available at Anoka State Hospital. The contract will be written for the term of January 1, thru June 30, 1986, not to exceed $15,000.00 excluding third party payments. Responses must be received by December 9, 1985. Direct inquiries to: Steve Johnson, Business Manager, Anoka State Hospital, 3300 - 4th Avenue North, Anoka, Minnesota 55303. Telephone: 422-4838.

Metropolitan Waste Control Commission

Public Notice for Prequalifications for Engineering Services

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering services for the following:

Metropolitan Wastewater Treatment Plant
Odor Assessment and Control/Non-Criteria Emission Test Plan

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees, and the demonstrable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting firms to provide engineering services.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in the project or services and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in the project or services and the necessary information, if any, to update their prior prequalifications, to the Metropolitan Waste Control Commission, 350 Metro Square Building, St. Paul, Minnesota, 55101. Inquiries regarding the solicitation should be directed to Mr. Ray Payne, Deputy Director of Engineering, 612-222-8423.

November 7, 1985

By Order of the
Metropolitan Waste Control Commission,
Mr. Louis J. Breimhurst
Chief Administrator

Department of Transportation

Request for Proposals for Evaluating and Testing Microcomputer Software for Travel Demand Forecasting

The Minnesota Department of Transportation (Mn/DOT) in cooperation with the Metropolitan Planning Organizations (MPO's) requests proposals for the performance of services to evaluate and test microcomputer software for travel demand forecasting.

The components of the project are to update and expand an existing summary of software, conduct case studies using several of the software packages, propose potential modifications to improve the programs and/or intermediary computer programs to interface several software packages and provide the necessary information for the MPO's to integrate a microcomputer software package(s) into their travel demand forecasting process.

The proposal shall be submitted in five copies and mailed to: Caren Grantz-Miller, Project Manager, Minnesota Department of Transportation, Room 820, Transportation Building, St. Paul, Minnesota 55155; Telephone: (612) 297-1466.

The Department of Transportation does not promise to accept the lowest or any other proposal, and reserves the right to reject any or all proposals, to waive any formal proposal requirements, to reject any provision in any proposal, to obtain new proposals or to proceed to do the work otherwise. All proposals must be received by the Project Manager no later than 5:00 p.m. on December 6, 1985, and will be reviewed by a Project Committee consisting of Mn/DOT and MPO representatives. Mn/DOT will notify the successful proposer in writing within 30 days following its selection. Mn/DOT is not liable for any cost incurred by the proposer prior to execution of a contract.

The proposal should consist of the methods proposed to accomplish the objectives of the project, the principals performing the work and the cost, person hours, and timeframe per task. In addition, materials describing related experience, qualifications of key personnel and references should be included. The project period shall run six months from award and signing of the contract. The source of funding will be the Federal Highway Administration planning funds and the Minnesota Deprtment of Transportation totaling $28,750.

State Board of Vocational Technical Education

Request for Proposals to Deliver Student Support Services to Incarcerated Adult Vocational Education Students

The State Board of Vocational Technical Education is requesting proposals from qualified contractors to design and implement a student support service system which augments existing educational support services for incarcerated adults. The target adult incarcerated population are individuals who aspire to enroll and/or are enrolled in a post-secondary vocational program.

The objective of this project is to provide post-secondary vocational program accessibility through occupationally specific computation, communication remediation, Vocational English as a Second Language, career exploration and/or development thereof.

The work scope and project are outlined in the RFP document. The cost estimate for the project is approximately $67,000.

The formal RFP may be requested by contacting:

Jerry Guevara, Specialist of Student Support Services
Instructional & Student Support Services
Minnesota State Board of Vocational Technical Education
Room 533—550 Cedar Street
St. Paul, Minnesota 55101
Telephone Number: (612) 296-5707

TIME LINES:

All proposals must be received by the State Board of Technical Education by 4:00 p.m., December 23, 1985.

SUPREME COURT CALENDAR

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

DECEMBER 1985

MONDAY, DECEMBER 2, 1985

84-1826 BRANDHORST, ERNEST C., ET AL (Attorney: Peterson, Engberg & Peterson and Joseph B. Nierenberg) vs. SPECIAL SCHOOL DISTRICT NO. 1 (Attorney: Fredrikson & Byron and Frederick E. Finch). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does the Minnesota Court of Appeals have jurisdiction to review, by writ of certiorari, boards of education discharge proceedings against tenured teachers?

Does the Teacher Tenure Act for cities of the first class require Petitioner-Appellant school district to restructure existing teaching positions and to subject employees to involuntary reassignment in order to ensure the continued employment of displaced employees?

Does the Teacher Tenure Act for cities of the first class require the school district to promote a teacher whose position has been terminated to a position with a longer work year?

84-1466 STRAND, ARLENE M., ET AL (Attorney: Peterson, Engberg & Peterson and Joseph B. Nierenberg) vs. SPECIAL SCHOOL DISTRICT NO. 1 (Attorney: Fredrikson & Byron and Frederick E. Finch). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does the Minnesota Court of Appeals have jurisdiction to review by writ of certiorari decisions of boards of education under the Teacher Tenure Act for cities of the first class?

Was the Petitioner school district required by the Teacher Tenure Act for cities of the first class to subject an employee to an involuntary reassignment to provide a less senior employee with a position for which she was licensed?

Does the Teacher Tenure Act for cities of the first class require discharge of tenured teachers on the basis of age? [All issues as stated in the brief of Special School District No. 1]

TUESDAY. DECEMBER 3, 1985

85-1009 FREEMAN, SUSAN M. (Attorney: Jacobowski, Doffing, et al., and William J. Hennessy) vs. ARMOUR FOOD COMPANY, ET AL (Attorney: Mahoney, Dougherty, et al, and Gary C. Reiter). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Workers' Comp. Court of Appeals.

Do the Workers' Compensation Courts have jurisdiction to award the claim of an interested party that has intervened to protect its interests in accordance with Minn. Stat. 176.361?

Was the employee entitled to temporary total disability benefits due to her work-related injury from December 15, 1980 through December 10, 1981, thus mandating reimbursement to the intervenor pursuant to Greibel v. Tri-State Insurance Co., 311 N.W.2d 156 (Minn. 1981)?

Did the Workers' Compensation Court of Appeals exceed its jurisdiction by ruling on an issue not raised in the Notice of Appeal? [All issues as in brief of Respondent, Farmers Insurance Group]

85-249 STATE OF MINNESOTA (Attorney: Foley, Tom, County Attorney, and Steven C. DeCoster, Assistant) vs. DANIELS, LEONARD RAY (Attorney: Jones, C. Paul, Public Defender and Anne M. Lewis). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Judgment Ramsey County.

Does the direct and circumstantial evidence that the accused planned and started a fire in the apartment he shared with the mother of a seven-month-old child, whom he knew was within and would be burned to death in the fire, support verdicts by the jury of his guilt of murder in the first and second degrees and arson in the first degree?

Do statements of the child victim's brothers inculpating the accused made soon after the fire and while still under the emotional impact of the event may be admitted under Rules of Evidence, Rule 803(2)?

May statements of the child's mother be received in evidence when the State has established a prima facie case that there was a conspiracy between her and the accused to commit the crimes charged and that the particular statements were made in the course and in furtherance of that conspiracy, pursuant to Rules of Evidence, Rule 801(d)(2)(E)? [All issues as in brief of Respondent, Daniels]

WEDNESDAY, DECEMBER 4, 1985

84-1243 BERQUIST, EDWARD W., TRUSTEE FOR THE HEIRS OF ERIK HENRY BOTEUS (Attorney: Stuurmans & Karan and Bradlee Karan) vs. MEDTRONIC, INC. (Attorney: Faegre & Benson and G. Alan Cunningham). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the trial court prematurely dismiss plaintiff's claims on the doctrine of forum non conveniens?

84-1209 HOSLEY, PATRICK E., ET AL (Attorney: Hertogs, Fluegel, et al, and Kathy A. Endres) vs. ARMSTRONG CORK COMPANY, ET AL (Attorney: Collins, Buckley, et al, and Patrick T. Tierney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

By executing a Pierringer Release, does Plaintiff agree to limit the liability of each non-settling defendant to its percentage of causal fault?

Does the fault reallocation statute apply to all parties to the transaction?

If the fault reallocation statute does not apply, does the non-settling defendant have a common law right to equitable reallocation from the settling defendants?

THURSDAY, DECEMBER 5, 1985

84-1119 ANDERSON, TOM S. (Attorney: Popham, Haik, et al, and Michael T. Nilan) vs. MEDTRONIC, INC. (Attorney: Fredrikson & Byron and Terrence Fruth). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the trial court commit prejudicial error in submitting the question of bad faith to the jury?

May Minn. Stat. 181.14, which authorizes the recovery of the "costs of such suit," be construed to authorize the recovery of attorneys' fees? [Issues as in brief of Respondent, Medtronic, Inc.]

84-1778 NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS (Attorney: Faegre & Benson and James B. Loken) vs. SCHUSTER, JOSEPH M. (Attorney: Maun, Green, et al, and Richard D. Donohoo). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Where Plaintiff amended its complaint prior to trial, is Defendant allowed as a matter of right to serve and file an amended answer and counterclaim without leave of court?

Did the trial court abuse its discretion in treating Appellant's motion to set for trial as one to amend his counterclaim and in denying said motion?

Where trial of Respondent's action and Appellant's amended counterclaim was bifurcated by the trial court, was Appellant entitled to a trial on his amended counterclaim after completion of trial of Respondent's claims? [All issues as in brief of Appellant, Shuster]

MONDAY, DECEMBER 9, 1985

85-600 BUSCH, LEONARD S. (Attorney: Lindquist & Vennum and J. Michael Dady) vs. COUNTY OF HENNEPIN (Attorney: Johnson, Thomas L., County Attorney and Robert T. Rudy, Assistant). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Tax Court.

Is a greenhouse taxable as a structure, building or improvement within the meaning of "real property" under Minn. Stat. 272.03,

subd. 1(a) (1983) and not exempt from taxation as tools, implements, machinery or equipment under Minn. Stat. 272.02, subd. 1(13) (1983)? [Issue as in brief of Respondent, Hennepin County]

84-1915 NOVUS EQUITIES CORPORATION (Attorney: Dorsey & Whitney and George G. Eck) vs. EM-TY PARTNERSHIP, ETC, ET AL (Attorney: Holmes & Graven and David L. Graven). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Is a promissory note, given at closing on a contract for deed and primarily secured by a letter of credit, a downpayment note which survives cancellation of the contract for deed?

Was the trial court's determination under Rule 54.02 that there was no just reason for delay of entry of judgment arbitrary and capricious? [All issues as in brief of Appellant, EM-TY Partnership]

TUESDAY, DECEMBER 10, 1985

79-50661 JORISSEN, TIMOTHY W., IN THE MATTER OF THE APPLICATION FOR DISCIPLINE OF (Attorney: Wernz, William, Director of Lawyers Board of Professional Responsibility) (Opposing Counsel: Jorissen, Timothy W.). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Petition for Disciplinary Action.

Do the referee's findings and conclusion warrant Respondent's disbarment from the practice of law? [Issue as in Director's brief]

84-1274 KOHOUTEK, KEVIN, ET AL (Attorney: Lanier, Knox, et al, and Frank L. Racek [Fargo, No. Dakota]) vs. HAFNER, R. J., M.D., ET AL (Attorney: Cahill, Jeffries & Maring and Steven L. Marquart). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the trial court err in not submitting the theory of battery to the jury?

Did the trial court fail to properly define the term ''malpractice'' in the instructions as that term was used in the special verdict, and thus require reversal?

Did the trial court err in failing to delineate between negligent treatment and negligent non-disclosure in the special verdict form? [All issues as in brief of Appellant, Hafner]

85-146 STATE OF MINNESOTA (Attorney: Foley, Tom, Ramsey County Attorney, and Darrell C. Hill, Assistant) vs. ANDREWS, CHARLES WESLEY (Attorney: Jones, C. Paul, and Heidi H. Crissey). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Judgment Ramsey County.

Was the evidence sufficient to prove beyond a reasonable doubt that Appellant was guilty of Murder in the First Degree?

Was an oral statement, given voluntarily to police officers by Appellant while he was in custody and after he had been warned of his Miranda rights, properly admitted by the lower court?

Was Appellant denied a fair and impartial trial when the trial court denied his request to allow questioning of each prospective juror outside the presence of the others? [All issues as in brief of Respondent, State of Minnesota]

WEDNESDAY, DECEMBER 11, 1985

84-1595 ATLANTIC MUTUAL INSURANCE COMPANY (Attorney: Cosgrove, Hanson, et al, and Douglas Archibald) vs. THE JUDD COMPANY (Attorney: Moore, Costello & Hart and Ronald E. Martell). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does the comprehensive general liability insurance policy issued by Petitioner to Respondent preclude coverage for claims made against the Respondent?

Is Petitioner obligated to reimburse the Respondent for attorney's fees incurred by the Respondent in defending the declaratory judgment action where the trial court ruled that the insurance policy precluded coverage for claims made against Respondent?

Does Petitioner have a duty to defend Respondent where the trial court ruled that the insurance policy precluded coverage for claims made against Respondent? [Issues as in brief of Petitioner, Atlantic Mutual]

85-147 EFFINGER, VINCENT T. (Attorney: Jones, C. Paul, Public Defender and Susan K. Maki, Assistant) vs. STATE OF MINNESOTA (Attorney: Mitchell, Alan L., St. Louis County Attorney, and John E. DeSanto). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Was the evidence adduced at the post conviction hearing sufficient to establish that Appellant's resentencing under the provisions of the Minnesota Sentencing Guidelines would not be inimical to public safety?

Was Appellant denied his right to a plenary evidentiary hearing where the post conviction court refused to order the St. Louis County Sheriff to transport Appellant who was incarcerated at a state correctional facility to and from the evidentiary hearing at public expense?

Is Appellant entitled to vacation of his sentence for his conviction for unauthorized use of a motor vehicle pursuant to the provisions of Minn. Stat. 609.035?

Is Appellant entitled to jail credit towards the expiration of the consecutive sentence for unauthorized use of a motor vehicle? [All issues as in brief of Appellant, Effinger]

SUPREME COURT DECISIONS

Decisions Filed Friday, November 8, 1985

Compiled by Wayne O. Tschimperle, Clerk

C2-84-378, C6-84-528 State of Minnesota v. Jeffrey Dean Mattson, Petitioner, Appellant. Court of Appeals.

State's evidence was sufficient to establish that defendant committed criminal sexual conduct in the second degree, Minn. Stat. § 609.343(e)(i) (1984) (sexual contact where the defendant uses force or coercion and causes personal injury to the victim).

Trial court was justified in departing downward from presumptive sentence duration for criminal sexual conduct in the second degree where conduct involved, although serious, was significantly less serious than that typically involved in the commission of the offense.

Trial court properly gave defendant credit against concurrent sentence for time spent in jail in Wisconsin on a parole hold after Wisconsin authorities learned that defendant had been charged in Minnesota.

Affirmed as modified. Amdahl, C.J.

C0-85-700 State of Minnesota, Petitioner, Appellant v. Edward Charles Rodewald. Court of Appeals.

Police, on incident-to-arrest grounds, may conduct warrantless search—either at the scene of the arrest or at the police station—of an arrestee's pockets, wallet and other containers immediately associated with the person of the arrestee without having to articulate any need in the particular instance for such a search.

Police, pursuant to standardized procedures, may conduct inventory search of any arrestee who is to be jailed and, as part of such a search, may examine all of the items, including the contents of the arrestee's wallet, removed from the arrestee's person or possession.

Overintrusive search does not require suppression of items which would have been discovered even if the search had not been overintrusive.

Reversed and remanded for trial. Amdahl, C.J.

Took no part, Peterson, J.

C1-84-1540 Diane Kay Bernthal, Appellant v. City of St. Paul, County of Ramsey, State of Minnesota. Court of Appeals.

The municipal tort immunity provision of Minn. Stat. § 466.03, subd. 2 (1984), is void because it unconstitutionally discriminates between victims of municipal tortfeasors who are covered by the Workers' Compensation Act and those who are not.

Reversed. Peterson, J.

C6-83-1393 In Re: the Marriage of Kelly Jo Pikula v. Dana David Pikula, Appellant. Court of Appeals.

Appellate review of custody determinations is limited to whether the trial court abused its discretion by making the findings unsupported by the evidence or by improperly applying the law.

The findings which the trial court made were supported by the evidence but there were insufficient findings to support the award of custody.

The best interests of the child as delineated by the statutory factors set out in Minn. Stat. § 518.17, subd. 1 (1984), require that when both parents seek custody of a child too young to express a preference for a particular parent, and one parent has been the primary caretaker of the child, custody should be awarded to the primary caretaker absent showing that that parent is unfit to be the custodian.

Affirmed in part, reversed in part and remanded. Wahl, J.

Took no part, Kelley, J.

Opinion of September 27, 1985, withdrawn. New opinion released.

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Room 8 State Capitol, St. Paul, MN 55155
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CHANGES FROM RULES AS PROPOSED

(Deleted language struck out - new language underlined)

8235.1000 ELECTRONIC VOTING SYSTEMS

(Line 6)

~~The recount official shall determine if the test sample is to be of one precinct selected by each candidate or a sample agreed upon by the candidates of three percent of the ballots cast but in no event less than 100 ballots~~.

Unless the jurisdiction has only one precinct, the test sample shall be from two precincts, one selected by each candidate. In each of the precincts slected, the sample shall be at least three percent of the ballots cast or 50 ballots, whichever is greater. The test sample shall also be counted on the automatic tabulating equipment.

(NOTE: This clarification was as result of a recommendation from the Secretary of State's Advisory Task Force on punch Card Voting.)

(line 11)

A ~~machine produced~~ report of recount results must be provided for each precinct.

(NOTE: This change clarifies the requirement for a report which would include both machine-readable and paper ballots.)

8220.0250 DEFINITIONS

Subp. 26

Self-contained voting station. "Self-contained voting station" means a unit that contains a voting device ~~having all four sides~~ enclosed beneath and on three sides and lighted;

(NOTE: This change clarifies the construction of the voting station.)

8220.0650 APPROVAL OF MACHINES OR SYSTEMS

Subp. 2

Decertification. If a voting machine or system no longer meets the standards of Minnesota Statutes or parts 8220.0050 to 8230.4250, the Secretary of State may withdraw approval of the voting machine or system after a hearing.

(NOTE: This change brings language into conformance with subpart title and uses generally accepted and more accurate nomenclature).

8220.1550 PUBLIC ACCURACY TEST

(line 4)

The time and place of the public accuracy test must be designated by the election jurisdiction providing the computer program, which must give at least 48 hours' public notice of the time and place of the test by publication in official newspapers, by posting a notice, and by notification to the county or legislative district chair of each major political party.

(NOTE: This clarification of the persons(s) receiving notice of the public accuracy test was recommended by the Advisory Task Force on Punch Card Voting.)

8220.1850 SECURING COMPUTER PROGRAMS

(line 3)

If a precinct ballot counter is used to count ballots, it must be sealed with the memory pack containing the election programs inside.

(NOTE: This change clarifies the process of securing the election programs.)

8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE

(line 3)

Attached to the exterior of the sealed program must be ~~accompanied by~~ a certificate signed by the person who prepared the program, naming the election jurisdiction for which the program was prepared and stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota Statutes and parts 8220.0050 to 8230.4250 and the instuctions of the election jurisdiction requesting the program.

(NOTE: This change clarifies the form in which the duplicate program is to be submitted to the Secretary of State.)

8220.2059 ~~PREPARATION OF PUNCH CARD SUPPLIES AND VOTING DEVICES~~

APPLICABILITY

(NOTE: This change in style clarifies the title to more accurately reflect the content of this part.)

~~8230.2500~~ 8230.2450 UNUSED BALLOTS

(NOTE: This change is a renumbering of a part from the existing rules.)

85-0738
File #0014.0001

In the matter of the Proposed Rules of the Secretary of State Relating to Voter Registration, Absentee Voting, Recounts, Ballots; Certification and Testing of Lever Voting Machines; and Certification, Testing and Use of Electronic Voting Systems.

1. Voter Registration Cards — Statement of Need

The need to amend 8200.9919 arises because M.S. 201.221 requires the Secretary of State to adopt rules to implement the provisions of Minnesota Statutes, chapter 201. A standard voter registration card is prescribed by M.S. 201.071 and part 8200.9919. Comments from local election administrators indicate that voters do not always affix the first class postage required for return of the card. Laws of 1984 c 471 s 1 requires that information about the availability of voting assistance for elderly and handicapped individuals and residents of health care facilities and hospitals be added to the instructions that accompany the card.

2. Absentee Voting — Statement of Need

The need to amend 8210.0200, 8210.9930, and 8210.9955 arises because M.S. 203B.09 requires the Secretary of State to adopt rules establishing the form, content, and type size and style for the printing of blank applications for absentee ballots, return envelopes, certificates of eligiblility to vote by absentee ballot, ballot envelopes and directions for casting an absentee ballot. A voter may now apply for an absentee ballot at any time prior to one day before the election, not necessarily separately. Laws of 1984 c 472 s 1 requires the

addition to the certificate of a statement that if a voter was physically unable to mark the ballots that the voter directed another individual to mark them. Laws of 1985 c 72 s 2 allows a military or overseas voter to provide the voter's military identification or passport number in lieu of the witness requirement.

3. Recounts — Statement of Need

The need to amend 8235.1000 arises because M.S. 204C.361 requires the Secretary of State to adopt rules establishing uniform recount procedures and M.S. 206.57 provides for the adoption of rules for the use of electronic voting systems. The Secretary of State's Advisory Task Force on Punch Card Voting determined that a manual sample count of ballots counted on automatic tabulating equipment was an effective check of the accuracy of the vote counting program and a deterrent to error and fraud. The task force found that "the best opportunity for completing a manual count of ballot cards under controlled conditions with public observation and candidate participation exists at automatic recounts conducted in accordance with M.S. 204C.35 and 204C.36."

4. Ballots — Statement of Need

The need to amend 8250.0200 and 8250.0600 arises because M.S. 204D.11 requires that the Secretary of State adopt rules for the preparation and time of delivery of the state white ballot. Laws of 1985 c 72 s 3 changes the date on which ballots for absentee voting must be ready. The Secretary of State's Advisory Task Force on Punch Card Voting recommended the simplification of ballot headings so that type may be as large and legible as possible.

5. Certification and Testing of Lever Machines; Certification, Testing and Use of Electronic Voting Systems — Statement of Need

The need to amend and recodify parts 8220.0100 to 8230.5800 as parts 8220.0050 to 8230.4250 arises because M.S. 206.57 requires the Secretary of State to certify voting equipment for use at elections in this state and provides for the Secretary of State to adopt rules for the examination and use of such voting machines and electronic voting systems. Laws of 1984 c 447 recodified Minnesota Statutes, chapter 206, governing the use of lever voting machines and electronic voting systems and it is reasonable to recodify parts 8220.0100 to 8230.5800 to match the new statutory reorganization of provisions that apply to all voting equipment and provisions that apply only to specific systems. The attached table shows the disposition of parts 8220.0100 to 8230.5800 into parts 8220.0050 to 8230.4250

Pursuant to M.S. 206.57, sub. 3, certification has been recommended for optical scan voting equipment conditioned on the Secretary of State's adoption of rules providing procedures for use of such system. It is reasonable to determine that parts 8220.0050 to 8220.0650 apply to all machines and systems, that parts 8220.0750 to 8220.2850 apply to all electronic voting systems, and that parts 8220.2950 to 8230.4250 apply only to punch-card voting systems, prior to developing rules for use of optical scan voting systems. Parts 8220.2950, 8230.0050, 8230.3050 and 8230.3350 establish the applicability of various provisions.

In clarification and recodification of parts 8220.0100 to 8230.5800 into 8220.0050 to 8230.4250, the need to amend some provisions to provide for more efficient administration and better use of voting equipment became apparent. Part 8220.4250 implements a recommendation of the Secretary of State's Task Force on Punch Card Voting that illustrated instructions for use of voting devices be posted in each voting booth in punch-card precincts and that these

posters be provided by the Secretary of State. Parts 8220.5300, 8220.6000 and 8220.6400 are repealed to eliminate redundant paperwork by local election jurisdictions and an unnecessary provision.

The definitions in part 8220.0250 are amended to reflect changes in computer technology and terminology and to clarify application of the terms to voting equipment now in use. Based on requests for information from potential vendors, parts 8220.0350 to 8220.0650 are expanded to explain in detail the policies and procedures followed in examining voting equipment pursuant to M.S. 206.57 and 206.81.

The Secretary of State's Advisory Task Force on Punch Card Voting found that "the extent of accessibility to a vote counting system affects security "and recommended the changes to parts 8220.2800, 8220.3200, and 8220.4300 to emphasize that vote counting components in any form must be sealed and secured. The task force recommended changes to parts 8220.1550, 8220.1650, and 8230.3450 to enhance the ability of major political parties to "protect their legitimate interests while also contributing to public confidence in system integrity."

5. Consideration of Small Business, Agricultural Land and Local Public Bodies

Pursuant to M.S. 14.115, subd. 7, the proposed rules do not directly affect small businesses and do not provide any compliance or reporting requirements for small businesses. The proposed rules have no impact on agricultural land in the state, pursuant to M.S. 14.11, subd. 2, and the adoption of these rules will not cost local public bodies any money for two years immediately following the adoption of these rules, within the meaning of M.S. 14.11, subd. 1

DISPOSITION TABLE FOR VOTING EQUIPMENT RULES

NEW	OLD
8220.0050 - 8220.0150	8220.0300 - 8220.0400
8220.0250	8220.0100 - 8220.0200
8220.0350 - 8220.0650	8220.0500 - 8220.1400
8220.0750	8220.2000, 8220.2300
8220.0850	8220.2200
8220.0950	8220.2100
8220.1050	8220.2400
8220.1150 - 8220.1550	8220.2600 - 8220.3000
8220.1650	8220.2500
8220.1750	8220.3100
8220.1850 - 8220.1950	8220.3200
8220.2050 - 8220.2850	8220.4000 - 8220.4800
8220.2950 NEW	
8220.3050 - 8220.3250	8220.5000 - 8220.5200
	8220.5300 REPEALED
8220.3350 - 8220.3850	8220.5400 - 8220.5900
	8220.6000 REPEALED
8220.3950 - 8220.4150	8220.6100 - 8220.6300
	8220.6400 REPEALED
8220.4250 NEW	
8230.0050 NEW	
8230.0150 - 8230.0550	8230.1000 - 8230.0400
8230.0550	8230.0500, 8230.1200
8230.0650 - 8230.1350	8230.1100 - 8230.1900
8230.1450 - 8230.1650	8230.2800 - 8230.3000
8230.1750 - 8230.2150	8230.2000 - 8230.2400
8230.2250 - 8230.2350	8230.2600
8230.3050 NEW	
8230.3150	8230.3300, 1MCAR 2.3703
8230.3350 NEW	
8230.3450 - 8230.4250	8230.5000 - 8230.5800

NOTE: Inadvertently dropped from the proposed rule was old part 8230.2500 which will re-inserted as new part 8230.2450.

CPT4.046

In the Matter of the Proposed
Adoption of Rules of the Secretary
of State Governing Voter Registration,
Absentee Voting, Recounts, Ballots,
Certification and Testing of Lever
Voting Machines and Testing and Use
of Electronic Voting Systems

STATEMENT OF
COMPLIANCE WITH
RULEMAKING
PROCEDURES

I, PETER M. ACKERBERG, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Peter M. Ackerberg

PETER M. ACKERBERG
Special Assistant
Attorney General

Dated: January 14, 1986.

STATE OF MINNESOTA

SECRETARY OF STATE

In the Matter of the Proposed Adoption of Rules of the Secretary of State Governing Voter Registration, Absentee Voting, Recounts, Ballots, Certification and Testing of Lever Voting Machines; and Testing and Use of Electronic Voting Systems.

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.05 to 14.36:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, December 31, 1985, for review as to form and legality. Pursuant to part 2000.0700, subpart 2, the Attorney General will not approve the rules for eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612)296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

For a copy of changes made after publication in the State Register you may contact Grace Haukoos, Office of the Secretary of State, Election Division, 180 State Office Building, Saint Paul, Minnesota 55155-1299, (612)296-9217.

CPT7.052

AFFIDAVIT OF MAILING

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Governing Voter Registration, Absentee
Voting, Recounts, Ballots, Certification
and Testing of Lever Voting Machines;
and Testing and Use of Electronic
Voting Systems

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Sandra Olson, being first duly sworn deposes and says:

That on the 31th day of December, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and association who have request that their names be placed on file with the Secretary of State for the purpose of receiving notice of the proposed adoption of rules by this agency.

Sandra Olson

Subscribed and sworn to before me
this 31st day of December, 1985.

Williamlia Behrends

WILLIAMLIA BEHRENDS
NOTARY PUBLIC
RAMSEY COUNTY, MN
MY COMMISSION EXPIRES
JUNE 22 1987

CPT7.053.1

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Secretary of State

TO : Judith V. Wehrwein
Attorney General
Administration Division

DATE: January 14, 1986

FROM : Joe Mansky
Election Division

PHONE:

SUBJECT: Additional Materials for Proposed Rules Submitted by the Secretary of State

As you requested earlier, I have enclosed the following materials:

1. A copy of the order adopting the rules which includes those parts previously omitted.
2. A summary of changes in the rules from the way they were published in the state register.

If you need any other information on the proposed rules, please let me know.

RECEIVED
JAN 14 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: Judith Wehrwein
Legal Assistant
Atty. General Administration Division

DATE: 1/14/86

FROM: Peter M. Ackerberg
Special Asst. Attorney General
Solicitor General's Office

PHONE: 6-2586

SUBJECT:

Judy, here is the Statement of Compliance.
Let me know if there are any questions.

PMA:bbl

Enc.

RECEIVED
JAN 14 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JOE MANSKY
Secretary of State's Office

DATE: 1/8/86

FROM : JUDITH V. WEHRWEIN JVW
Legal Assistant

PHONE: 297-3471

SUBJECT: Review by Attorney General of Rules Relating To Voter Registration, Absentee Voting, Recounts, Ballots; Certification and Testing of Lever Voting Machines; and Certification, Testing and Use of Electronic Voting Systems.

As we discussed in our telephone conversation today, review of the above-referenced rules by the Attorney General's Office cannot be completed until we receive the following documents:

1. Order Adopting the Rules, revised to include rules 8200.1500 and 8210.0200, since the submitted Order Adopting does not contain those numbers.

2. Findings of Fact, which should set forth the reasons for the changes from the Rules as Proposed, as published in the State Register, and the Rules as Adopted, as submitted for review.

Please call if you have any questions about this matter.

JVW:pmf

JOAN ANDERSON GROWE
Secretary of State
ELAINE VOSS
Deputy Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secy.: 612/296-2309

December 30, 1985

TO: Peter Ackerberg
Attorney General's Office
515 Transportation Bldg.

FROM: Grace Haukoos
Director - Elections

SUBJECT: **SUBMISSION OF RULES TO ATTORNEY GENERAL**

Enclosed find our proposed rules as amended and associated paperwork. Please let me know if your office needs any additional material and advise when we publish the amendments in the State Register. Thank you.

CPT7.041

RECEIVED
DEC 30 1985
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST PAUL, MN. 55155

Speed Letter. 44-902 GrayLine. JAP-A-WAY FORM

Speed Letter.

To Judith Wehrwein
Attorney General's Office
204 Administration Bldg

From Peter Ackerberg
515 Transportation Bldg

Subject Proposed Rules of Secretary of State

—No. 9 & 10 FOLD

MESSAGE

These materials were inadvertently directed to me. The intention was that of Grace Hawkins was to submit them to the AG's Office pursuant to Minn. Stat. § 14.26. P/S inform Grace of any problems or additional requirements.

Date 12/30/85 Signed PA

REPLY

RECEIVED
DEC 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

—No. 9 FOLD

—No. 10 FOLD

Date Signed

WilsonJones
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1084

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT REVISOR OF STATUTES

Office Memorandum

TO: Grace Haukoos
Secretary of State

DATE: 12/23/85

FROM: Robert P. Kittel
Assistant Deputy Revisor

PHONE: 296-0218

SUBJECT: 847 Rules Relating to Voter Registration, Absentee Voting, Recounts, Ballots, Certification and Testing of Lever Voting Machines; and Certification, Testing, and Use of Electronic Voting Sytems

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General or the Office of Administrative Hearings, as appropriate, for final approval.

If you have any questions or need further modifications, please call.

RECEIVED
DEC 26 1985
SECRETARY OF STATE
ELECTION DIVISION

CRS/ jka
Enclosure
ARO 847

Robert P. Kittel